



**House
Legislative
Analysis
Section**

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

THE APPARENT PROBLEM:

Since 1987, prospective insurance agents have been required by state law to complete 40 hours of approved classroom instruction or home study before they can take the agent's licensing examination. The justification for imposing this new requirement is that the insurance business has become more and more complicated, with steady change in federal tax and state insurance laws, the development of new products, new policy forms, an increase in alternatives to insurance-based risk management, the growth of group programs, etc. The same reasoning has led some people to advocate the imposition of continuing education requirements to ensure that agents, once licensed, keep up-to-date. Veteran insurance agents (who did not have to take coursework to qualify for the licensing examination) face no test of their continued competence in the face of the changes in and increasing complexity of their business. Some 34 states are said to have adopted continuing education requirements for insurance agents to keep agents current on changes in the business and protect the interests of the consuming public.

THE CONTENT OF THE BILL:

The bill would amend Chapter 12 of the Insurance Code to establish a two-year licensing period for insurance agents and to require that agents complete at least 30 hours of continuing education classes or home study in order to renew their licenses. (However, an agent could instead of meeting continuing education requirements pass the agent licensing examination again.) A life-health agent would have to attend or instruct at least 15 hours specifically approved for life-health agents, and property-casualty agents 15 hours specifically approved for them. The coursework would have to be in classes approved by the insurance commissioner. Course representatives would have to file a certificate of attendance or instruction (or a certificate of completion) on an agent's behalf. The bill's provisions would take effect January 1, 1990.

An agent would be allowed a 90-day grace period following expiration of a license to meet the requirements but during that period could not solicit or sell new policies, bind coverage, or otherwise act as an agent except to service policies previously sold and receive commissions on previously sold policies. If the education requirements were not met by the end of the grace period, the agent's license would expire. An agent whose license expired could apply for a new license but would have to meet applicable examination and coursework requirements. An agent who had sold his or her insurance business and had not met the continuing education requirements could continue to service and receive premiums on previously sold policies and could receive partial commissions on policies sold by a purchasing agent, but could not otherwise act as an agent. (The same provision would apply to a person in the process of selling a business, except there would be a 12-

INSURANCE AGENTS: CONTINUING EDUCATION

House Bill 4190 (Substitute H-3)
First Analysis (11-2-89)

NOV 16 1989

Sponsor: Rep. Alvin Hoekman
Committee: Insurance

Mich. State Law Library

month limitation on servicing old business and receiving premiums.)

The insurance commissioner could enter into reciprocal continuing education agreements with commissioners from other states, and agents licensed in this state but residing in states party to a reciprocal agreement would not be subject to the bill. The insurance commissioner would also be able to waive continuing education requirements if he or she determined that enforcement would cause a severe hardship.

The insurance commissioner would decide whether to approve a program of study after reviewing recommendations from the Insurance Agent Education Advisory Council. A program for life-health agents would have to offer instruction in one or more of the following: the fundamental considerations and major principles of life insurance or health insurance; estate planning and taxation as related to insurance; ethics; legal, legislative, and regulatory matters concerning insurance; principal provisions of life insurance, health insurance, and annuity contracts, and differences in types of coverage; and accounting and actuarial considerations. A program for property-casualty agents would have to offer instruction in one of the following: the fundamental considerations and principles of property insurance or casualty insurance; basic principles of risk management; ethics; legal, legislative, and regulatory matters; provisions of casualty, no-fault, or property insurance contracts, and differences in types of coverages; and accounting and actuarial considerations. Sponsors of programs of study would have to apply for approval on a form provided by the insurance commissioner by describing course content and materials, qualifications of instructors, maximum instructor-teacher ratios, hours of instruction, and location of classrooms. A hearing could be held to evaluate an already-approved program of study on the initiative of the commissioner or based on a petition filed by a person dissatisfied with the course. Approval for a program of study could be revoked following a hearing conducted as a contested case under the Administrative Procedures Act.

A provider of a continuing education study program would have to pay a \$500 provider authorization fee for the first year and a \$100 renewal fee each year thereafter. The bill would also impose a non-refundable \$25 filing fee for applying for program approval or reapproval. (Any material change in a program of study would require reapproval.) There would also be a \$2 reporting fee that would have to accompany the certificates a program would submit for agent license renewals. All fees would go into a newly created continuing education fund, which would be a separate, self-supporting fund administered by the insurance commissioner. Money in the fund at the close of a fiscal year would remain there and not revert to the general fund. The bill also requires that any shortfall in the fund be funded from agents' appointment fees.

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OVER

The bill contains a schedule of expiration dates for agent licenses based on an agent's license number. For example, the license of an agent whose license number ended in "1" would expire on January 1, 1992, and every two years thereafter. If, under the bill's schedule, an agent's license would expire within 23 months of issuance (that is, if the agent is newly licensed), the expiration date would be pushed back two years.

