



STATE OF IOWA

CHESTER J. CULVER
GOVERNOR

SUSAN E. VOSS
COMMISSIONER OF INSURANCE

PATTY JUDGE
LT. GOVERNOR

September 22, 2011

Senator Thomas G. Courtney, Chair
Government Oversight Committee
2200 Summer Street
Burlington, IA 52601

Representative Chris Hagenow, Chair
Government Oversight Committee
1915 – 69th
Windsor Heights, IA 50324

Re: Annual Report regarding regulation of preneed funeral
and cemetery sellers and perpetual care cemeteries

Dear Senator Courtney and Representative Hagenow:

I am pleased to present you with a report on the Insurance Division's administration of Iowa Code chapters 523A and 523I. The Division did not observe any new industry trends or compliance issues. It appears that the legislative changes initiated in recent years are working.

Cemeteries continue to struggle to pay for their ongoing costs of mowing, trimming, roadway maintenance and other customary and basic cemetery expenses. Most cemeteries in Iowa are non-perpetual care cemeteries and have no ongoing source of revenue to pay such expenses if revenue from operations is inadequate or the cemetery is no longer operating and does not have any revenue from operations. This has led to neglected and, sometimes, abandoned cemeteries.

The legislature did address this issue for newly created cemeteries, by requiring all cemeteries commencing business after July 1, 2005 to 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. Although the principal may not be withdrawn, the trust fund creates an ongoing source of revenue that will continue after revenue from operations ceases.

Although the problem of neglected and abandoned cemeteries is clear; a consensus on how to address the issues is unlikely at this time. The Division will research other state laws to see if any other state has developed a legislative approach that merits consideration.

A consensus might exist in one regard. Recently, a couple of still-operating perpetual care cemeteries contacted the Division after experiencing a large amount of storm damage. In each case, the cost of removing the fallen trees and repairing damage amounted to thousands of dollars.

Although we do not support any invasion of trust corpus, we would support an expansion of Iowa Code section 523I.810(9) to include such expenses. Cemeteries are currently able to borrow from trust corpus to acquire additional land for cemetery purposes, to repair a mausoleum or other building or structure intended for cemetery purposes, to build, improve, or repair roads and walkways in the cemetery, or to purchase recordkeeping software used to maintain ownership records or interment records. The withdrawal must not exceed 20% of the principal, must not diminish the fund below \$25,000 or \$5,000/acre of land and must be repaid within five years.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Susan E. Voss". The signature is written in black ink and is positioned above the printed name and title.

Susan E. Voss
Commissioner of Insurance