

# Legislative Analysis



## PREPAID FUNERAL CONTRACTS

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**Senate Bill 268 (S-1) as reported from House committee**

**Sponsor: Sen. Kevin Hertel**

**House Committee: Regulatory Reform**

**Senate Committee: Regulatory Affairs**

**Complete to 9-17-23**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 167 of 2023)*

## SUMMARY:

Senate Bill 268 would amend the Insurance Code to remove a provision that now requires the death benefit of a prepaid funeral contract to increase annually to account for inflation. The bill also would change certain dollar maximums provided in statute to reflect mandated inflation adjustments that have been made since the maximums were first enacted.

Section 2080 of the Insurance Code allows and regulates the sale of associated life insurance policies and annuity contracts that are marketed, designed, and intended to be assigned as payment for funeral and cemetery goods and services.<sup>1</sup> Funeral homes and other sellers of those goods and services can be licensed as limited insurance agents for the purpose of selling the policies and contracts. Generally speaking, section 2080 requires those policies and contracts to have a death benefit that is sufficient to cover the initial contract price of the goods and services, and the death benefit must increase annually at a rate that is at least equal to the annual increase in the Detroit Consumer Price Index (CPI).

The bill would remove the requirement that the death benefit increase at that rate.

In addition, section 2080 allows a life insurer to write a life insurance policy or annuity contract that is subject to an assignment of the proceeds of the policy or contract as payment for cemetery or funeral goods or services, regardless of the relationship between the insurer and the assignee, subject to certain specified conditions. Among those conditions are the following limits (which must be adjusted annually in accordance with the Detroit CPI):

- For an associated life insurance policy or annuity contract, the death benefit subject to the assignment cannot be more than \$5,000 when the first premium payment is made.
- For a nonassociated life insurance policy or annuity contract, the initial amount of proceeds assigned cannot be more than \$5,000.

The bill would change the above amounts from \$5,000 to \$12,720 to reflect in statute the required annual adjustments made since 1986, when the \$5,000 amount was first put into law.<sup>2</sup>

MCL 500.2080

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<sup>1</sup> *Cemetery goods, cemetery services, funeral goods, and funeral services* are each separately defined in section 2080 and can include, among other things, embalming, caskets, urns, visitation or memorial services, funeral ceremonies, transportation, burial plots, vaults, crypts, niches, interment or inurnment services, and markers or monuments. Also note that, under section 2080, *associated* life insurance policies and annuity contracts are those that are marketed, designed, and intended to be assigned as payment for funeral and cemetery goods and services, and *nonassociated* policies and contracts are those that are not marketed, designed, or intended to be assigned for such a payment.

<sup>2</sup> [https://www.michigan.gov/difs/-/media/Project/Websites/difs/Bulletins/2023/Bulletin\\_2023-04-INS.pdf](https://www.michigan.gov/difs/-/media/Project/Websites/difs/Bulletins/2023/Bulletin_2023-04-INS.pdf)

## **BRIEF DISCUSSION:**

According to committee testimony, Michigan is the only state that still ties prepaid funeral insurance to inflation. Supporters of the bill argue that the uncertainty related to inflation has increased costs for residents and caused providers to exit the market, to the point that there are only two providers left in the state. Since prepaid funeral insurance is the most common way to pay for a funeral in Michigan, they argue that the bill is necessary to lower costs and ensure that the product remains available to residents.

The bill is a reintroduction of House Bill 6261 of the 2021-22 legislative session, which was among a group of bills Governor Whitmer said she vetoed because they “were rushed through a lame duck session and need closer examination.”

## **FISCAL IMPACT:**

Senate Bill 268 would have no fiscal impact on state or local government.

## **POSITIONS:**

Representatives of the following entities testified in support of the bill (6-20-23):

- Michigan Prened Coalition
- Michigan Funeral Directors Association

The following entities indicated support for the bill:

- Life Insurance Association of Michigan (9-12-23)
- Michigan Farm Bureau (9-12-23)
- National Alliance of Life Companies (6-20-23)
- American Council of Life Insurers (9-12-23)
- Great Lakes Partnership (9-12-23)

The Department of Insurance and Financial Services indicated a neutral position on the bill. (6-20-23)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.