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OFFICE OF PUBLIC INSURANCE COUNSEL

House Bill 4175

Sponsor: Rep. Raymond Basham
**Committee: Insurance and Financial
Services**

Complete to 7-10-01

A SUMMARY OF HOUSE BILL 4175 AS INTRODUCED 2-13-01

House Bill 4175 would amend the Insurance Code to add a chapter creating the Office of Public Insurance Counsel within the Office of Financial and Insurance Services. The governor, with the advice and consent of the Senate, would appoint for a four-year term a public counsel, who would serve as executive director of the new office. To serve as public counsel, a person would have to be a resident of the state and be admitted to practice law in the state. Moreover, he or she would have to both demonstrate a strong commitment to and involvement in efforts to safeguard public rights, and possess the knowledge and experience necessary to practice effectively in insurance proceedings. The bill would outline the powers and duties of the office and the public counsel.

The Office of Public Insurance Counsel could assess the impact of insurance rates, rules, and forms on insurance consumers in the state. The office would also be required to act, in its own name, as an advocate of positions that were most advantageous to a substantial number of insurance consumers as determined by the public counsel for the office. Further, the office could access any records that were available to any party in a proceeding before the commissioner and would be entitled to discovery of any non-privileged matter that was relevant to the subject matter involved in any proceeding or submission before the commissioner as described below.

The public counsel would be required to administer, enforce, and carry out all duties under the chapter, prepare and submit to the legislature a budget for the Office of Public Insurance Counsel, and employ professional, technical, and other employees as necessary to carry out the duties outlined in the chapter. The public counsel would also be required to submit to the commissioner for adoption a consumer bill of rights appropriate to each personal line of insurance regulated by the commissioner. Under rules adopted by the commissioner, insurers would be required to distribute a copy of the consumer bill of rights upon the issuance of a policy to each policyholder. The public counsel could not intervene in hearings before the commissioner that related to approval or consideration of individual charters, licenses, acquisitions, mergers, or examinations. Moreover, he or she could not intervene in hearings before the commissioner that related to proceedings concerning the solvency of individual insurers after a receiver was appointed or other matters affecting individual insurer or agent licenses.

The public counsel could appear or intervene as a matter of right before the commissioner as a party or otherwise on behalf of insurance consumers as a class in matters involving rates, rules, and forms affecting any of the following: property and casualty insurance; title insurance;

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credit life and credit accident and health insurance; and all other lines of insurance for which the commissioner promulgated, set, or approved rates, rules, or forms. The public counsel could also appear or intervene as a matter of right before the commissioner as a party or otherwise on behalf of insurance consumers as a class in matters involving rules affecting life, health, and accident insurance, as well as in matters involving withdrawal or approval of policy forms, if the public counsel determined that the forms did not comply with the act or a valid rule or were otherwise illegal. He or she could initiate or intervene as a matter of right or otherwise appear in a judicial proceeding involving or arising out of any action taken by an administrative agency in which he or she appeared under the authority granted by the chapter. Further, he or she could recommend legislation to the legislature that he or she judged would affect positively the interests of insurance consumers. In general, the public counsel could appear or intervene as a matter of right as a party or otherwise on behalf of insurance consumers as a class in all proceedings in which he or she determined that insurance consumers needed representation, except for enforcement proceedings brought by the attorney general.

The bill would also prohibit the public counsel from representing any person or receiving compensation for services rendered on behalf of any person in a proceeding before the commissioner for a period of two years after he or she ceased to be public counsel.

MCL 500.301 et al.

Analyst: J. Caver

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.