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FISCAL IMPACT REPORT

SPONSOR <u>Woods/Ramos</u>	LAST UPDATED <u>3/09/2025</u>	ORIGINAL DATE <u>2/17/2025</u>
SHORT TITLE <u>Additional Unfair Insurance Claims Practice</u>	BILL NUMBER <u>221/aSJC</u>	ANALYST <u>Rodriguez</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact		

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Duplicates Senate Bill 403

Sources of Information

LFC Files

Agency Analysis Received From
 Office of Superintendent of Insurance (OSI)
 New Mexico Office of the Attorney General (NMAG)

SUMMARY

Synopsis of SJC Amendment to Senate Bill 221

The Senate Judiciary Committee amendment to Senate Bill 221 (SB221) clarifies language of the original proposed change by replacing “considering” with “treating”. The amendment clarifies that an insurer cannot treat an inquiry as a claim when coverage does not apply, no payment is made, and there is no fraud involved.

Synopsis of Senate Bill 221

Senate Bill 221 (SB221) adds a new prohibited unfair claims practice that would prevent insurers from improperly categorizing policyholder inquiries as claims when no coverage applies, no payment is made, and there is no fraud involved.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

SB221 has no fiscal impact.

SIGNIFICANT ISSUES

Section 59A-16-20 NMSA 1978 defines unfair and deceptive insurance practices, prohibiting insurers from engaging in actions that knowingly harm policyholders, including misrepresentation of policy details, failure to promptly respond to claims, delaying decisions on coverages after proof of loss, unfair settlement practices, and forcing litigation by offering low settlement claims.

SB221 adds an additional provision to unfair and deceptive insurance practices that would prevent insurers from treating an inquiry as a claim, specifically when no coverage applies, no payment is made, and there is no fraud involved. This would affect policies in which insureds are penalized, for example through higher premiums, for filing a claim.

The Office of the Superintendent of Insurance (OSI) notes that this bill is in response to a Federal Emergency Management Agency (FEMA) requirement for insured individuals to obtain a denial of coverage letter from an insurer to claim federal benefits. This requirement caused insurers to record claims for individuals, which could ultimately raise their premiums or lead to a full denial of coverage. OSI writes:

Senate Bill 221 (SB221) would prevent insurance companies from increasing, non-renewing, or denying coverage to a consumer who made an inquiry about coverage or placed a claim for a factual situation where the policy did not offer coverage.

SB221 prohibits insurers from knowingly committing or engaging in a business practice that would penalize policyholders seeking to obtain a denial letter or to inquire about their coverage.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB221 duplicates Senate Bill 403.

TECHNICAL ISSUES

The New Mexico Office of the Attorney General (NMAG) notes that the proposed language could be clarified. NMAG states:

The exact words for the third condition for not treating an inquiry as a “claim,” is that “the claim does not involve deceptive practices on the part of the insured.” Because the whole point [of SB211] is that the inquiry is not to be treated as a claim, the word “inquiry” should replace the word “claim” in that instance.

OSI raises concerns over the use of “deceptive” in the third condition. OSI writes:

Use of the term “deceptive” in the Insurance Code generally relates to acts engaged in by an insurer, not the insured. The term “insurance fraud” would appear to be the more appropriate term. Insurance Fraud is defined in Section 59A-16C-3 of the Insurance Code and is usually committed by an insured.