

SENATE BILL NO. 652

July 2, 1997, Introduced by Senators BOUCHARD and MILLER
and referred to the Committee on Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2080 and 4424 (MCL 500.2080 and 500.4424),
section 2080 as amended by 1986 PA 318 and section 4424 as
amended by 1982 PA 27, and by adding section 4419.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2080. (1) It ~~shall be~~ IS unlawful for any life or
2 accident insurer authorized to do business in this state to own,
3 manage, supervise, operate, or maintain a mortuary or undertaking
4 establishment, or to permit its officers, agents, or employees to
5 own or maintain ~~any such funeral~~ A MORTUARY or undertaking
6 establishment.

7 (2) Except as otherwise provided in subsection (6), it
8 ~~shall be~~ IS unlawful for any life insurance, sick or funeral
9 benefit company, or any company, corporation, or association

1 engaged in a similar business to contract or agree with any
2 funeral director, undertaker, or mortuary to the effect that
3 ~~such~~ THE funeral director, undertaker, or mortuary shall con-
4 duct the funeral of any person insured by ~~such~~ THAT company,
5 corporation, or association.

6 (3) A funeral establishment, cemetery, or seller shall not
7 be licensed as an insurance agent under chapter 12 other than as
8 a limited licensee pursuant to this subsection and chapter 12. A
9 funeral establishment, cemetery, or seller shall not be a limited
10 life insurance agent unless that funeral establishment, cemetery,
11 or seller provides a written assurance to the commissioner at the
12 time of application for the limited licensure and with each
13 LICENSE renewal ~~thereof~~ that he or she has read and understands
14 the conditions contained in subsection (9) and agrees to comply
15 with those conditions. A person licensed as a limited life
16 insurance agent under this subsection and chapter 12 ~~shall be~~
17 IS authorized and licensed to sell only associated life insurance
18 policies or annuity contracts and ~~shall~~ IS not ~~be~~ authorized
19 or licensed to sell any other type of insurance policy or annuity
20 contract. A person licensed as a limited life insurance agent
21 under this subsection and chapter 12 to sell associated life
22 insurance policies or annuity contracts shall not sell cemetery
23 goods or services or funeral goods or services unless all of the
24 conditions provided in subsection (9) are met. A person licensed
25 as a life insurance agent, other than a limited life insurance
26 agent, shall not sell cemetery goods or services or funeral goods
27 or services or be associated with a funeral establishment,

1 cemetery, or seller. Notwithstanding any other provision in this
2 act, a funeral establishment, cemetery, or seller may advise cus-
3 tomers or potential customers of the availability of life insur-
4 ance, the proceeds of which may be assigned pursuant to
5 subsection (6), and may provide application forms and other
6 information in regard to ~~such~~ THAT life insurance. If an
7 application form is provided, the funeral establishment, ceme-
8 tery, or seller shall also provide to the person a list annually
9 prepared by the commissioner setting forth the life insurance
10 companies offering in Michigan associated life insurance policies
11 or annuity contracts. The list shall include the name, address,
12 and telephone number of an agent for each of the life insurance
13 companies listed. The list also shall include a statement that a
14 person who is insured under any life insurance policy or annuity
15 contract may assign all or a portion of the proceeds, not to
16 exceed the amount provided in subsection (6)(g), of the existing
17 life insurance policy or annuity contract for the payment of
18 funeral services and goods or cemetery services or goods to any
19 funeral establishment, cemetery, or seller ~~which~~ THAT has
20 accepted any other assignment of an associated life insurance
21 policy or annuity contract during that calendar year. The
22 funeral establishment, cemetery, or seller shall accept an
23 assignment on the proceeds from any associated or nonassociated
24 life insurance policy or annuity contract pursuant to
25 subsection (6), and this requirement on the funeral establish-
26 ment, cemetery, or seller shall be set forth in the statement
27 prepared by the ~~insurance~~ commissioner. The assignor or the

