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FISCAL IMPACT REPORT

SPONSOR: Stewart DATE TYPED: 03/09/01 HB 258/aHJC/aHBIC
 SHORT TITLE: Extend Applicability of Insurance Fraud Act SB _____
 ANALYST: Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 Office of the Attorney General
 Public Regulation Commission

SUMMARY

Synopsis of the HJC amendment

The House Judiciary Committee (HJC) amendment deletes Section 1(i) of the bill, which prohibited the Superintendent of Insurance from issuing a license to a person convicted of a felony involving dishonesty or breach of trust.

Synopsis of the HBIC amendment

The House Business and Industry Committee (HBIC) amendment to House Bill 258 adds a new section to the Insurance Code relating to the licensure of producers (agents, brokers, solicitors, etc.). Specifically, the new section gives the Insurance Division of the Public Regulation Commission (PRC) the authority to contract with a non-governmental entity to handle perform the ministerial functions of the licensing process and to collect a fee from applicants that is remitted to the division. The division is also given the authority to adopt by rule any uniform standards and procedures necessary to participate in the national producer registry.

Synopsis of Original Bill

House Bill 258 amends the Insurance Code and numerous related statutes to require the Superintendent of Insurance to use a criminal history background check for applicant's seeking an insurance license or for current license holders involved in disciplinary cases related to license continuation.

The bill stipulates that the Department of Public Safety (DPS) or the Federal Bureau of Investigation (FBI) shall perform the checks, at the expense of the applicant.

Aside from minor technical revisions, House Bill 258 also clarifies the applicability of various insurance-related statutes to licensees, particularly the Insurance Fraud Act applying to health maintenance organizations (HMOs). A detailed list by section has been provided by the Office of the Attorney General as detailed below:

- Section 3. Makes the Insurance Fraud Act and the Insurance Holding Company Law applicable to title insurers, title insurance agents and the business of title insurance.
- Section 4. Makes the Insurance Fraud Act, the Policy Language Simplification law, the Medicare Supplement Act, and the Insurers Conservation, Rehabilitation and Liquidation Law applicable to fraternal benefit societies.
- Section 5. Makes the Minimum Healthcare Protection Act and the Insurance Holding Company Law applicable to Health Maintenance Organizations.
- Section 6. Makes the Insurance Fraud Act, the Policy Language Simplification Law and most provisions of the Insurance Holding Company Law applicable to health care plans, their promoters, sponsors, directors, officers, employees, agents, solicitors and other representatives.
- Section 7. Makes the Insurance Fraud Act and the Policy Language Simplification Law applicable to prepaid dental plan organizations, their sponsors, directors, officers, personnel and representatives and member contracts.
- Section 8. Makes the Insurance Fraud Act and the Insurers Conservation, Rehabilitation and Liquidation Law applicable to motor clubs their sponsors, directors, officers, representatives, personnel and operations.

Significant Issues

Enactment of House Bill 258 will provide the Superintendent of Insurance the authority to obtain criminal history information of prospective applicant's for insurance licenses. Federal law prohibits persons with felony convictions for dishonesty or breach of trust from being employed in the insurance industry.

The second substantive impact of the bill would be that it would expand the applicability of portions of the Insurance Code to businesses that may not underwrite risk.

FISCAL IMPLICATIONS

Enactment of House Bill 258 would have no fiscal impact on the PRC or other state agency. The bill carries no appropriation and requires that any fees be paid by the applicant.

ADMINISTRATIVE IMPLICATIONS

Enactment of House Bill 258 would unlikely place any noticeable administrative burden on the PRC or other state agency.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

The PRC identifies a conflict as detailed below:

Section 59A-11-7 states that: "The Criminal Offender Employment Act shall govern any consideration of criminal record in connection with application for any license under this article." This may conflict with the bill's amendment of 59A-11-2 by adding new subsection I, at page 4, line 13. Federal law permits the Superintendent to grant a waiver of the prohibition; 59A-11-7 would govern the exercise of that waiver authority; but the proposed 59A-11-2(I) will prohibit the waiver completely.

MFV/ar/njw