

Legislative Analysis



INSURANCE AGENT'S FIDUCIARY RESPONSIBILITY

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House Bill 4376 (H-1) as reported from committee
Sponsor: Rep. Brenda Carter
Committee: Insurance and Financial Services
Complete to 5-3-23

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

(Enacted as Public Act 181 of 2023)

SUMMARY:

House Bill 4376 would amend the Insurance Code to modify the responsibilities of an agent (i.e., an insurance producer) as a fiduciary.

The act currently states that an agent is a fiduciary for all money received in their capacity as an agent and imposes various requirements on agents' conduct in their fiduciary capacity. The bill would retain and reorganize these current requirements.

The bill also would impose new limitations on how an agent can hold premiums and return premiums in their fiduciary capacity. Under the bill, an agent would have to treat all premiums and return premiums as fiduciary money and segregate the premiums from the agent's own money. The premiums would have to be kept in a separate account (which could be interest-bearing) in a federally insured state or federally chartered financial institution. The account could be established with a deposit of the agent's own money. Subsequent deposits of the agent's own money could be made only to pay or avoid financial institution charges and fees. Any of the agent's own money deposited into the account would have to be separately accounted for and identifiable in the agent's books and records.

An agent could hold premiums in the separate account described above for the purpose of paying future premiums on behalf of an insured individual with that individual's written authorization.

The act would take effect 180 days after it is enacted into law.

MCL 500.1207

BRIEF DISCUSSION:

According to committee testimony, the bill is intended to codify current best practices and ensure that the law does not create opportunities for insurance agents to mishandle funds.

FISCAL IMPACT:

The bill would not have a fiscal impact on the state or on local units of government.

POSITIONS:

A representative of the Department of Insurance and Financial Services testified in support of the bill. (4-20-23)

Representatives of the following entities indicated support for the bill (4-20-23):

- Big I Michigan
- National Association of Insurance and Financial Advisors-Michigan
- Life Insurance Association of Michigan
- Farm Bureau

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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.