1 person or persons legally entitled to make funeral arrangements
2 for the person whose life was insured may contract with the
3 funeral establishment, cemetery, or seller of his or her choice
4 for the rendering of the funeral goods or services or cemetery
5 goods or services. ~~Each~~ EXCEPT AS PROVIDED IN THIS SECTION,
6 EACH associated life insurance policy or annuity contract deliv-
7 ered or issued for delivery in this state shall ~~have a death~~
8 ~~benefit that is sufficient to cover the initial contract price of~~
9 ~~the cemetery goods or services or funeral goods or services and~~
10 ~~that increases~~ INCREASE at an annual rate of not less than the
11 consumer price index. A LIFE INSURANCE COMPANY OFFERING ASSOCI-
12 ATED LIFE INSURANCE OR ANNUITY CONTRACTS IN THIS STATE MAY OFFER
13 LIFE INSURANCE OR ANNUITY CONTRACTS THAT DO NOT GUARANTEE AN
14 INCREASE AT AN ANNUAL RATE OF NOT LESS THAN THE CONSUMER PRICE
15 INDEX, BUT ONLY IF THE SELLER IS PROVIDED WITH THE OPTION OF
16 OFFERING BOTH INDEXED AND NON-INDEXED LIFE INSURANCE OR ANNUITY
17 CONTRACTS TO FUND CEMETERY GOODS AND SERVICES OR FUNERAL GOODS OR
18 SERVICES. IN ADDITION, EACH ASSOCIATED LIFE INSURANCE POLICY OR
19 ANNUITY CONTRACT SHALL DISCLOSE THE DEATH BENEFIT AND ANY REDUC-
20 TION IN THE DEATH BENEFIT IF IT IS A GRADED DEATH BENEFIT
21 POLICY. EACH APPLICATION FOR AN ASSOCIATED LIFE INSURANCE POLICY
22 THAT PROVIDES FOR A GRADED DEATH BENEFIT SHALL CONTAIN AN
23 ACKNOWLEDGMENT FROM THE APPLICANT THAT THE APPLICANT HAS BEEN
24 NOTIFIED OF THE REDUCED DEATH BENEFIT AND THE PERIOD OF
25 REDUCTION. ANY GRADED DEATH BENEFIT PERIOD SHALL NOT EXCEED 2
26 YEARS.

1 (4) A person shall not be designated as the beneficiary in
2 any policy of life or accident insurance whereby the beneficiary,
3 directly or indirectly, shall, in return for all or a part of the
4 proceeds of ~~such~~ THE policy of insurance, furnish cemetery
5 services or goods or funeral services or goods in connection
6 ~~therewith~~ WITH THE POLICY.

7 (5) Except as otherwise provided in subsection (6), it
8 ~~shall be~~ IS unlawful for any life or accident, or sick or
9 funeral benefit company, or any person, company, corporation, or
10 association, to offer or furnish goods or services or anything
11 but money to its insureds or to ~~his or her~~ THEIR heirs, repre-
12 sentatives, attorneys, relatives, associates, or assigns in any
13 connection with, or by way of encumbrance, assignment, payment,
14 settlement, satisfaction, discharge, or release of any insurance
15 policy. However, this subsection ~~shall~~ DOES not prohibit any
16 company, corporation, or association from furnishing medical,
17 surgical, or hospital service.

18 (6) Notwithstanding any other provision in this act, a life
19 insurer may write a life insurance policy or annuity contract
20 ~~which is~~ subject to an assignment of the proceeds of the insur-
21 ance policy or annuity contract as payment for cemetery services
22 or goods or funeral services or goods as provided in this subsec-
23 tion regardless of the relationship between the life insurer and
24 the assignee. An assignment of the proceeds of the insurance
25 policy or annuity contract pursuant to this subsection shall be
26 in writing on a form approved by the commissioner. A predeath
27 assignment of the proceeds of a life insurance policy or annuity

1 contract as payment for cemetery or funeral services or goods is
2 void unless all of the following conditions and criteria are
3 met:

4 (a) The assignment is an inseparable part of the contract
5 for the cemetery services or goods or funeral services or goods
6 for which the assigned proceeds serve as payment.

7 (b) The assignment is revocable by the assignor, assignor's
8 successor, or if the assignor is the insured by the representa-
9 tive of the insured's estate prior to the provision of the ceme-
10 tery services or goods or funeral services or goods.

11 (c) The contract for funeral services or goods or cemetery
12 services or goods and the assignment provide that upon revocation
13 of the assignment, the contract for the cemetery services or
14 goods or funeral services or goods is revoked and cemetery serv-
15 ices or goods or funeral services or goods may be obtained from
16 any cemetery, funeral establishment, or seller.

