



STATE OF IOWA

TERRY E. BRANSTAD
GOVERNOR

NICK GERHART
COMMISSIONER OF INSURANCE

KIM REYNOLDS
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October 1, 2013

Representative Kevin Koester, Chair
Government Oversight Committee
3514 S.W. Edgewood Lane
Ankeny, Iowa 50023-9565

Senator Janet Petersen, Chair
Government Oversight Committee
4300 Beaver Hills Drive
Des Moines, Iowa 50310

Regarding: Annual Report regarding regulation of preneed funerals
and cemetery sellers and perpetual care cemeteries

Dear Representative Koester and Senator Petersen:

As previously reported, the death care industry is being impacted financially by a number of trends in funeral and burial practices. Alternative methods of disposition have created less-expensive options for consumers. While this is good for consumers, it has placed financial stress on funeral homes and cemeteries. We have a proposal, to be implemented by rule, which may assist a segment of the industry: perpetual care cemeteries.

A majority of the cemeteries in Iowa have no financial system in place to fund future costs after the cemetery no longer has funds available from operations (the sale of interment rights, opening and closing charges and merchandise sales revenue), let alone a system to fund the current costs of operating the cemetery.


However, some cemeteries have chosen to operate as "perpetual care cemeteries." Since July 1, 2005, all new cemeteries commencing business in Iowa must be formed as perpetual care cemeteries. Perpetual care cemeteries must establish a \$25,000 initial trust fund and deposit 20% of their revenue from the sale of interment spaces. These perpetual care trust funds generate income. Although the principal may not be withdrawn, the trust fund creates an ongoing source of revenue that will continue even after revenue from operations ceases.

Even though perpetual care cemeteries have trust funds, they still struggle to pay their ongoing costs of mowing, trimming, roadway maintenance and other customary and basic cemetery expenses. To address this issue and hopefully provide increased cash flow for perpetual care cemeteries, the Division has proposed administrative regulations that may provide some assistance. These rules were published September 4th and a public hearing was held on September 24th. The comments received by the Division have been in support of the rules. The Division intends to make the rules effective January 1, 2014.

The proposed rules include a new option that is intended to encourage investments in appreciating assets (versus solely income-producing assets) with the hope that the trust principal will grow over time and generate increased income as a result. If a perpetual care cemetery adopts the total return distribution method, the fair market value of the trust shall be determined at least annually. Rather than looking just at ordinary income generated from investments, the rules allow a “total return distribution method” that allows the cemetery to withdraw the greater of the net ordinary income or a percentage (not to exceed 5%) of the fair market value of the trust fund. The determination of payout amounts shall take into consideration the cemetery’s need to fund both the current and future expenses of care and maintenance and preservation of capital.

Please let me know if you have any questions.

Sincerely,



Nick Gerhart
Commissioner of Insurance

Copies to: Deb Kozel (Deb.Kozel@legis.iowa.gov)
 Roseanne Mead, Assistant Insurance Commissioner
 Dennis Britson, Director, Regulated Industries Unit