



HOUSE BILL No. 5735

September 14, 1994, Introduced by Rep Porreca and referred to the Committee on Insurance

A bill to amend sections 1204, 1204c, and 2080 of Act No 218 of the Public Acts of 1956, entitled as amended "The insurance code of 1956," section 1204 as amended by Act No 173 of the Public Acts of 1986, section 1204c as amended by Act No 48 of the Public Acts of 1994, and section 2080 as amended by Act No 318 of the Public Acts of 1986, being sections 500 1204, 500 1204c, and 500 2080 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 1204, 1204c, and 2080 of Act No 218 of
2 the Public Acts of 1956, section 1204 as amended by Act No 173
3 of the Public Acts of 1986, section 1204c as amended by Act
4 No 48 of the Public Acts of 1994, and section 2080 as amended by
5 Act No 318 of the Public Acts of 1986, being sections 500 1204,

1 500 1204c and 500 2080 of the Michigan Compiled Laws are
2 amended to read as follows

3 Sec 1204 (1) An application for a license to act as an
4 agent shall be made to the commissioner and be accompanied by a
5 notice of appointment from the sponsoring insurer The applica-
6 tion and the notice of appointment shall be on forms prescribed
7 by the commissioner

8 (2) Within a reasonable time after receipt of a properly
9 completed application and notice of appointment forms, the com-
10 missioner shall ~~subject~~ OFFER TO the applicant ~~to~~ AN OPPORTU-
11 NITY TO TAKE a written examination Beginning July 1, 1987, an
12 applicant shall not be given an examination unless the applicant
13 has completed an insurance agent program of study registered with
14 the commissioner pursuant to section 1204a A certificate of
15 completion of the registered program of study shall be filed with
16 the commissioner on a form prescribed by the commissioner and
17 shall indicate that the course of study was completed by the
18 applicant not more than 6 months before the application is
19 received by the commissioner The commissioner may waive the
20 applicable examination or program of study requirements of this
21 section for a person who applies for a limited license as desig-
22 nated by the commissioner for a person who has been a licensed
23 agent or solicitor within the preceding 24 months for a person
24 who has obtained the chartered property and casualty underwriter
25 designation, the chartered life underwriter designation, certi-
26 fied insurance counselor designation, accredited advisor in
27 insurance designation, or the chartered financial consultant

1 designation or for a person who has an associate s, bachelor s
2 or master s degree with a concentration in insurance from an
3 institution approved by the commissioner THE COMMISSIONER SHALL
4 WAIVE THE APPLICABLE EXAMINATION AND PROGRAM OF STUDY REQUIRE-
5 MENTS OF THIS SECTION FOR A PERSON WHO APPLIES FOR LIMITED
6 LICENSE TO SELL ONLY ASSOCIATED LIFE INSURANCE POLICIES OR ANNU-
7 ITY CONTRACTS PURSUANT TO SECTION 2080(14) An applicant who
8 fails to pass an examination may take subsequent examinations
9 pursuant to rules promulgated by the commissioner

10 (3) The commissioner may conduct investigations and propound
11 interrogatories concerning the applicant's qualifications, resi-
12 dence, business affiliations ~~which~~ THAT are relevant to the
13 applicant's qualifications as an agent, and any other matter
14 ~~which~~ THAT the commissioner considers necessary or advisable to
15 determine compliance with this chapter ~~or~~ or for protection of
16 the public

17 (4) After examination, investigation, and interrogatories,
18 the commissioner shall license an applicant if the commissioner
19 determines that the applicant is an employee of or is authorized
20 in writing to represent, an insurer ~~which~~ THAT is authorized to
21 transact insurance in this state, and the applicant possesses
22 reasonable understanding of the provisions, terms and conditions
23 of the insurance the applicant will be licensed to solicit, pos-
24 sesses reasonable understanding of the insurance laws of this
25 state, intends in good faith to act as an agent, is honest and
26 trustworthy, possesses a good business reputation, and possesses
27 good moral character to act as an agent The commissioner shall

1 make a decision on an application within 60 days after the
 2 applicant passes the examination or, if the examination has been
 3 waived, within 60 days after receipt of a properly completed
 4 application and notice of appointment forms

5 (5) ~~A~~ THE COMMISSIONER SHALL ISSUE A license to act as an
 6 agent in this state in compliance with the laws of this state
 7 ~~shall be issued~~ to an insurance agent who is not a resident of
 8 this state The license may be issued subject to any additional
 9 restrictions under which a resident of this state would be
 10 licensed in the jurisdiction in which the applicant resides