17 (d) The assignment contains the following disclosure in
18 boldfaced type:

19 "This assignment may be revoked by the assignor or
20 assignor's successor or, if the assignor is also the insured and
21 deceased, by the representative of the insured's estate before
22 the rendering of the cemetery services or goods or funeral serv-
23 ices or goods. If the assignment is revoked, the death benefit
24 under the life insurance policy or annuity contract shall be paid
25 in accordance with the beneficiary designation under the insur-
26 ance policy or annuity contract."

1 (e) The assignment provides for all of the following:

2 (i) That the actual price of the cemetery services or goods
3 or funeral services or goods delivered at the time of death may
4 be more than or less than the price set forth in the assignment.

5 (ii) For the assignment of an associated life insurance
6 policy or annuity contract, that any increase in the price of the
7 cemetery services or goods or funeral services or goods shall not
8 exceed the ultimate death benefit under the life insurance policy
9 or annuity contract.

10 (iii) For the assignment of a nonassociated life insurance
11 policy or annuity contract, that any increase in the price of the
12 cemetery services or goods or the funeral services or goods
13 ~~shall~~ DOES not exceed ~~the consumer price index or~~ the retail
14 price list in effect when the death occurs. ~~, whichever is~~
15 ~~less.~~

16 (iv) That if the ultimate death benefit under a life insur-
17 ance policy or annuity contract exceeds the price of the cemetery
18 services or goods or funeral services or goods at the time of
19 performance, the excess amount shall be distributed to the bene-
20 ficiary designated under the life insurance policy or annuity
21 contract or the insured's estate.

22 (v) That any addition to or modification of the contract for
23 cemetery services or goods or funeral services or goods does not
24 revoke the assignment or the contract for the cemetery services
25 or goods or funeral services or goods ~~which~~ THAT are not
26 affected by the addition or modification for which the assigned
27 proceeds are payment unless the assignment is revoked.

1 (f) The assignment is limited to that portion of the
2 proceeds of the life insurance policy or annuity contract ~~which~~
3 THAT is needed to pay for the cemetery services or goods or
4 funeral services or goods for which the assignor has contracted.

5 (g) In the case of an associated life insurance policy or
6 annuity contract, the death benefit of the life insurance policy
7 or annuity contract ~~which~~ THAT is subject to the assignment
8 does not exceed ~~-\$5,000.00~~ \$15,000.00 when the first premium
9 payment is made on the life insurance policy or annuity
10 contract. In the case of a nonassociated life insurance policy
11 or annuity contract, the initial amount of proceeds assigned does
12 not exceed ~~-\$5,000.00~~ \$15,000.00. The maximum amounts in this
13 subdivision shall be adjusted annually in accordance with the
14 consumer price index.

15 (h) The assignment shall contain the dispute resolution
16 rights ~~set forth~~ in subsection (8). After the death of the
17 insured but before the cemetery services or goods or funeral
18 services or goods are provided, the funeral establishment, ceme-
19 tery, or seller shall provide to a representative of the
20 insured's estate a separate document entitled, "dispute resolu-
21 tion disclosure statement," which shall clearly set forth the
22 dispute resolution rights ~~set forth~~ in subsection (8). The
23 dispute resolution disclosure statement shall be filed with the
24 commissioner and shall be considered approved unless disapproved
25 within 30 days after the submission. The language used to ~~set~~
26 ~~forth~~ DESCRIBE the dispute resolution rights in subsection (8)

1 shall be written in a manner calculated to be understood by a
2 person of ordinary intelligence.

3 (i) The assignor and not the assignee is responsible for
4 making the premium payments due on the life insurance policy or
5 annuity contract. This subdivision does not apply to an insur-
6 ance agent when acting as a fiduciary pursuant to section 1207.

7 (j) After the death of the insured but before the cemetery
8 services or goods or funeral services or goods are provided, the
9 representative of the insured's estate is provided with a current
10 price list for the cemetery services or goods or funeral services
11 or goods provided pursuant to the assignment.

12 (k) At the time the assignment is made, the assignee com-
13 plies with the price disclosure rules of the federal trade com-
14 mission prescribed in 16 C.F.R. ~~—~~ part 453, whether or not the
15 rules by their own terms apply to the offering.

