

July 9, 2008

Audit Number 06/07-02A

*Robert E. Clift*

## *Division Should Verify Preneed Contract Remittances and Consolidate Fee Collections*

### **SUMMARY**

The purpose of our audit was to evaluate the effectiveness of the Division of Funeral, Cemetery and Consumer Services process to administer the preneed contract fee assessments to licensees.

Our evaluation determined there are inadequate assurances that all required fees are being remitted quarterly by licensees or that current preneed fee balances are accurate. To provide sufficient assurances that licensee fee remittances and associated balances are accurate, and to improve the overall effectiveness of the operations of the Division, we recommend:

The Division should verify the number of preneed contracts issued during its annual inspections of licensees, and use this information to ensure the accuracy of licensee fee payments.

The Division should obtain Board approval to amend Chapter 497, *F.S.*, to eliminate the requirement for quarterly remittances, and instead incorporate these preneed contract fee assessments into the annual license renewal fee. Implementation of this recommendation will save more than \$250,000 because it will allow for the retirement of DLS, without having to transfer this process to ALIS. Until fully implemented, the Division should reconcile licensee payments to the reported number of issued preneed contracts.

### **BACKGROUND**

The Board of Funeral, Cemetery and Consumer Services is charged with protecting the health, safety and welfare of the public through effective regulation of the death care industry.<sup>1</sup> The Division of Funeral, Cemetery and Consumer Services (Division) helps the Board achieve this objective by licensing competent and trustworthy professionals and businesses, and conducting inspections, examinations and investigations of consumer complaints.<sup>2</sup> It also provides administrative support to the Board of Funeral, Cemetery and Consumer Services, which has statutory authority to ensure compliance with applicable laws and rules.

The Division issues licenses to each of the various businesses and professions that provide goods and services in the death care industry. These licenses authorize business and professionals to provide specified goods and services. For example, monument providers are only authorized to sell monuments, while cemetery companies are authorized to sell burial plots as well as

<sup>1</sup> In 2004, the Legislature consolidated regulation of the death care industry. Prior to 2004, DFS was only responsible for the licensing and regulation of cemetery companies, sellers of preneed funeral goods and services, and sellers of monument establishments. The 2004 legislation consolidated death care industry regulation by transferring responsibility for the licensing and regulating of funeral directors, embalmers, direct disposers and their facilities from the Department of Business and Professional Regulation and by creating the Board of Funeral, Cemetery and Consumer Services.

<sup>2</sup> [As specified in Chapter 497, 103 F.S.](#)

monuments, memorials, markers, and other goods and services. Appendix A provides a listing of the businesses and professions that are regulated by the Division.

Funeral establishments, cemetery companies, direct disposal establishments, and monument establishments are authorized to obtain an additional license to enter into preneed contracts and receive advance payment for the goods and services they are authorized to sell.<sup>3</sup> As of February 8, 2008, there were 325 of these businesses and professionals with preneed licenses.

In FY 2006-07, the Division collected \$2.1 million in revenues from licensees to regulate the death care industry. These revenues were derived from a variety of sources, including license and inspection fees, assessed fines, and penalties. On a quarterly basis, the Division also collects a \$4 fee for each preneed contract issued which totaled \$352,440 in FY 2006-07.

The Division also assesses an additional \$1 quarterly fee on preneed contracts intended to ensure purchasers and their estates will be provided with the contracted goods and services in the event of a licensee's failure to provide benefits or make appropriate refunds. Receipts from this additional fee are deposited in a separate Preneed Funeral Contract Consumer Trust Fund. In FY 2006-07, the Division collected \$88,110 in remittances from this preneed contract fee.

With the exception of these quarterly preneed contract fees, the Division utilizes the recently developed Agency Licensing Information System (ALIS) to process payments made by licensees. Preneed contract fees are processed through the Departmental Licensing System (DLS).

DLS is maintained by the Division of Information Systems, but is only being used within the Department to process preneed

contract fees. These fees are processed through DLS because ALIS does not currently have the requisite capability.

The Division receives funding from the Office of Financial Regulation to maintain DLS because it is currently used to support some OFR activities. However, OFR is currently developing a replacement system.<sup>4</sup> Once implemented, OFR will no longer provide funding to the Department for DLS system support.

## **AUDIT ISSUES**

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### **Process to collect preneed contract fees lacks adequate assurances that all required remittances are received.**

The current process to collect fees associated with issuing preneed contracts does not provide adequate assurances that all required remittances are received. Under the current process, the Division mails a separate remittance form for each fee to each licensed preneed provider. Each preneed provider is then required to complete these forms and mail them back to the Division, along with the calculated payment amount.

Upon receipt, quarterly payments are processed by the Division of Administration, and the payment amounts are recorded in FLAIR and DLS. Quarterly remittance forms are processed by the Division, with licensee reported amounts recorded in DLS. DLS then compares reported amounts on the quarterly remittance forms with actual payment amount, and adjusts the licensee's current fee balance accordingly.

However, the Division does not verify that the amount received or the amount reported on the quarterly remittance form is accurate.

