



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 1087 (as introduced 9-5-18)
Sponsor: Senator Rick Jones
Committee: Insurance

Date Completed: 11-28-18

CONTENT

The bill would amend the Insurance Code to do the following:

- **Require an insurer that paid at least \$5,000 to a licensed attorney or other representative in a settlement or satisfaction arising out of an insurance policy issued in Michigan to send to the claimant or judgment creditor a notice of the payment within five business days after the payment was made or sent.**
- **Prescribe the language the notice would have to contain.**
- **Prohibit an insurer from communicating with a claimant or judgment creditor known to be represented by a licensed attorney or other representative regarding a settlement or satisfaction without the written consent of the attorney or other representative.**

Under the bill, on payment by an insurer of at least \$5,000 to an attorney licensed in Michigan, or other representative, in settlement or satisfaction by an insured or a third party of a claim arising out of an insurance policy issued or delivered in Michigan, the insurer would have to send to the claimant or judgment creditor on the underlying insurance or liability claim a notice of the payment within five business days after the date payment was made or sent to the attorney or other representative of the claimant or judgment creditor. A copy of the notice would have to be sent simultaneously to the attorney or representative of the claimant or judgment creditor.

The notice would have to be sent in a manner reasonably calculated to reach the claimant or judgment creditor, which could include mailing to the physical address, or electronic mail or other electronic address, furnished by the claimant or judgment creditor to the insurance company, unless the claimant or judgment creditor had notified the insurance company in writing that the claimant waived notice of payment. In the absence of any address or waiver furnished by the claimant or judgment creditor, the notice would have to be sent to the claimant's or judgment creditor's last known address. The notice would have to be sent by the insurer only after a settlement had been agreed to by the attorney or other representative of the claimant or judgment creditor. The notice would have to contain only the language specified in the bill.

The bill specifies that it would not do any of the following:

- Create a cause of action for monetary damages for any person against an insurer based on a failure to provide notice as required by the bill or the provision of a defective notice.
- Establish a defense for any person to any cause of action based on a failure to provide the notice or the provision of a defective notice.

-- Invalidate or affect the settlement or satisfaction for which the payment was made by the insurer.

Except as provided and authorized by the bill, an insurer could not otherwise communicate with a claimant or judgment creditor known to be represented by an attorney licensed in Michigan, or other representative, regarding settlement of a claim or satisfaction of a judgment without the written consent of the attorney or other representative.

Proposed MCL 500.2081

Legislative Analyst: Drew Krogulecki

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.