16 (l) At the time the assignment is made, the assignor certi-
17 fies that the insured does not have in effect other life insur-
18 ance policies or annuity contracts that have been assigned as
19 payment for cemetery goods or services or funeral goods or serv-
20 ices ~~which~~ THAT together with the additional assignment would
21 have an aggregate face value in excess of the limitation provided
22 in subdivision ~~(h)~~ (G).

23 (m) For the assignment of a nonassociated life insurance
24 policy or annuity contract, the assignment complies with both of
25 the following:

26 (i) The assignment ~~is sufficient to cover the initial~~
27 ~~contract price of the cemetery goods or services or funeral goods~~

1 ~~or services~~ CLEARLY DISCLOSES WHETHER THE AMOUNT ASSIGNED IS
2 SUFFICIENT TO COVER THE INITIAL CONTRACT PRICE OF THE CEMETERY
3 GOODS OR SERVICES OR FUNERAL GOODS OR SERVICES, AND IF NOT, ANY
4 OBLIGATION THAT EXISTS TO PAY FOR THE DIFFERENCE BETWEEN THE CON-
5 TRACT PRICE OF THE CEMETERY GOODS OR SERVICES OR FUNERAL GOODS OR
6 SERVICES AND THE AMOUNT ASSIGNED.

7 (ii) The assignment provides that any increase in the price
8 of the cemetery services or goods or the funeral services or
9 goods ~~shall~~ DOES not exceed ~~the consumer price index or the~~
10 retail price list in effect when the death occurs. ~~, whichever~~
11 ~~is less.~~

12 (7) An insurer or an insurance agent shall not make a false
13 or misleading statement, oral or written, regarding an assignment
14 subject to subsection (6) or regarding the rights or obligations
15 of any party or prospective party to ~~such an~~ THAT assignment.
16 An insurer or an insurance agent shall not advertise or promote
17 an assignment subject to subsection (6) in a manner ~~which~~ THAT
18 is false, misleading, deceptive, or unfair. The commissioner
19 shall promulgate rules regulating the solicitation of plans pro-
20 moting assignments subject to subsection (6) to protect against
21 solicitations ~~which~~ THAT are intimidating, vexatious, fraudu-
22 lent, or misleading, or which take unfair advantage of a person's
23 ignorance or emotional vulnerability.

24 (8) After the cemetery services or goods or funeral services
25 or goods are provided, the funeral establishment, cemetery, or
26 seller shall provide to a representative of the insured's estate
27 a statement to be signed by the representative of the insured's

1 estate authorizing the release of the assignment proceeds for the
2 payment of the cemetery services or goods or funeral services or
3 goods. The insurer shall release to the funeral establishment,
4 cemetery, or seller the assignment proceeds upon receipt of the
5 authorization statement signed by a representative of the
6 insured's estate. If a representative of the insured's estate
7 fails to sign the authorization statement, the following shall
8 take place:

9 (a) The funeral establishment, cemetery, or seller shall
10 provide the representative of the insured's estate with a dispute
11 resolution notice, a copy of which is to be sent to the insurer
12 and the ~~insurance~~ commissioner that states all of the
13 following:

14 (i) That the funeral establishment, cemetery, or seller has
15 provided the cemetery services or goods or funeral services or
16 goods.

17 (ii) That a representative of the insured's estate has
18 refused to authorize the insurer to release the assignment pro-
19 ceeds for the payment of the cemetery services or goods or
20 funeral services or goods.

21 (iii) That a representative of the insured's estate may seek
22 arbitration to resolve the payment dispute.

23 (b) Upon the receipt of the dispute resolution notice
24 described in subdivision (a), the insurer shall retain the
25 assignment proceeds for 30 days. The insurer shall release the
26 assignment proceeds to the funeral establishment, cemetery, or
27 seller if after the expiration of the 30 days the insurer is not

1 informed that arbitration proceedings have been commenced, or
2 pursuant to the award of the arbitrator.

3 (c) The funeral establishment, cemetery, seller, or a repre-
4 sentative of the insured's estate may commence arbitration pro-
5 ceedings to determine the disposition of the assignment
6 proceeds. Arbitration shall be conducted pursuant to the rules
7 and procedures of the American arbitration association. Expenses
8 of the arbitration shall be shared equally by the insured's
9 estate and the assignee unless otherwise ordered by the
10 arbitrator.