11 Sec 1204c (1) As used in this section

12 (a) "Agent" means a life-health agent or property-casualty
 13 agent licensed under this chapter

14 (b) "Hour" means a period of time of not less than 50
 15 minutes

16 (c) 'Life-health agent' means a resident or nonresident
 17 agent licensed for life limited life credit life mortgage
 18 redemption, accident and health, or any combination thereof

19 (d) "Property-casualty agent means a resident or nonresi-
 20 dent agent or solicitor licensed for automobile, fire, multiple
 21 lines, any limited or minor property and casualty line or any
 22 combination thereof

23 (2) Unless the agent has renewed his or her license pursuant
 24 to subsection (4), an agent s hours of study accrued under this
 25 section shall be reviewed for license continuance as follows

26 (a) If the agent s license number ends in 1 as follows

1 (1) If the agent's last name starts with A to L on January
2 1, 1995 and on January 1 every 2 years thereafter

3 (11) If the agent's last name starts with M to Z, on
4 January 1, 1996 and on January 1 every 2 years thereafter

5 (b) If the agent's license number ends in "2" as follows

6 (1) If the agent's last name starts with A to L, on
7 February 1, 1995 and on February 1 every 2 years thereafter

8 (11) If the agent's last name starts with M to Z, on
9 February 1, 1996 and on February 1 every 2 years thereafter

10 (c) If the agent's license number ends in "3" as follows

11 (1) If the agent's last name starts with A to L, on March 1,
12 1995 and on March 1 every 2 years thereafter

13 (11) If the agent's last name starts with M to Z, on
14 March 1, 1996 and on March 1 every 2 years thereafter

15 (d) If the agent's license number ends in "4" as follows

16 (1) If the agent's last name starts with A to L, on June 1,
17 1995 and on June 1 every 2 years thereafter

18 (11) If the agent's last name starts with M to Z, on June 1,
19 1996 and on June 1 every 2 years thereafter

20 (e) If the agent's license number ends in "5" as follows

21 (1) If the agent's last name starts with A to L, on July 1,
22 1995 and on July 1 every 2 years thereafter

23 (11) If the agent's last name starts with M to Z, on July 1,
24 1996 and on July 1 every 2 years thereafter

25 (f) If the agent's license number ends in "6" as follows

26 (1) If the agent's last name starts with A to L, on
27 August 1, 1995 and on August 1 every 2 years thereafter

1 (11) If the agent's last name starts with M to Z on
2 August 1, 1996 and on August 1 every 2 years thereafter

3 (g) If the agent's license number ends in "7" as follows

4 (1) If the agent's last name starts with A to L, on
5 September 1, 1995 and on September 1 every 2 years thereafter

6 (11) If the agent's last name starts with M to Z, on
7 September 1, 1996 and on September 1 every 2 years thereafter

8 (h) If the agent's license number ends in "8" as follows

9 (1) If the agent's last name starts with A to L, on
10 October 1, 1995 and on October 1 every 2 years thereafter

11 (11) If the agent's last name starts with M to Z, on
12 October 1, 1996 and on October 1 every 2 years thereafter

13 (1) If the agent's license number ends in "9" as follows

14 (1) If the agent's last name starts with A to L, on
15 November 1, 1995 and on November 1 every 2 years thereafter

16 (11) If the agent's last name starts with M to Z, on
17 November 1, 1996 and on November 1 every 2 years thereafter

18 (j) If the agent's license number ends in "0" as follows

19 (1) If the agent's last name starts with A to L, on
20 December 1, 1995 and on December 1 every 2 years thereafter

21 (11) If the agent's last name starts with M to Z, on
22 December 1, 1996 and on December 1 every 2 years thereafter

23 (3) If an agent's hours of study would be reviewed according
24 to the schedule under subsection (2) within 23 months after issuance
25 of the initial license, the hours shall not be reviewed on
26 the first scheduled date following the issuance of the initial
27 license and shall be reviewed on the next scheduled review date

1 following the first review date according to the schedule under
2 subsection (2) unless the agent has renewed his or her license
3 pursuant to subsection (4)

