



Senate Fiscal Agency
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House Bill 4376 (Substitute H-1 as passed by the House)
Sponsor: Representative Brenda Carter
House Committee: Insurance and Financial Services
Senate Committee: Finance, Insurance, and Consumer Protection

Date Completed: 9-26-23

CONTENT

The bill would amend the Insurance Code to modify how an insurance producer (agent) could hold and return premiums within the agent's existing fiduciary capacity as follows:

- **Require an agent to treat all premiums and return premiums as fiduciary money.**
- **Prohibit an agent from commingling premiums or return premiums with the agent's own money except to establish a separate account.**
- **Prohibit an agent from depositing money from the agent's own account except for deposits to maintain such an account.**
- **Require an agent to document the receipt of the fiduciary money.**

The bill would take effect 180 days after its enactment.

Under the Code, an agent is a fiduciary for all money received or held in the agent's 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 into a separate account. An agent could not commingle premiums or return premiums with any of the agent's own money. An agent could make an initial deposit from the agent's own money into a separate account for that account's establishment, and an agent could make additional deposits from the agent's own money for paying or avoiding financial institution charges or fees required to maintain the separate account. Any of the agent's money deposited into the separate account described above would have to be separately accounted for and identifiable in the agent's books and records. The separate account could be interest-bearing and would have to be established and maintained in any state or federally chartered financial institution that was federally insured. Specifically, an agent could hold returned premiums in the separate account for the purpose of paying future premiums on behalf of an insured, with the written authorization of the insured.

Under the bill, an agent who received fiduciary money would have to document the receipt of the fiduciary money in sufficient detail to determine at least the date received, the name of the payee, the amount received, and a description of the money.

MCL 500.1207

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.