11 (d) Nothing in this subsection ~~shall limit~~ LIMITS the
12 right of any party involved in the payment dispute to seek other
13 recourse permitted by law.

14 (9) A life insurance agent shall not sell or solicit the
15 sale of a life insurance policy or annuity contract with the
16 intention of having the purchaser assign the proceeds of the
17 policy or contract to a funeral establishment, cemetery, or
18 seller with which the agent is associated unless all of the fol-
19 lowing conditions are met:

20 (a) The agent ~~shall disclose~~ DISCLOSES in writing to the
21 purchaser the nature of his or her association with the funeral
22 establishment, cemetery, or seller and that both the funeral
23 establishment, cemetery, or seller and the agent will or may
24 profit from the transaction, if that is the case.

25 (b) ~~A~~ IF THE funeral establishment, cemetery, or seller
26 ~~which~~ accepts assignments pursuant to subsection (6), ~~shall~~
27 ~~also offer~~ IT ALSO OFFERS to sell or provide cemetery goods or

1 services or funeral goods or funeral services pursuant to prepaid
2 funeral contracts as provided in the prepaid funeral contract
3 funding act, 1986 PA 255, MCL 328.211 TO 328.235, pursuant to the
4 trust provisions of the cemetery regulation act, ~~Act No. 251 of~~
5 ~~the Public Acts of 1968, being sections 456.521 to 456.543 of the~~
6 ~~Michigan Compiled Laws~~ 1968 PA 251, MCL 456.521 TO 456.543.

7 (c) If the contemplated assignment is to be made to pay the
8 cost of cemetery goods or services or funeral goods or funeral
9 services, the agent ~~shall disclose~~ DISCLOSES in writing to the
10 purchaser that the cemetery goods or services or funeral goods or
11 services may also be purchased prior to death by making payment
12 directly to a funeral establishment, cemetery, or seller who will
13 hold funds in escrow for the benefit of the purchaser pursuant to
14 the prepaid funeral contract funding act, 1986 PA 255, MCL
15 328.211 TO 328.235, or in trust pursuant to the provisions of the
16 cemetery regulation act, ~~Act No. 251 of the Public Acts of 1968~~
17 1968 PA 251, MCL 456.521 TO 456.543. The written disclosure
18 shall also state that upon cancellation of the prepaid funeral
19 contract, the purchaser is entitled to a refund of at least 90%
20 of the principal and income earned.

21 (d) The sale of cemetery goods or services or funeral goods
22 or services ~~shall~~ IS not ~~be~~ conditioned on the purchaser
23 buying or agreeing to buy a life insurance policy or annuity con-
24 tract or on the assignment of the proceeds of the policy or con-
25 tract to that funeral establishment, cemetery, or seller.

26 (e) The sale of a life insurance policy or annuity contract
27 ~~shall~~ IS not ~~be~~ conditioned on the purchaser buying or

1 agreeing to buy cemetery goods or services or funeral goods or
2 services from the funeral establishment, cemetery, or seller with
3 which the agent is associated or on the assignment of the pro-
4 ceeds of the policy or contract to that funeral establishment,
5 cemetery, or seller.

6 (f) A discount from the current price of cemetery goods or
7 services or funeral goods or services ~~shall~~ IS not ~~be~~ offered
8 as an inducement to purchase or assign a life insurance policy or
9 annuity contract.

10 (g) The life insurance policy or annuity contract sold by
11 the agent may be canceled by the purchaser within 10 days after
12 the receipt of the policy or annuity contract, in which event a
13 full refund of all premiums shall be paid to the purchaser.

14 (h) The agent ~~shall disclose~~ DISCLOSES in writing to the
15 purchaser that the funeral establishment, cemetery, or seller
16 with which the agent is associated will accept assignments of
17 life insurance policies or annuity contracts sold by any other
18 licensed agent.

19 (10) The commissioner or any other person, in order to force
20 compliance with subsection (6) or (7), may bring an action in a
21 circuit court in any county in which the assignee or insurance
22 agent or any other person has solicited or sold a life insurance
23 policy or annuity contract that is assigned pursuant to
24 subsection (6), whether or not that person has purchased the life
25 insurance policy or annuity contract or is personally aggrieved
26 by a violation of this section. The court may award damages and

1 issue equitable orders in accordance with the Michigan court
2 rules to restrain conduct in violation of this section.