4 (4) Except as provided in subsections (11) to (14), before
5 the review date of each applicable 2-year period provided for
6 under subsection (2) or (3), an agent wishing to renew his or her
7 license shall renew his or her license by attending or instruct-
8 ing not less than 30 hours of continuing education classes
9 approved by the commissioner or 30 hours of home study if evi-
10 denced by successful completion of course work approved by the
11 commissioner Of the 30 hours of continuing education required,
12 a life-health agent shall attend or instruct not less than 15
13 hours in a program of study approved for life-health agents and a
14 property-casualty agent shall attend or instruct not less than 15
15 hours in a program of study approved for property-casualty
16 agents

17 (5) After reviewing recommendations made by the council
18 under section 1204b, the commissioner shall approve a program of
19 study if the commissioner determines that the program increases
20 knowledge of insurance and related subjects as follows

21 (a) For a life-health agent program of study, the program
22 offers instruction in 1 or more of the following

23 (1) The fundamental considerations and major principles of
24 life insurance

25 (11) The fundamental considerations and major principles of
26 health insurance

- 1 (111) Estate planning and taxation as related to insurance
- 2 (12) Industry and legal standards concerning ethics in
- 3 insurance
- 4 (13) Legal, legislative, and regulatory matters concerning
- 5 insurance, the insurance code, and the insurance industry
- 6 (14) Principal provisions used in life insurance contracts,
- 7 health insurance contracts, or annuity contracts and differences
- 8 in types of coverages
- 9 (15) Accounting and actuarial considerations in insurance
- 10 (b) For a property-casualty agent program of study, the pro-
- 11 gram offers instructions in 1 or more of the following
- 12 (1) The fundamental considerations and major principles of
- 13 property insurance
- 14 (2) The fundamental considerations and major principles of
- 15 casualty insurance
- 16 (111) Basic principles of risk management
- 17 (12) Industry and legal standards concerning ethics in
- 18 insurance
- 19 (13) Legal, legislative, and regulatory matters concerning
- 20 insurance, the insurance code, and the insurance industry
- 21 (14) Principal provisions used in casualty insurance con-
- 22 tracts, no-fault insurance contracts, or property insurance con-
- 23 tracts and differences in types of coverages
- 24 (15) Accounting and actuarial considerations in insurance
- 25 (6) A provider of a program of study for agents applying for
- 26 approval or reapproval from the commissioner under this section
- 27 shall file, on a form provided by the commissioner, a description

1 of the course of study including a description of the subject
2 matter and course materials, hours of instruction, location of
3 classroom, qualifications of instructors, and maximum
4 student-instructor ratio and shall pay a nonrefundable \$25 00
5 filing fee Any material change in a program of study shall
6 require reapproval by the commissioner If the information in an
7 application for approval or reapproval is insufficient for the
8 commissioner to determine whether the program of study meets the
9 requirements under subsection (5), the commissioner shall give
10 written notice to the provider, within 15 days after the
11 provider's filing of the application for approval or reapproval,
12 of the additional information needed by the commissioner An
13 application for approval or reapproval shall be considered
14 approved unless disapproved by the commissioner within 90 days
15 after the application for approval or reapproval is filed, or
16 within 90 days after the receipt of additional information if the
17 information was requested by the commissioner, whichever is
18 later

19 (7) A provider of a program of study approved by the commis-
20 sioner under this section shall pay a provider authorization fee
21 of \$500 00 for the first year the provider's program of study was
22 approved under this section and a \$100 00 provider renewal fee
23 for each year thereafter that the provider offers the approved
24 program of study

25 (8) A person dissatisfied with an approved program of study
26 may petition the commissioner for a hearing on the program or the
27 commissioner on his or her own initiative may request a hearing

1 on a program of study If the commissioner finds the petition to
2 have been submitted in good faith, that the petition if true
3 ~~shows~~ DEMONSTRATES THAT the program of study does not satisfy
4 the criteria in subsection (5), or that the petition otherwise
5 justifies holding a hearing, the commissioner shall hold a hear-
6 ing pursuant to chapter 4 of the administrative procedures act of
7 1969, Act No 306 of the Public Acts of 1969, being sections
8 24 271 to 24 287 of the Michigan Compiled Laws, within 30 days
9 after receipt of the petition and upon not less than 10 days'
10 written notice to the petitioner and the provider of the program
11 of study If the commissioner requests a hearing on a program of
12 study on his or her own initiative, the commissioner shall hold a
13 hearing pursuant to chapter 4 of Act No 306 of the Public Acts
14 of 1969, upon not less than 10 days written notice to the pro-
15 vider of the program of study

