

HOUSE BILL No. 6365

August 11, 2010, Introduced by Reps. Constan, Liss, Polidori, Gonzales, Neumann, Huckleberry and Terry Brown and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2007a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2007A. (1) IT IS AN UNFAIR METHOD OF COMPETITION AND AN
2 UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSURANCE
3 FOR AN INSURANCE PRODUCER TO USE A SENIOR-SPECIFIC CERTIFICATION OR
4 PROFESSIONAL DESIGNATION THAT INDICATES OR IMPLIES IN SUCH A WAY AS
5 TO MISLEAD A PURCHASER OR PROSPECTIVE PURCHASER THAT THE INSURANCE
6 PRODUCER HAS SPECIAL CERTIFICATION OR TRAINING IN ADVISING OR
7 SERVICING SENIORS IN CONNECTION WITH THE SOLICITATION, SALE, OR
8 PURCHASE OF A LIFE INSURANCE OR ANNUITY PRODUCT OR IN THE PROVISION
9 OF ADVICE AS TO THE VALUE OF OR THE ADVISABILITY OF PURCHASING OR
10 SELLING A LIFE INSURANCE OR ANNUITY PRODUCT, EITHER DIRECTLY OR

1 INDIRECTLY THROUGH PUBLICATIONS OR WRITINGS, OR BY ISSUING OR
2 PROMULGATING ANALYSES OR REPORTS RELATED TO A LIFE INSURANCE OR
3 ANNUITY PRODUCT.

4 (2) THE PROHIBITED USE OF SENIOR-SPECIFIC CERTIFICATIONS OR
5 PROFESSIONAL DESIGNATIONS UNDER SUBSECTION (1) INCLUDES, BUT IS NOT
6 LIMITED TO, ALL OF THE FOLLOWING:

7 (A) USE OF A CERTIFICATION OR PROFESSIONAL DESIGNATION BY AN
8 INSURANCE PRODUCER WHO HAS NOT ACTUALLY EARNED OR IS OTHERWISE
9 INELIGIBLE TO USE SUCH CERTIFICATION OR DESIGNATION.

10 (B) USE OF A NONEXISTENT OR SELF-CONFERRED CERTIFICATION OR
11 PROFESSIONAL DESIGNATION.

12 (C) USE OF A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT
13 INDICATES OR IMPLIES A LEVEL OF OCCUPATIONAL QUALIFICATIONS
14 OBTAINED THROUGH EDUCATION, TRAINING, OR EXPERIENCE THAT THE
15 INSURANCE PRODUCER USING THE CERTIFICATION OR DESIGNATION DOES NOT
16 HAVE.

17 (D) USE OF A CERTIFICATION OR PROFESSIONAL DESIGNATION THAT
18 WAS OBTAINED FROM A CERTIFYING OR DESIGNATING ORGANIZATION THAT
19 MEETS ANY OF THE FOLLOWING:

20 (i) IS PRIMARILY ENGAGED IN THE BUSINESS OF INSTRUCTION IN
21 SALES OR MARKETING.

22 (ii) DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR
23 ASSURING THE COMPETENCY OF ITS CERTIFICANTS OR DESIGNEES.

24 (iii) DOES NOT HAVE REASONABLE STANDARDS OR PROCEDURES FOR
25 MONITORING AND DISCIPLINING ITS CERTIFICANTS OR DESIGNEES FOR
26 IMPROPER OR UNETHICAL CONDUCT.

27 (iv) DOES NOT HAVE REASONABLE CONTINUING EDUCATION REQUIREMENTS

1 FOR ITS CERTIFICANTS OR DESIGNEES IN ORDER TO MAINTAIN THE
2 CERTIFICATE OR DESIGNATION.

3 (3) THERE IS A REBUTTABLE PRESUMPTION THAT A CERTIFYING OR
4 DESIGNATING ORGANIZATION IS NOT DISQUALIFIED SOLELY UNDER
5 SUBSECTION (2) (D) IF THE CERTIFICATION OR DESIGNATION ISSUED FROM
6 THE ORGANIZATION DOES NOT PRIMARILY APPLY TO SALES OR MARKETING AND
7 IF THE ORGANIZATION OR THE CERTIFICATION OR DESIGNATION IN QUESTION
8 HAS BEEN ACCREDITED BY ANY OF THE FOLLOWING:

9 (A) THE AMERICAN NATIONAL STANDARDS INSTITUTE.

10 (B) THE NATIONAL COMMISSION FOR CERTIFYING AGENCIES.

11 (C) ANY ORGANIZATION THAT IS ON THE UNITED STATES DEPARTMENT
12 OF EDUCATION'S LIST ENTITLED "ACCREDITING AGENCIES RECOGNIZED FOR
13 TITLE IV PURPOSES".

14 (4) IN DETERMINING WHETHER A COMBINATION OF WORDS OR AN
15 ACRONYM STANDING FOR A COMBINATION OF WORDS CONSTITUTES A
16 CERTIFICATION OR PROFESSIONAL DESIGNATION INDICATING OR IMPLYING
17 THAT A PERSON HAS SPECIAL CERTIFICATION OR TRAINING IN ADVISING OR
18 SERVICING SENIORS, ALL OF THE FOLLOWING SHALL BE CONSIDERED:

19 (A) USE OF 1 OR MORE WORDS SUCH AS "SENIOR", "RETIREMENT",
20 "ELDER", OR LIKE WORDS COMBINED WITH 1 OR MORE WORDS SUCH AS
21 "CERTIFIED", "REGISTERED", "CHARTERED", "ADVISOR", "SPECIALIST",
22 "CONSULTANT", "PLANNER", OR LIKE WORDS, IN THE NAME OF THE
23 CERTIFICATION OR PROFESSIONAL DESIGNATION.

24 (B) THE MANNER IN WHICH THE WORDS LISTED IN SUBDIVISION (A)
25 ARE COMBINED.

26 (5) FOR PURPOSES OF THIS SECTION, A JOB TITLE WITHIN AN
27 ORGANIZATION THAT IS LICENSED OR REGISTERED BY A STATE OR FEDERAL

1 FINANCIAL SERVICES REGULATORY AGENCY IS NOT A CERTIFICATION OR
2 PROFESSIONAL DESIGNATION, UNLESS IT IS USED IN A MANNER THAT WOULD
3 CONFUSE OR MISLEAD A REASONABLE CONSUMER, IF THE JOB TITLE
4 INDICATES SENIORITY OR STANDING WITHIN THE ORGANIZATION OR
5 SPECIFIES AN INDIVIDUAL'S AREA OF SPECIALIZATION WITHIN THE
6 ORGANIZATION. FOR PURPOSES OF THIS SUBSECTION, FINANCIAL SERVICES
7 REGULATORY AGENCY INCLUDES, BUT IS NOT LIMITED TO, AN AGENCY THAT
8 REGULATES INSURERS, INSURANCE PRODUCERS, BROKER-DEALERS, INVESTMENT
9 ADVISERS, OR INVESTMENT COMPANIES AS DEFINED UNDER THE INVESTMENT
10 COMPANY ACT OF 1940, 15 USC 80A-1 TO 80A-64.