

AGENT OF INSURED OBTAINING COVERAGE FOR CONSUMER THROUGH AGENT OF INSURER

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House Bill 6444 as enacted
Public Act 449 of 2018
Sponsor: Rep. Jason Wentworth
House Committee: Insurance
Senate Committee: Insurance
Complete to 6-20-19

BRIEF SUMMARY: House Bill 6444 amends 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 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:

House Bill 6444 revises the Insurance Code to allow an *agent of the insured* to obtain coverage for a consumer through an *agent of the insurer* if all of the following conditions are 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.
- The coverage being obtained is not a health insurance policy or a health maintenance contract.

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

Agent of the insurer means 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.

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

The bill took effect December 21, 2018.

MCL 500.1201 et al.

ARGUMENTS:

For:

Proponents of the bill argued that it cleans up the code to allow for what is already standard practice in the insurance industry. They argued 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 House committee.

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