16 (9) If after a hearing under subsection (8) the commissioner
17 finds that the program of study does not satisfy the requirements
18 under subsection (5), the commissioner shall state, in a written
19 order mailed first class to the petitioner and provider of the
20 program of study, his or her findings and the date upon which the
21 commissioner will revoke approval of the program of study
22 ~~which~~ THE EFFECTIVE date OF THE REVOCATION OF APPROVAL shall be
23 within a reasonable time ~~of~~ AFTER the issuance of the order

24 (10) A certificate of attendance or instruction of an
25 approved program of study or a certificate of successful comple-
26 tion of course work shall be filed as directed by the
27 commissioner on a form prescribed by the commissioner and shall

1 indicate the name and number of the course of study, the number
2 of hours, dates of completion, and the name and number of schools
3 attended or taught by the agent or the evidence of successful
4 completion of course work A representative of the approved pro-
5 gram of study shall file the form and a fee of \$1 00 per hour for
6 course credit for each agent license renewal as directed by the
7 commissioner within 30 days after the agent completes the
8 program A copy of the form shall also be mailed first class to
9 the agent who attended, taught, or successfully completed the
10 program of study The commissioner may enter into contracts to
11 provide for the administrative functions of this subsection

12 (11) The commissioner may waive the continuing education
13 requirements of this section for an agent if the commissioner
14 determines that enforcement of the requirements would cause a
15 severe hardship Until January 1, 1997, the commissioner shall
16 waive the continuing education requirements of this section for
17 an agent who is licensed to write only travel or baggage insur-
18 ance policies and whose employment is for a purpose other than
19 the sale of those policies THE COMMISSIONER SHALL WAIVE THE
20 CONTINUING EDUCATION REQUIREMENTS OF THIS SECTION FOR AN AGENT
21 LICENSED TO WRITE ONLY ASSOCIATED LIFE INSURANCE POLICIES OR
22 ANNUITY CONTRACTS PURSUANT TO SECTION 2080(14)

23 (12) The commissioner may enter into reciprocal continuing
24 education agreements with insurance commissioners from other
25 states A person who is licensed pursuant to section 1204(5)
26 shall not be subject to the continuing education requirements
27 under this section if there is IN EXISTENCE a reciprocal

1 insurance continuing education agreement with the insurance
2 commissioner of the state of the applicant's principal residence
3 and ~~there are continuing education requirements in~~ the state of
4 the applicant's residence HAS IMPOSED CONTINUING EDUCATION
5 REQUIREMENTS

6 (13) If an agent has not met his or her continuing education
7 requirements by the expiration date of his or her license, the
8 agent shall have a 90-day grace period in which to meet the con-
9 tinuing education requirements of this section. During the
10 90-day grace period the agent shall not solicit or sell new poli-
11 cies of insurance, bind coverage or otherwise act as an agent
12 except that the agent may continue to service policies previously
13 sold and may receive commissions on policies previously sold. If
14 the agent has not met his or her continuing education require-
15 ments by the expiration of the 90-day grace period, the agent's
16 license shall be canceled. An agent whose license has been
17 canceled under this section may reapply for license to act as an
18 agent under section 1204, except that the program of study
19 requirements under section 1204 shall not be waived.

20 (14) An agent who has sold his or her insurance business and
21 who has not met the continuing education requirements of this
22 section shall not solicit or sell new policies of insurance, bind
23 coverage, or otherwise act as an agent except that the agent may
24 continue to service policies previously sold and may receive com-
25 missions on policies previously sold as well as receive partial
26 commissions on policies of insurance sold by a purchasing agent.
27 An agent who is in the process of selling his or her insurance

1 business and who has not met the continuing education
2 requirements of this section shall not solicit or sell new poli-
3 cies of insurance, bind coverage, or otherwise act as an agent
4 except that the agent may continue to service policies previously
5 sold and may receive commissions on policies previously sold as
6 well as receive partial commissions on policies of insurance sold
7 by a purchasing agent, for a period not to exceed 12 months after
8 the selling agent s license review date under subsection (2) An
9 agent whose license has been canceled and who wishes to resume
10 soliciting or selling new policies of insurance, bind coverage,
11 or otherwise act as an agent and who has not met the continuing
12 education requirements within the immediately preceding 2-year
13 period may reapply for license to act as an agent under
14 section 1204, except that the program of study requirements under
15 section 1204 shall not be waived