3 (11) Any person violating any of the provisions of this sec-
4 tion ~~shall be deemed~~ IS guilty of a misdemeanor, and each vio-
5 lation ~~thereof shall be~~ IS a separate offense ~~and upon convic-~~
6 ~~tion shall be punished~~ PUNISHABLE by a fine not exceeding
7 \$1,000.00 or by imprisonment for not more than 6 months, or both.
8 ~~such fine and imprisonment within the discretion of the courts.~~

9 (12) In addition to the penalty provided in subsection (11),
10 if, after a hearing conducted pursuant to the administrative pro-
11 cedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
12 ~~being sections 24.201 to 24.328 of the Michigan Compiled Laws~~
13 1969 PA 306, MCL 24.201 TO 24.328, the commissioner determines a
14 person has violated this section, the commissioner may order the
15 person to pay a civil fine of not more than \$10,000.00 for each
16 violation and may also impose other sanctions provided pursuant
17 to chapter 12. The money collected under this subsection shall
18 be deposited in the funeral consumers education and advocacy
19 fund. The funeral consumers education and advocacy fund is cre-
20 ated within the insurance bureau. The fund shall be administered
21 by the commissioner. The money in the fund shall be used to do
22 both of the following:

23 (a) To promote the education of consumers with regard to the
24 prearrangement and purchase of cemetery or funeral services or
25 goods through the purchase and assignment of life insurance or
26 annuity contracts.

1 (b) To provide legal assistance to persons who were injured
2 as a result of a violation of this section.

3 (13) For purposes of this section, a life insurance agent is
4 associated with a funeral establishment, cemetery, or seller if
5 any of the following apply:

6 (a) The agent is a funeral establishment, cemetery, or
7 seller.

8 (b) The agent owns an interest, directly or indirectly, in a
9 corporation or other entity ~~which~~ THAT holds an interest in a
10 funeral establishment, cemetery, or seller.

11 (c) The agent is an officer, employee, or agent of a funeral
12 establishment, cemetery, or seller.

13 (d) The agent is an officer, employee, or agent of a corpo-
14 ration or other entity ~~which~~ THAT holds an interest, either
15 directly or indirectly, in a funeral establishment, cemetery, or
16 seller, or in a corporation or other entity ~~which~~ THAT holds an
17 interest, directly or indirectly, in a corporation or other
18 entity ~~which~~ THAT holds an interest in a funeral establishment,
19 cemetery, or seller.

20 (14) As used in this section:

21 (a) "Associated life insurance policy or annuity contract"
22 is a life insurance policy or annuity contract that is marketed,
23 designed, and intended to be assigned as payment for cemetery
24 goods or services or funeral goods or services.

25 (b) "Casket" means any box or container consisting of 1 or
26 more parts in which a dead human body is placed prior to
27 interment, entombment, or cremation which may or may not be

1 permanently interred, entombed, or cremated with the dead human
2 body. A permanent interment or entombment receptacle ~~which~~
3 THAT is designed or intended for use without a cemetery burial
4 vault or other outside container ~~shall~~ IS also ~~be~~ considered
5 a casket.

6 (c) "Catafalque" means an ornamental or decorative object or
7 structure ~~which~~ THAT is placed beneath, over, or around a
8 casket, vault, or a dead human body prior to final disposition of
9 the dead human body.

10 (d) "Cemetery" means that term as defined in but not neces-
11 sarily regulated under section 2 of the cemetery regulation act,
12 ~~Act No. 251 of the Public Acts of 1968, being section 456.522 of~~
13 ~~the Michigan Compiled Laws 1968 PA 251, MCL 456.522, or an offi-~~
14 ~~cer, agent, or employee thereof~~ OF A CEMETERY.

15 (e) "Cemetery burial vault or other outside container" means
16 a box or container ~~which~~ THAT is used solely at the place of
17 interment to permanently surround or enclose a casket and to sup-
18 port the earth above the casket after burial.

19 (f) "Cemetery goods" means land or interests in land,
20 crypts, lawn crypts, mausoleum crypts, or niches that are sold by
21 a cemetery. In addition, cemetery goods shall include cemetery
22 burial vaults or other outside containers, markers, monuments,
23 urns, and merchandise items used for the purpose of memorializing
24 a decedent and placed on or in proximity to a place of interment
25 or entombment of a casket, catafalque, or vault or to a place of
26 inurnment ~~which are~~ sold by a cemetery.

