



Own Risk and Solvency Assessment (ORSA)

Legislative Council Service: Courts, Corrections and Justice Committee

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Presenters:

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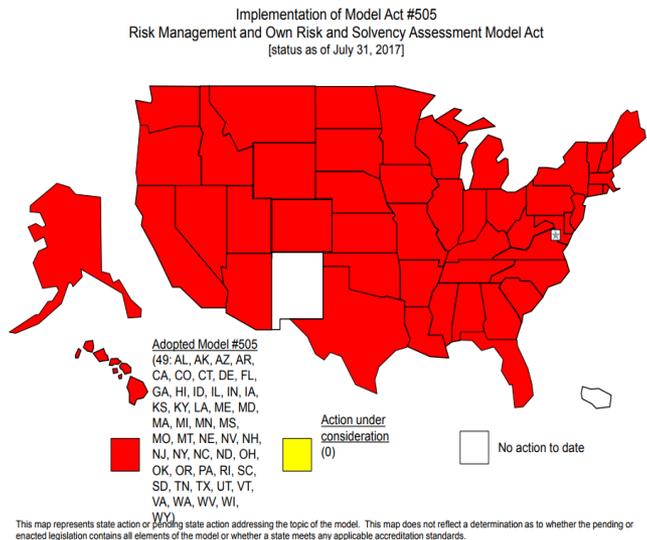
Agenda

- Significance
- Effect
- Confidentiality Issues
- Revisions – SJC
- Confidentiality Revisions – SJC
- Closing

ORSA Bill: Significance



- Model Act #505 from the National Association of Insurance Commissioners (NAIC)
- The NAIC requires enactment of this bill in order for OSI to maintain its accreditation with the NAIC:
 - If OSI loses its accreditation, New Mexico insurers that write in other states would have to undergo costly and disruptive examinations by the insurance departments of each state in which they write.
 - This could cause insurers to leave New Mexico and to domicile in another state, resulting in the loss of jobs and tax revenues.
 - Since all 50 states are currently accredited, New Mexico's loss of accreditation would be a national embarrassment and would lend support to efforts to shift insurance regulation to the federal government with a resulting loss in state control and revenues.



http://www.naic.org/documents/committees_e_related_smi_dashboard.pdf

ORSA Bill: Effect



- Establishes risk management and reporting requirements for:
 - Insurers writing in excess of \$500 million in annual premiums
 - Insurers who are in financial difficulties
- Requires such insurers to submit summary reports to OSI on their risk assessments and future business plans
- Provides confidentiality protections for these summary reports

ORSA Bill: Confidentiality Issues



- Confidentiality is required because summary reports contain sensitive information on insurers' risks and future business plans
- The bill allows this information to be shared only with the NAIC, with state, federal and international financial regulatory agencies, and with third-party consultants designated by the Superintendent
- Senate Bill 105 died in the House Business and Industry Committee

ORSA Bill: Revisions - SJC



- During the 2017 Regular Session, a Senate Judiciary Committee (SJC) Substitute revised the NAIC model bill in the following ways:
 - Removed unnecessary sections on scope and purpose and on severability
 - Clarified timelines for insurers to submit summary reports to OSI
 - Revised various confidentiality provisions

ORSA Bill: Confidentiality Revisions

- SJC



- ORSA documents “shall constitute trade secrets” instead of “shall be confidential by law and privileged, and shall not be subject to IPRA, to subpoena or to discovery or admissible in evidence in any private civil action”
- Removed the provision that the Superintendent shall not be permitted or required to testify in any private civil action concerning ORSA documents
- Replaced the phrase “confidential and privileged” (which appeared in numerous places) with the word “confidential”

Closing



- This is a consumer protection based piece of legislation
- Required to keep NAIC accreditation and to allow OSI to effectively regulate the industry
- Issue for consideration is the level of trade secret protection

- Further questions may be addressed by:
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