16 Sec 2080 (1) It shall be unlawful for any life or acci-
17 dent insurer authorized to do business in this state to own,
18 manage, supervise, operate, or maintain a mortuary, FUNERAL, or
19 undertaking establishment or to permit its officers agents or
20 employees to own or maintain any such MORTUARY, funeral, or
21 undertaking establishment

22 (2) Except as otherwise provided in subsection (6), it shall
23 be unlawful for any life insurance, sick or funeral benefit com-
24 pany, or any company, corporation, or association engaged in a
25 similar business to contract or agree with any funeral director,
26 undertaker, or mortuary to the effect that such funeral director,

1 undertaker, or mortuary shall conduct the funeral of any person
2 insured by such company corporation, or association

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

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

1 establishment cemetery or seller of his or her choice for the
 2 rendering of the funeral goods or services or cemetery goods or
 3 services Each associated life insurance policy or annuity con-
 4 tract delivered or issued for delivery in this state shall have a
 5 death benefit that is sufficient to cover the initial contract
 6 price of the cemetery goods or services or funeral goods or serv-
 7 ices and that increases at an annual rate of not less than the
 8 consumer price index

9 (4) A person shall not be designated as the beneficiary in
 10 any policy of life or accident insurance ~~whereby~~ UNDER CIRCUM-
 11 STANCES WHERE the beneficiary, directly or indirectly, shall in
 12 return for all or a part of the proceeds of ~~such~~ THE policy of
 13 insurance, furnish cemetery services or goods or funeral services
 14 or goods in connection therewith

15 (5) Except as otherwise provided in subsection (6), it shall
 16 be unlawful for any life or accident, ~~or~~ sick or funeral bene-
 17 fit company, or any person, company, corporation or association
 18 to ~~offer or~~ furnish OR OFFER TO FURNISH goods, ~~or~~ services,
 19 or anything but money to its insureds or to ~~his or her~~ THE
 20 INSURED'S heirs, representatives, attorneys, relatives, associ-
 21 ates, or assigns in any connection with, or by way of encum-
 22 brance, assignment, payment, settlement, satisfaction, discharge,
 23 or release of any insurance policy However, this subsection
 24 shall not prohibit any company, corporation, or association from
 25 furnishing medical, surgical, or hospital service

26 (6) Notwithstanding any other provision in this act, a life
 27 insurer may write a life insurance policy or annuity contract

1 ~~which~~ THAT is subject to an assignment of the proceeds of the
2 insurance policy or annuity contract as payment for cemetery
3 services or goods or funeral services or goods as provided in
4 this subsection regardless of the relationship between the life
5 insurer and the assignee An assignment of the LIFE proceeds of
6 the insurance policy or annuity contract pursuant to this subsec-
7 tion shall be in writing on a form approved by the commissioner
8 A predeath assignment of the proceeds of a life insurance policy
9 or annuity contract as payment for cemetery SERVICES OR GOODS or
10 funeral services or goods is void unless all of the following
11 conditions and criteria are met

12 (a) The assignment is an inseparable part of the contract
13 for the cemetery services or goods or funeral services or goods
14 for which the assigned proceeds serve as payment

15 (b) The assignment is revocable by the assignor, assignor's
16 successor, or, if the assignor is the insured, by the representa-
17 tive of the insured's estate prior to the provision of the ceme-
18 tery services or goods or funeral services or goods

19 (c) The contract for funeral services or goods or cemetery
20 services or goods and the assignment provide that upon revocation
21 of the assignment, the contract for the cemetery services or
22 goods or funeral services or goods is revoked and cemetery serv-
23 ices or goods or funeral services or goods may be obtained from
24 any cemetery, funeral establishment, or seller

25 (d) The assignment contains the following disclosure in
26 boldfaced type

1 This assignment may be revoked by the assignor or
2 assignor's successor or, if the assignor is also the insured and
3 deceased, by the representative of the insured's estate before
4 the rendering of the cemetery services or goods or funeral serv-
5 ices or goods If the assignment is revoked, the death benefit
6 under the life insurance policy or annuity contract shall be paid
7 in accordance with the beneficiary designation under the insur-
8 ance policy or annuity contract "

