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FISCAL IMPACT REPORT

ORIGINAL DATE 02/16/11

SPONSOR Griego, P. LAST UPDATED _____ HB _____

SHORT TITLE Enact Life Insurance Consumer Disclosure Act SB 410

ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 410 proposes to add the Life Insurance Consumer Disclosure Act to the Insurance Code. The act requires notice to the “policy owner” aged 60 or older or is known to the insurer to be terminally or chronically ill to apprise the policy owner of alternatives when the policy owner request to surrender in whole or part a policy, or accelerate a death benefit under the policy, or if the policy may lapse.

The notice shall contain

- a statement explaining the importance of life insurance
- explaining that there are alternatives
- a general description of the alternatives that are available
- a disclaimer statement explaining that not all alternatives are available to everyone

The bill would apply a penalty for a violation of the act. The penalty would constitute an unfair trade practice pursuant to the Unfair Practices Act.

FISCAL IMPLICATIONS

No fiscal impact to the state.

SIGNIFICANT ISSUES

The bill is based upon a National Conference of Insurance Legislators (NCOIL) life insurance disclosure act. The act addresses the dilemma of policy owners who do not understand the variety of options available to them when they are considering surrendering or lapsing their life insurance.

According to NCOIL, there are literally millions of seniors who have been paying premiums for years and then abandon their policies at the time when it could be of most use to them. Efforts have been underway to address that lack of information for policy owners. A number of states including California, Kentucky, Maine, New Hampshire, Oregon, Washington State, and Wisconsin already have passed or are now considering “life insurance consumer” disclosure laws for their states. In November, 2010, the National Conference of Insurance Legislators (NCOIL) passed the Life Insurance Consumer Disclosure Model Act, and despite opposition by the life insurance industry, it will be introduced into state legislatures across the country starting in 2011.

ADMINISTRATIVE IMPLICATIONS

Enforcement of the Act will be difficult or impossible since it requires actual knowledge of the condition of the “policy owner”.

TECHNICAL ISSUES

The PRC has identified the following:

- The term “policy owner may be too narrow to carry out the intent of the Sponsor. Article 21, Group Life Insurance Law” of the Insurance Code already requires notices to be sent to the “policy holder”
- The Act may conflict with the Insurance Code’s Article 20A, Viatical Settlements. Viatical Settlements are also regulated by the New Mexico Securities Division.
- For the Insurance Code the term “insurer” is defined 59A-1-8A. Additional definitions are found at 59A-38-12, 59A-11-13 E. (3), 59A-12B-2 B., 59A-12C-2 E., 59A-12D-2 C., 59A-16B-3 F., 59A-37-2 E., 59A-46-30, 59A-47-33, 59A-51-2 B. and 59A-54-3 J.
- Definitions of the term “policy” is found at: 59A-16B-3 H., 59A-18-2, 59A-19-3 B., 59A-20-10 B. (8) (d), and 59A-21-28 H.(4) The plural form “policies is found at: 59A-11-13 E.(4) and 59A-48-19.
- For the Insurance Code the term “superintendent” is defined at: 59A-1-12. Additional definitions are found at 59A-16C-3 D., 59A-17A-3 I., 59A-23C-3 P., 59A-24A-3 H., 59A-30A-4 H., 59A-55-3 L., 59A-56-3 X., 59A-57-3 N. and 59A-58-2 I.