1 (g) "Cemetery services" means those services customarily
2 performed by a cemetery.

3 (h) "Combination unit" means any product consisting of a
4 unit or a series of units ~~which~~ THAT are designed or intended
5 to be used together as both a casket and as a permanent burial
6 receptacle.

7 (i) "Consumer price index" means the annual average percen-
8 tage increase in the Detroit consumer price index for all items
9 for the prior 12-month period as reported by the United States
10 department of labor and as certified by the commissioner.

11 (j) "Funeral establishment" means a funeral establishment or
12 a person who is engaged in the practice of mortuary science as
13 those terms are defined in section 1801 of the occupational code,
14 ~~Act No. 299 of the Public Acts of 1980, being section 339.1801~~
15 ~~of the Michigan Compiled Laws~~ 1980 PA 299, MCL 339.1801, or an
16 officer, agent, or employee ~~thereof~~ OF THAT ESTABLISHMENT OR
17 PERSON.

18 (k) "Funeral goods" means items of merchandise ~~which~~ THAT
19 will be used in connection with a funeral or an alternative to a
20 funeral or final disposition of human remains including, but not
21 limited to, caskets, other burial containers, combination units,
22 and catafalques. Funeral goods does not include cemetery goods.

23 (l) "Funeral services" means services customarily performed
24 by a person who is licensed pursuant to sections 1801 to 1812 of
25 the occupational code, ~~Act No. 299 of the Public Acts of 1980,~~
26 ~~being sections 339.1801 to 339.1812 of the Michigan Compiled~~
27 ~~Laws~~ 1980 PA 299, MCL 339.1801 TO 339.1812. Funeral services

1 ~~includes~~ INCLUDE, but ~~is~~ ARE not limited to, care of human
2 remains, embalming, preparation of human remains for final dispo-
3 sition, professional services relating to a funeral or an alter-
4 native to a funeral or final disposition of human remains, trans-
5 portation of human remains, limousine services, use of facilities
6 or equipment for viewing human remains, visitation, memorial
7 services, or services ~~which~~ THAT are used in connection with a
8 funeral or alternative to a funeral, coordinating or conducting
9 funeral rites or ceremonies, and other services provided in con-
10 nection with a funeral, alternative to a funeral, or final dispo-
11 sition of human remains.

12 (M) "GRADED DEATH BENEFIT POLICY" MEANS A LIFE INSURANCE
13 POLICY WITH A DEATH BENEFIT THAT IS LESS THAN THE INITIAL FACE
14 AMOUNT OF THE POLICY FOR A PERIOD OF TIME NOT TO EXCEED 2 YEARS.

15 (N) ~~(m)~~ "Nonassociated life insurance policy or annuity
16 contract" means a life insurance policy or annuity contract that
17 is not marketed to be assigned, designed to be assigned, or
18 intended to be assigned as payment for cemetery goods or services
19 or funeral goods or services.

20 (O) ~~(n)~~ "Representative of insured's estate" means the
21 person or persons legally entitled to make the funeral arrange-
22 ments for the person whose life was insured.

23 (P) ~~(o)~~ "Seller" means a person who offers to sell ceme-
24 tery goods or services or funeral goods or services or any agent,
25 officer, or employee ~~thereof~~ OF THAT PERSON.

1 SEC. 4419. GROUP LIFE INSURANCE MAY BE ISSUED IN CONNECTION
2 WITH PREPAID FUNERAL CONTRACTS ONLY IF IT MEETS ALL OF THE
3 FOLLOWING:

4 (A) IS ISSUED TO AN ASSOCIATION COVERING THE LIVES OF ITS
5 MEMBERS OR TO A TRUSTEE OF A GROUP.

6 (B) IS ISSUED AS AN ASSOCIATED LIFE INSURANCE POLICY OR
7 ANNUITY CONTRACT UNDER SECTION 2080.

8 (C) CONFORMS WITH SECTION 2080.