9 (e) The assignment provides for all of the following

10 (i) That the actual price of the cemetery services or goods
11 or funeral services or goods delivered at the time of death may
12 be more than or less than the price set forth in the assignment

13 (ii) For ~~the assignment of~~ an associated life insurance
14 policy or annuity contract, that any increase in the price of the
15 cemetery services or goods or funeral services or goods shall not
16 exceed the ultimate death benefit under the life insurance policy
17 or annuity contract

18 (iii) For ~~the assignment of~~ a nonassociated life insurance
19 policy or annuity contract, that any increase in the price of the
20 cemetery services or goods or the funeral services or goods shall
21 not exceed the consumer price index or the retail price list in
22 effect when the death occurs, whichever is less

23 (iv) That if the ultimate death benefit under a life insur-
24 ance policy or annuity contract exceeds the price of the cemetery
25 services or goods or funeral services or goods at the time of
26 performance, the excess amount shall be distributed to the

1 beneficiary designated under the life insurance policy or annuity
2 contract or the insured's estate

3 (v) That any addition to or modification of the contract for
4 cemetery services or goods or funeral services or goods does not
5 revoke the assignment or the contract for the cemetery services
6 or goods or funeral services or goods ~~which~~ THAT are not
7 affected by the addition or modification for which the assigned
8 proceeds are payment unless the assignment is revoked

9 (f) The assignment is limited to that portion of the pro-
10 ceeds of the life insurance policy or annuity contract ~~which~~
11 THAT is needed to pay for the cemetery services or goods or
12 funeral services or goods for which the assignor has contracted

13 (g) ~~In the case of~~ FOR an associated life insurance policy
14 or annuity contract, the death benefit of the life insurance
15 policy or annuity contract ~~which~~ THAT is subject to the assign-
16 ment does not exceed \$5,000 00 when the first premium payment is
17 made on the life insurance policy or annuity contract ~~In the~~
18 ~~case of~~ FOR a nonassociated life insurance policy or annuity
19 contract the initial amount of proceeds assigned does not exceed
20 \$5,000 00 The maximum amounts in this subdivision shall be
21 adjusted annually in accordance with the consumer price index

22 (h) The assignment shall contain the dispute resolution
23 rights set forth in subsection (8) After the death of the
24 insured but before the cemetery services or goods or funeral
25 services or goods are provided, the funeral establishment, ceme-
26 tery, or seller shall provide to a representative of the
27 insured's estate a separate document entitled "dispute

1 resolution disclosure statement, which shall clearly set forth
2 the dispute resolution rights set forth in subsection (8) The
3 dispute resolution disclosure statement shall be filed with the
4 commissioner and shall be considered approved unless disapproved
5 within 30 days after the submission The language used to set
6 forth the dispute resolution rights in subsection (8) shall be
7 written in a manner calculated to be understood by a person of
8 ordinary intelligence

9 (1) The assignor and not the assignee is responsible for
10 making the premium payments due on the life insurance policy or
11 annuity contract This subdivision does not apply to an insur-
12 ance agent ~~when~~ IF acting as a fiduciary pursuant to
13 section 1207

14 (j) After the death of the insured but before the cemetery
15 services or goods or funeral services or goods are provided, the
16 representative of the insured s estate is provided with a current
17 price list for the cemetery services or goods or funeral services
18 or goods provided pursuant to the assignment

19 (k) At the time the assignment is made, the assignee com-
20 plies with the price disclosure rules of the federal trade com-
21 mission prescribed in 16 C F R , part 453, whether or not the
22 rules by their own terms apply to the offering

23 (l) At the time the assignment is made, the assignor certi-
24 fies that the insured does not have in effect other life insur-
25 ance policies or annuity contracts that have been assigned as
26 payment for cemetery goods or services or funeral goods or
27 services ~~which~~ THAT together with the additional assignment

1 would have an aggregate face value in excess of the limitation
2 provided in subdivision (h)

3 (m) For the assignment of a nonassociated life insurance
4 policy or annuity contract, the assignment complies with both of
5 the following

6 (1) The assignment is sufficient to cover the initial con-
7 tract price of the cemetery goods or services or funeral goods or
8 services

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

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

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

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

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

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

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

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

24 (b) Upon the receipt of the dispute resolution notice
25 described in subdivision (a), the insurer shall retain the
26 assignment proceeds for 30 days The insurer shall release the
27 assignment proceeds to the funeral establishment, cemetery, or