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<sup>3</sup> As specified in [Section 497.452\(3\), F.S.](#)

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<sup>4</sup> The Regulatory Enforcement and Licensing (REAL) System is being developed by OFR to replace DLS. The plan is for full implementation by the fall of 2008.

The Division currently verifies the number of preneed contracts issued during its periodic compliance examinations conducted every three to five years, but it does not use this information to ensure the accuracy of preneed contract fee payments.<sup>5</sup> The Division also conducts annual unannounced inspections of preneed contract licensees. However, the inspection process does not require a verification of number of preneed contracts issued during the prior year.

In addition, we found that licensee fee balances on DLS were often inaccurate because the Division does not ensure that licensee payment information is accurate. When preneed contract payment information is not accurately recorded, it often results in differences between reported and actual payments amounts. When differences occur, DLS automatically adjusts licensee fee balances to account for these differences. An accurate licensee preneed contract fee balance is required to properly calculate future assessments.

A review of fee payment information associated with the Consumer Protection Trust Fund for 2007 found that 190 of the 316 (60%) preneed contract licensees had differences between the amounts reported on quarterly remittances and the payments applied to the licensee's account. In many instances, these differences were due to the Division not recording reported payment information. In other instances, payments were deposited into the applicable trust fund, but not credited to a licensee account.

**Recommendation 1:** To provide assurances that remittances from preneed contract licensees are accurate, we recommend that the Division verify the number of preneed contracts issued by licensees. The Division reported that it can cost-effectively obtain this information during its annual inspections, which can then be used to determine the accuracy of

preneed contract fee remittances received during the previous year.

**Recommendation 2:** To ensure the current licensee fee balances are accurate, the Division should first credit all unassigned fee payments to the appropriate licensee.<sup>6</sup> The Division should then reconcile payment information reported on the quarterly remittance forms with the payments credited to the licensee.

**Recommendation 3:** To improve the overall effectiveness of the Division, we recommend that the Division obtain Board approval to amend Chapter 497, Florida Statutes, by eliminating the requirement for licensees to submit quarterly remittances for each preneed contract fee and instead incorporate these preneed contract fees into the annual license renewal fee.

Implementation of this recommendation will serve to reduce both Department and licensee costs. Department costs would be reduced because it would allow DLS to be retired without having to transfer quarterly fee processing to ALIS, which is estimated to cost between \$244,000 and \$279,000.

In addition, elimination of the requirement for licensees to remit separate payments for associated preneed license fees would reduce the Department's administrative costs. Costs associated with mailing remittance forms to licensees, receiving returned forms and payments, entering remittance information onto DLS, and quarterly reconciliations of payments with associated licensee remittance reporting would all be eliminated. Also, licensees would be relieved of the time and cost associated with completion and submission of the quarterly remittance forms and associated payments.

Since preneed contract fees are currently paid quarterly, conversion to a process

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<sup>5</sup> As specified in [Section 497.150, F.S.](#)

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<sup>6</sup> The Division reported that as of June 5, 2008, there were 246 payments totaling \$167,952 that have been deposited into either the Regulatory or Consumer Protection trust funds, but not credited to a licensee account.

where these fees are incorporated with the annual license renewal fee will result in a one-time delay in fee receipts. However, since the projected ending FY 07-08 balances for both the Regulatory and Preneed Funeral Contract Consumer trust funds will exceed estimated annual collections from preneed contract fees, the Division will continue to maintain an operating surplus throughout the transition period.<sup>7</sup>

Until the Division is able to implement our recommendation to merge preneed contract and licensee renewal fee processing, we recommend that the Division ensure that preneed contract fee payments are reconciled to the payment information provided on remittance forms each quarter. A reconciliation of this payment information will help ensure that all payments are properly recorded and accurate.

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<sup>7</sup> As of May 20, 2008, the projected ending FY 07-08 balance for the Regulatory Trust Fund is \$965,128, which is based on an ending balance for FY 06-07 of \$676,980 and FY 07-08 appropriations exceeding projected expenditures by \$288,148. The projected FY 07-08 balance exceeds FY 06-07 collections for the associated preneed contract fee by \$612,688. The ending FY 06-07 balance for the Consumer Trust Fund is \$6,954,551, which exceeds the total annual fee collections, \$88,110, in FY 06-07.

## **DISTRIBUTION AND ATTESTATION**

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### **Information Distribution:**

This report is distributed electronically with all attachments to:

Alex Sink, Chief Financial Officer

Jim Cassady, Chief of Staff

Doug Shropshire, Director, Division of Funeral, Cemetery and Consumer Services

David W. Martin, CPA, Auditor General

### **File:**

The original report has been placed in the Audit File.

