

AGENT OF INSURED OBTAINING COVERAGE FOR CONSUMER THROUGH AGENT OF INSURER

Phone: (517) 373-8080
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House Bill 6444 (H-1) as reported from committee
Sponsor: Rep. Jason Wentworth
Committee: Insurance
Complete to 12-4-18

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

BRIEF SUMMARY: House Bill 6444 would amend the Insurance Code to allow an agent of the insured to obtain coverage for a consumer through an agent of the insurer and to clarify the circumstances under which this can happen.

FISCAL IMPACT: House Bill 6444 would not have an impact on expenditures or revenues for any unit of state or local government.

THE APPARENT PROBLEM:

Currently, the Insurance Code prohibits insurance agents from doing business with insurance wholesalers on the behalf of their clients if the insurance agent does not have a direct contract with the wholesaler. This prohibition was written before insurance wholesalers existed, when there was a clear delineation between excess and surplus lines market insurers and standard market insurers. Currently, insurance agents doing business with insurance wholesalers on behalf of a client is fairly common practice in most states, while doing so in Michigan technically puts the agents in violation of the statute.

THE CONTENT OF THE BILL:

The bill would revise the Code to allow an *agent of the insured* to obtain coverage for a consumer through an *agent of the insurer* if both of the following conditions were met:

- The agent of the insured is licensed to act as an insurance producer in accordance with the Code.
- The agent of the insured has a relationship with the agent of the insurer under a written contract that specifies the extent of the agent of the insured's authority to act and that requires the maintenance of an amount of professional liability insurance, commonly known as errors and omissions insurance.

Agent of the insured would mean an insurance producer who is not an appointed insurance producer of the insurer with which the insurance policy is place and who is treated as representing the insured or the insured's beneficiary and not the insurer.

Agent of the insurer would mean an insurance producer who sells, solicits, or negotiates an application for insurance as a representative of the insurer and not the insured or the insured's beneficiary. Agent of the insurer would not include a health benefit agent as that term is defined in Section 2 of the Health Benefit Agent Act.

The bill would also prohibit an insurance producer from binding coverage for an insurer without being an appointed agent of the insurer.

MCL 500.1201 et al.

ARGUMENTS:

For:

Proponents of the bill argue that it cleans up the Code to allow for what is already standard practice in the insurance agency. They argue that allowing agents of the insurer and agents of the insured to negotiate makes the process of creating a benefits package for the consumer more streamlined and ultimately results in a better product for the consumer.

Against:

No arguments against the bill were offered in committee.

POSITIONS:

The Heartlands Insurance Agency testified in support of the bill. (11-29-18)

The following organizations indicated support for the bill (11-29-18):

- Department of Insurance and Financial Services
- Michigan Association of Insurance Agents
- Michigan Association of Health Underwriters

Legislative Analyst: Nick Kelly
Fiscal Analyst: Marcus Coffin

■ 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.