Further, the bill would add new language regarding the composition of the Insurance Agent Education Advisory Council. Currently, the code calls for the council to contain one licensed property/casualty agent and one licensed life insurance agent. The bill would say the council would contain "at least" one agent of each kind.

MCL 500.1204b et al.

FISCAL IMPLICATIONS:

The Insurance Bureau, within the Department of Licensing and Regulation, has estimated the annual cost of this bill at \$400,000. The bureau says six new full-time employees will be needed to handle the additional workload that will result from renewing 80,000 insurance agent licenses biennially and keeping track of continuing education records. (It should be noted that insurance agents' licenses do not expire under current law and so need not be renewed.) The bill dedicates fees to be paid by providers of continuing education programs to a special fund to support the program. Agent appointment fees would be used to cover any shortfall in the fund. (The bureau notes that there is likely to be a reduction in agent appointment fees because the imposition of continuing education requirements will initially lead to a reduction in the number of insurance agents.)

ARGUMENTS:

For:

Insurance is a complex subject and many consumers depend on the expertise of agents to guide them in making sensible choices about insurance coverages. Because the field is changing constantly and growing ever more complicated, it is important that agents regularly upgrade their skills and knowledge. Representatives of agents say that Michigan should join over 30 other states in mandating continuing education for insurance agents. The principal aims of such requirements are: (1) keeping agents up-to-date on state laws and regulations; (2) protecting consumer rights and recognizing consumer needs; (3) staying current on newly developed products; and (4) improving expertise about products and marketing. (It should be noted that other professionals face continuing education requirements, among them real estate agents and physicians.)

Agents will have to take 30 hours of coursework (classroom work or home study) that must be approved by the insurance commissioner and must meet specific criteria that ensure that the knowledge imparted relates to technical matters of insurance, ethics, tax law, and other substantive concerns rather than sales and marketing techniques. Agents operating in Michigan from other states would have to meet Michigan's requirements unless their home states had similar requirements, and Michigan agents operating elsewhere would be exempt from requirements in those other states. (Currently, some agents must seek out-of-state continuing education courses, say agent representatives.) The bill provides for agents who are selling or have sold their businesses, allowing retired

agents to receive commissions on old business without having to keep their licenses active.

The bill provides a method of funding the new responsibilities of the insurance bureau by levying substantial fees against the providers of continuing education courses, including a \$500 fee for the first-time approval of a program of study.

For:

In its current form, the bill would allow an agent to renew a license by taking the licensing examination again rather than going through continuing education courses. This is an excellent alternative for agents who keep themselves well-informed through personal study and through their work on behalf of customers. It would save them the trouble of leaving their offices to attend courses.

Response: Some people believe continuing education requirements are more beneficial than the re-examination option. Allowing re-examination could lead to the development of cram courses aimed at getting people through the exam rather than exposing them to the range of topics in continuing education programs.

Rebuttal: The licensing examination is a test of competency for insurance agents, so it seems reasonable to allow agents to take the test periodically to demonstrate their continued competence. The test is updated regularly. Both the continuing education requirements and the re-examination option will spawn courses for agents and benefit providers of courses.

Against:

Insurance regulators believe the costs of the continuing education program substantially outweigh its benefits. No need for continuing education has been demonstrated, at least based on consumer complaints. Complaints against agents, say regulators, do not involve their competence but their marketing practices and fiduciary responsibilities. The Insurance Bureau says that agents in Michigan are representatives of the companies who appoint them and are not independent brokers, so it is the responsibility of the companies to see that their agents are knowledgeable and competent. Agents who want to compete successfully will get the education they need to stay current. Regulators also say that there are less expensive methods of promoting continuing education. For example, the trade associations promoting this bill could require such education as a condition of membership. Or, a self-certification system could be adopted that would eliminate the costly paperwork associated with this bill.

Against:

While continuing education is a good idea, other steps are more important to protect the public. Some people recommend increasing agent fees in order to beef up the Insurance Bureau so that it can more effectively enforce laws that are on the books regarding agent misconduct. Other recommendations include the creation of a special license for agents who sell products aimed at senior citizens (where marketing abuses are said to be common), and special licensing for financial planners, since anyone now can call himself or herself a financial planner.

POSITIONS:

The Michigan Association of Professional Insurance Agents (PIA) supports the bill. (10-31-89)

The Michigan State Association of Life Underwriters supports the bill. (10-31-89)

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The Independent Insurance Agents of Michigan support the bill. (11-1-89)

The Michigan Citizens Lobby supports the bill. (10-31-89)

The Insurance Bureau, within the Department of Licensing and Regulation, has said that it "is in favor of knowledgeable agents but has concerns about the benefits of this program in relation to cost." (10-31-89)