



**House
Legislative
Analysis
Section**

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ALLOW IRREVOCABLE FUNERAL INSURANCE

House Bill 4503 (Substitute H-1)
First Analysis (5-15-89)

RECEIVED

Sponsor: Rep. Paul Wartner
Committee: Insurance

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THE APPARENT PROBLEM:

Public Act 318 of 1986 amended the Insurance Code to allow life insurance companies to sell a special kind of policy or annuity contract under which the proceeds are assigned to pay for funeral and cemetery goods and services from a specific provider, such as a funeral home. The code calls these "associated life insurance" policies, and they are a method of funding prepaid funeral arrangements. Funeral establishments, cemeteries, and providers of similar services are able to become limited life insurance agents for the purpose of selling associated life policies. The assignment must be an inseparable part of the contract for funeral goods and services or cemetery goods and services. Furthermore, such assignments must be revocable by the assignor (i.e., policyholder), assignor's successor, or a representative of the assignor at any time before the goods and services are provided. The revocation of an assignment automatically results in the revocation of the contract for goods and services, which then could be purchased from anyone. Another act, Public Act 255 of 1986, regulated prepaid funeral contracts in general and required, among other things, that trust funds under such contracts be held in escrow. Public Act 255 allowed prepaid funeral contracts (but not insurance contracts) to be made irrevocable at the request of applicants for or recipients of welfare and patients in state mental health facilities and said basically that such irrevocable contracts could not be considered in determining eligibility for state aid; that is, such contracts would not be considered assets that must be divested before a person is eligible for state aid, such as Medicaid. Businesses that sell insurance policies to fund funeral plans would like to be able to reach that group of people, too, and want the insurance law changed so that associated life insurance contracts could be irrevocable under similar circumstances and not count as assets that must be divested by recipients of state aid.

THE CONTENT OF THE BILL:

The bill would make an exception to the requirement in the Insurance Code that all assignments under associated life insurance policies or annuity contracts be revocable at any time prior to the delivery of goods and services. It would permit, under certain circumstances, an irrevocable assignment in a policy or contract issued to an applicant for or recipient of assistance under the Social Welfare Act and with a patient or a legal guardian of a patient in a mental health facility under the jurisdiction of the Department of Mental Health. The policy or contract would not then affect eligibility for state aid.

Under the bill, an assignment could be made irrevocable at the request of the recipient, patient, or legal guardian of a patient if the appropriate department (Social Services or Mental Health) determined that the policy or annuity contract had a death benefit sufficient to cover the contract price of the goods and services noted in the assignment and that the state would not be liable for the goods and services (except for outside receptacles required by

cemeteries). The department involved would have to advise the insured that it would not pay for additional goods or services, but the department could not specify or require approval of particular goods and services. An assignment approved by one of the departments could not be revoked or canceled before or after the death of the insured, but nothing would prevent those legally entitled to make arrangements from reallocating the amount paid under an assignment to different funeral goods and services or from reassigning the contract to another provider of services.

An irrevocable assignment would not be considered in determining a person's eligibility under the Social Welfare Act. Unless modified by the director of the Department of Social Services, purchase of an associated life insurance policy or annuity contract would not constitute a divestment for purposes of eligibility under that act. Notwithstanding any other section of the code, the cash surrender value of an associated life insurance policy subject to an irrevocable assignment would not be available to an insured. The Departments of Social Services and Mental Health could promulgate rules to provide for the uniform administration of the bill's provisions.

MCL 500.2080

FISCAL IMPLICATIONS:

The Department of Licensing and Regulation has said the bill has no budgetary or revenue implications for the state. (5-9-89)

ARGUMENTS:

For:

The bill would allow people to have special, low-value life insurance contracts tied to pre-paid funeral contracts without any effect on their eligibility for state aid. Currently, the Department of Social Services allows people to retain up to \$2,000 in a trust to provide for funeral expenses, and the bill would recognize that life insurance is another way to fund prepaid funeral plans. This would provide access to these insurance policies for people who require assistance under government programs, such as Medicaid.

Against:

Some people believe the question of Medicaid eligibility and funeral plans needs a comprehensive review and not piecemeal treatment. This bill, for example, treats insurance policies differently from funds held in escrow by funeral homes: there is a \$2,000 limit on the latter and no limit on the former, for eligibility purposes. Both probably should be raised to some fixed figure. Social services officials have said that it could be deceptive to say that these special insurance policies won't affect welfare eligibility no matter their value because eligibility decisions are ultimately made at the federal level.

Response: Parallel changes can be made in the act

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governing escrow accounts, which will resolve problems regarding equal treatment of the various methods of financing prepaid funeral arrangements.

POSITIONS:

The Insurance Bureau has said it supports the provisions of the substitute bill but opposes provisions in the original bill that would allow for the sale of graded death benefit policies for funeral expenses. (5-9-89)

The Family Service Life Insurance Company supports the bill. (5-15-89)

The Michigan Funeral Directors Association is not opposed in principle to the thrust of House Bill 4503 (H-1); however, it believes that the issue of how much can be set aside to cover funeral expenses should be dealt with comprehensively. (5-15-89)

The United Family Life Insurance Company supports the substitute. (5-9-89)

Harry Will Funeral Homes supports the substitute. (5-9-89)