9 Sec. 4424. (1) The commissioner ~~is empowered to~~ MAY
10 authorize the insuring on a group insurance basis of groups other
11 than those specifically defined in sections 4404 to 4420 ~~—~~
12 ~~where~~ IF conditions or circumstances indicate that granting per-
13 mission for discretionary group life insurance coverages is in
14 the interest of public policy. THIS SECTION DOES NOT LIMIT THE
15 COMMISSIONER TO ONLY AUTHORIZE THOSE GROUPS THAT ARE LOGICALLY
16 ANALAGOUS IN CHARACTER AND COMPOSITION TO THE GROUPS SPECIFICALLY
17 DEFINED IN SECTIONS 4404 TO 4420.

18 (2) The commissioner may refuse to grant permission in any
19 instance on the basis of a finding that the requested group
20 plan:

21 (a) Would not result in economies of acquisition and admin-
22 istration ~~—which—~~ THAT justify a group rate.

23 (b) Would present hazards of voluntary adverse selection to
24 a degree not usually present in group insurance.

25 (c) Would be actuarially unsound.

26 (d) Would fail to preclude individual selection among
27 persons to be insured under the proposed group plan.

1 (3) The discretionary group shall consist of not less than
2 250 persons. The discretionary group may consist of only a por-
3 tion of the employees of an employer or of the members of an
4 organization, ~~where~~ IF segregation arises out of reasonable
5 grounds, geographical or otherwise, ~~which~~ THAT make it pres-
6 ently impossible or undesirable to include in a single group all
7 of the employees or members. The discretionary group may consist
8 of employees of more than 1 employer, or the members of more than
9 1 organization or association, ~~when the~~ IF evidence submitted
10 clearly indicates the desirability of embracing the proposed
11 assemblage of individuals under a single group. By way of par-
12 ticular, but not in limitation, the group may consist of the
13 employees of 1 or more governmental or quasigovernmental units,
14 federal, state, municipal, or local.

15 (4) If, for reasons ~~which~~ THAT the commissioner ~~shall~~
16 ~~determine~~ DETERMINES to be adequate, it appears to be impossible
17 or infeasible for the employer to be the policyholder in any
18 group authorized under this section, the commissioner may autho-
19 rize the designation of a trustee or trustees to be the policy-
20 holder, subject to rules ~~as~~ the commissioner ~~shall approve~~
21 APPROVES.

22 (5) The commissioner may authorize discretionary groups and
23 plans of group insurance ~~which~~ THAT qualify in all other
24 respects under this section although there be no contribution to
25 the premium payment from the employer or organization if the com-
26 missioner finds that circumstances render the contribution
27 inequitable, impossible, or impracticable.

1 (6) The percentage of employees or members required to
2 participate in any group authorized under this section, the types
3 of insurance coverage to be offered to the members of the group,
4 and the amounts of insurance to be provided, shall be as the com-
5 missioner ~~shall determine~~ DETERMINES. The maximum insurance
6 available to any member of a group authorized under this section
7 shall not exceed \$80,000.00. The maximum shall be adjusted
8 beginning July 1, 1982, and annually thereafter, to reflect
9 changes in the cost of living under rules prescribed by the
10 commissioner. However, ~~where any group which~~ IF A GROUP THAT
11 previously operated under authority of any of the sections 4404
12 to 4420 ~~shall be~~ IS continued under the provisions of this sec-
13 tion, the types of insurance and amounts of coverage already
14 authorized in the group may be continued although in excess of
15 the limitations ~~which~~ THAT would otherwise be available under
16 this section.

17 (7) Before any application for permission to qualify under
18 this section ~~shall be~~ IS considered, the applicant shall
19 deposit with the commissioner a specific fee of \$100.00 to defray
20 the costs of examining into the circumstances and conditions
21 appertaining to the proposed group and group insurance ~~—~~ and
22 shall covenant to compensate the insurance bureau for any addi-
23 tional unusual expenses ~~which~~ THAT it may incur. The applicant
24 shall furnish such information, documents, and data pertaining to
25 the proposed group plan as the commissioner ~~shall require~~
26 REQUIRES to arrive at his or her determination. The commissioner

1 shall, from time to time, promulgate rules for the enforcement of
2 this section.

3 (8) The applicant may appeal from the commissioner's refusal
4 to authorize the discretionary group to the circuit court for the
5 county of Ingham on the grounds that the refusal is arbitrary or
6 capricious and devoid of sound underwriting or actuarial grounds;
7 but any fees or costs paid to or incurred by the insurance bureau
8 under subsection (7) ~~shall~~ IS not ~~be~~ subject to recovery.