**The Department of Financial Services' mission is to safeguard the people of Florida and the State's assets through financial accountability, education and advocacy, fire safety, and enforcement.**

**The Department's vision is to be known as the most ethical, professional and proactive state agency in Florida.**

**The mission of the Office of Inspector General is to promote integrity, accountability and process improvement in the Department.**

**The Office of Inspector General's vision is to be a key and indispensable player of the Department's team; championed by our customers, benchmarked by our counterparts, and dedicated to quality in our products and services.**

**This audit was conducted pursuant to Section 20.055, Florida Statutes, in accordance with applicable Principles and Standards for Offices of Inspectors General as published by the Association of Inspectors General and International Standards for the Professional Practice of Internal Auditing as published by the Institute of Internal Auditors, Inc. This audit was conducted by Sarah Moniz and was supervised by Chuck Hefren, Audit Director. Please address inquiries regarding this report to the DFS Office of Inspector General at (850) 413-3112.**




## Appendix A:

The Division licenses 16 different types of businesses and professions.

Types of Licenses	Services Provided
Burial Rights Broker	Individuals acting as a third party to the sale or transfer of three or more burial rights in a 12-month period. Burial right means the right to use a grave space, mausoleum, or other area for the disposition of human remains
Cemetery	Legal entities that own or control land used for the permanent interment of human remains or property and authorized to sell monuments, memorials, markers, etc.
Centralized Embalming Facility	Facilities, not physically connected with funeral establishments, in which embalming takes place
Direct Disposal Establishment	Registered facilities where a direct disposer cremates human remains without embalming or any attendant services or rites such as funeral or graveside services
Direct Disposer	Businesses licensed to cremate remains without embalming or any attendant services or rites such as funeral or graveside services
Embalmer	Individuals licensed to disinfect or preserve dead human bodies by replacing certain body fluids with preserving and disinfecting chemicals
Exempt Cemetery	Cemeteries that are exempt from licensure under Ch. 497, Florida Statutes, but are over five acres
Funeral Director	Individuals licensed to sell, arrange, and direct funeral services and operate funeral establishments
Funeral Establishment	Licensed facilities where a funeral director or embalmer practices funeral directing or embalming
Incinerator Facility	Registered facilities where dead human bodies are reduced to a residue by direct flame (cremation) or by intense heat
Monument Establishment	Facilities operating independently of a cemetery or funeral establishment for the purpose of selling monuments (e.g., grave markers, vases, etc.) or monument services
Preneed License	Preneed License - Businesses that are authorized to sell preneed contracts for burial or funeral services or merchandise
Preneed License for Branch	Branch offices of preneed license holder
Preneed Sales Agent	Individuals that sell, offer, and execute preneed contracts on behalf of all entities owned or operated by the seller's sponsoring preneed main license holder
Refrigeration Facility	Facilities used for storage and refrigeration of dead human bodies
Removal Facility	Remove dead human bodies, and service funeral establishments and direct disposal establishments

**MEMORANDUM**  
**Department of Financial Services**  
**Division of Funeral, Cemetery, and Consumer Services**

TO: Bob Clift, Inspector General  
FROM: Douglas Shropshire, Division Director   
DATE: 7-7-08  
RE: Response to Audit 06/07-02A

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This will convey this Department's response to your office's audit of the Funeral, Cemetery, and Consumer Services Divisions' administration of preneed contract fees.

**Recommendation 1:** To provide assurances that remittances from preneed contract licensees are accurate, we recommend that the Division verify the number of preneed contracts issued by licensees. The Division reported that it can cost-effectively obtain this information during its annual inspections, which can then be used to determine the accuracy of preneed contract fee remittances received during the previous year.

We concur. We have implemented a test process, using actual inspections currently being conducted, to determine the most efficient and effective source of, and method of collecting, the referenced information during annual inspections. Within the next 30 days we will implement new procedures to routinely obtain the referenced information during annual inspections, and to cross-feed the information to our preneed accounting staff for comparison to numbers reported by the licensee.

**Recommendation 2:** To ensure the current licensee fee balances are accurate, the Division should first credit all unassigned fee payments to the appropriate licensee. The division should then reconcile payment information reported on the quarterly remittance forms with the payments credited to the licensee.

We concur. This process of crediting unassigned fees, and reconciliation of balances, is currently underway. We anticipate it being completed within 45 calendar days.

**Recommendation 3:** To improve the overall effectiveness of the Division, we recommend that the Division obtain board approval to amend chapter 497, Florida Statutes, by eliminating the requirement for licensees to submit quarterly remittances for each preneed contract fee and instead incorporate these preneed contract fees into the annual license renewal fee.

We concur. At its June 25, 2008 meeting, the Board approved the proposal to change to annual reporting and remittances. A public workshop is scheduled for July 23, 2008, to receive public comment concerning this proposal.

**OIG COMMENT:** To ensure that we had an accurate understanding of the Division's response to this recommendation, we requested that the Division provide us with clarifying information. In response, the Division Director provided the following explanation in an email dated July 7, 2008.

*The Funeral, Cemetery, and Consumer Services Division concurs that, looked at from the Division's perspective, it makes sense to merge payment of the consumer protection trust fund fee of \$1, and the \$4 operational assessment fee, into the provider's annual license payment (so that there is a single annual payment for us and for the industry to deal with). The proposal to merge the fees into a single assessment/payment will be addressed at the workshop. Unless the public workshop reveals some significant reason not to do so, this Division intends to seek to implement this audit recommendation.*