1 seller if after the expiration of the 30 days the insurer is not
2 informed that arbitration proceedings have been commenced or
3 pursuant to the award of the arbitrator

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

12 (d) ~~Nothing in this~~ THIS subsection ~~shall~~ DOES NOT limit
13 the right of any party involved in the payment dispute to seek
14 other recourse permitted by law

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

21 (a) The agent shall disclose in writing to the purchaser the
22 nature of his or her association with the funeral establishment,
23 cemetery, or seller and that both the funeral establishment, cem-
24 etery, or seller and the agent will or may profit from the trans-
25 action, if that is the case

26 (b) A funeral establishment, cemetery, or seller which
27 accepts assignments pursuant to subsection (6) shall also offer

1 to sell or provide cemetery goods or services or funeral goods or
2 funeral services pursuant to prepaid funeral contracts as pro-
3 vided in the prepaid funeral contract funding act, ACT NO 255 OF
4 THE PUBLIC ACTS OF 1986, BEING SECTIONS 328 211 TO 328 235 OF THE
5 MICHIGAN COMPILED LAWS, or pursuant to the trust provisions of
6 the cemetery regulation act, Act No 251 of the Public Acts of
7 1968, being sections 456 521 to 456 543 of the Michigan Compiled
8 Laws

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

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

1 (e) The sale of a life insurance policy or annuity contract
2 shall not be conditioned on the purchaser buying or agreeing to
3 buy cemetery goods or services or funeral goods or services from
4 the funeral establishment, cemetery, or seller with which the
5 agent is associated or on the assignment of the proceeds of the
6 policy or contract to that funeral establishment, cemetery, or
7 seller

8 (f) A discount from the current price of cemetery goods or
9 services or funeral goods or services shall not be offered as an
10 inducement to purchase or assign a life insurance policy or annu-
11 ity contract

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

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

20 (10) The commissioner or any other person, in order to force
21 compliance with subsection (6) or (7), may bring an action in a
22 circuit court in any county in which the assignee or insurance
23 agent or any other person has solicited or sold a life insurance
24 policy or annuity contract that is assigned pursuant to
25 subsection (6), whether or not that person has purchased the life
26 insurance policy or annuity contract or is personally aggrieved
27 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~~ OF THIS SECTION IS a separate offense
6 and upon conviction shall be punished 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
9 courts

10 (12) In addition to the penalty provided in subsection (11),
11 if, after a hearing conducted pursuant to the administrative pro-
12 cedures act of 1969, Act No 306 of the Public Acts of 1969,
13 being sections 24 201 to 24 328 of the Michigan Compiled Laws,
14 the commissioner determines a person has violated this section,
15 the commissioner may order the person to pay ~~a civil~~ AN
16 ADMINISTRATIVE fine of not more than \$10,000 00 for each viola-
17 tion and may also impose other sanctions provided pursuant to
18 chapter 12 The money collected under this subsection shall be
19 deposited in the funeral consumers education and advocacy fund
20 The funeral consumers education and advocacy fund is created
21 within the insurance bureau The fund shall be administered by
22 the commissioner The money in the fund shall be used to do both
23 of the following

24 (a) To promote the education of consumers with regard to the
25 prearrangement and purchase of cemetery or funeral services or
26 goods through the purchase and assignment of life insurance or
27 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) THE COMMISSIONER SHALL LICENSE AS A LIMITED LIFE INSUR-
21 ANCE AGENT A PERSON SELLING ONLY ASSOCIATED LIFE INSURANCE POLI-
22 CIES OR ANNUITY CONTRACTS PURSUANT TO THIS SECTION THE COMMIS-
23 SIONER SHALL DEVELOP OR ADOPT AN EXAMINATION THAT CONTAINS ISSUES
24 AND SUBJECT MATTER RELATING ONLY TO ASSOCIATED LIFE INSURANCE
25 POLICIES AND ANNUITY CONTRACTS LICENSE AND RENEWAL FEES SHALL
26 BE THE SAME AS THOSE PRESCRIBED FOR A LIFE-HEALTH AGENT THE
27 COMMISSIONER MAY PROMULGATE RULES PROVIDING FOR MANDATORY

1 CONTINUING EDUCATION FOR AN APPROPRIATE NUMBER OF HOURS AS LONG
2 AS THE REQUIRED NUMBER OF HOURS DO NOT EXCEED THAT NUMBER
3 REQUIRED FOR A LIFE-HEALTH AGENT UNDER SECTION 1204C

4 (15) ~~-(14)-~~ As used in this section

5 (a) "Associated life insurance policy or annuity contract"
6 is a life insurance policy or annuity contract that is marketed,
7 designed, and intended to be assigned as payment for cemetery
8 goods or services or funeral goods or services

9 (b) "Casket" means any box or container consisting of 1 or
10 more parts in which a dead human body is placed prior to inter-
11 ment, entombment, or cremation which may or may not be per-
12 manently interred, entombed, or cremated with the dead human
13 body A permanent interment or entombment receptacle ~~which~~
14 THAT is designed or intended for use without a cemetery burial
15 vault or other outside container shall also be considered a
16 casket

17 (c) "Catafalque" means an ornamental or decorative object or
18 structure ~~which~~ THAT is placed beneath, over, or around a
19 casket, vault, or a dead human body prior to final disposition of
20 the dead human body

21 (d) "Cemetery" means that term as defined in but not neces-
22 sarily regulated under section 2 of ~~the cemetery regulation~~
23 ~~act,~~ Act No 251 of the Public Acts of 1968, being section
24 456 522 of the Michigan Compiled Laws, or an officer, agent, or
25 employee thereof

26 (e) "Cemetery burial vault or other outside container" means
27 a box or container ~~which~~ THAT is used solely at the place of

1 interment to permanently surround or enclose a casket and to
2 support the earth above the casket after burial

3 (f) "Cemetery goods means land or interests in land,
4 crypts, lawn crypts, mausoleum crypts, or niches that are sold by
5 a cemetery In addition, cemetery goods shall include cemetery
6 burial vaults or other outside containers, markers, monuments,
7 urns, and merchandise items used for the purpose of memorializing
8 a decedent and placed on or in proximity to a place of interment
9 or entombment of a casket, catafalque, or vault or to a place of
10 inurnment ~~which~~ THAT are sold by a cemetery

11 (g) "Cemetery services" means those services customarily
12 performed by a cemetery

13 (h) "Combination unit" means any product consisting of a
14 unit or a series of units ~~which~~ THAT are designed or intended
15 to be used together as both a casket and as a permanent burial
16 receptacle

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

21 (j) "Funeral establishment" means a funeral establishment or
22 a person who is engaged in the practice of mortuary science as
23 those terms are defined in section 1801 of the occupational code,
24 Act No 299 of the Public Acts of 1980, being section 339 1801 of
25 the Michigan Compiled Laws, or an officer, agent, or employee
26 thereof

1 (k) 'Funeral goods means items of merchandise ~~which~~ THAT
 2 will be used in connection with a funeral or an alternative to a
 3 funeral or final disposition of human remains including, but not
 4 limited to, caskets, other burial containers, combination units,
 5 and catafalques Funeral goods does not include cemetery goods

6 (l) 'Funeral services" means services customarily performed
 7 by a person who is licensed pursuant to ~~sections 1801 to 1812~~
 8 ARTICLE 12 of ~~the occupational code,~~ Act No 299 of the Public
 9 Acts of 1980, being sections 339 1801 to 339 1812 of the Michigan
 10 Compiled Laws Funeral services includes, but is not limited to,
 11 care of human remains, embalming, preparation of human remains
 12 for final disposition, professional services relating to a
 13 funeral or an alternative to a funeral or final disposition of
 14 human remains, transportation of human remains, limousine serv-
 15 ices, use of facilities or equipment for viewing human remains,
 16 visitation, memorial services, or services ~~which~~ THAT are used
 17 in connection with a funeral or alternative to a funeral, coordi-
 18 nating or conducting funeral rites or ceremonies, and other serv-
 19 ices provided in connection with a funeral, alternative to a
 20 funeral, or final disposition of human remains

21 (m) "Nonassociated life insurance policy or annuity
 22 contract" means a life insurance policy or annuity contract that
 23 is not marketed to be assigned, designed to be assigned, or
 24 intended to be assigned as payment for cemetery goods or services
 25 or funeral goods or services

1 (n) Representative of insured s estate means the person or
2 persons legally entitled to make the funeral arrangements for the
3 person whose life was insured

4 (o) "Seller" means a person who offers to sell cemetery
5 goods or services or funeral goods or services or any agent,
6 officer, or employee thereof