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F I S C A L I M P A C T R E P O R T

SPONSOR: Leavell DATE TYPED: 02/19/03 HB

SHORT TITLE: Amend NM Insurance Code SB 181/aSCORC

ANALYST: Valenzuela

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	See Narrative		Recurring	GF/OSF

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

- *Report of the Legislative Finance Committee to the Forty-sixth Legislature*, First Session, January 2003 for Fiscal Year 2003 – 2004, pp. 318 – 325.

Responses Received From
Public Regulation Commission (PRC)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations Committee (SCORC) amendment to Senate Bill 181 eliminates a $10.00 fee for each seal or signature affixed to an official document submitted to the Insurance Division, such as a license, annual report, etc. The amendment also makes several revisions to clean up the language of the New Mexico Insurance Code.

Synopsis of Original Bill

Senate Bill 181 amends the New Mexico Insurance code to expand the permitted uses of the restricted computer surcharges, changes certain license fees and provides for notice of change of address.

SB 181 does the following:

- Various fees for third party administrators currently being collected under authority of rules adopted by the Superintendent are added to the statutory list of fees, consistent with other statutory licensing fees;

- Provisions for mandatory collection of retaliatory fees on rate and form filings are made discretionary;
- Agent appointment fees for agents whose license application has been refused are made non-refundable;
- Requirements for licensee notice of change of address are clarified and standardized, and a $50 penalty for failure to notify the Superintendent is created;
- The definition of "adjuster" is clarified to specify that employees of a life or health insurer handling claims under that insurer's contracts to administer life or health claims for another entity are also not required to be licensed as adjusters;
- The restricted use of surcharges collected on agent appointment fees for the purpose of purchasing computer hardware and software for the Insurance Division is extended to include related costs of maintenance, operation, systems planning, deployment, and training;
- The fee for reporting agent continuing education credits is changed from $5 per filing to $1 per credit hour (15 credit hours are required for most agents).
- The Superintendent will be permitted to contract out the continuing education reporting.

<u>Significant Issues</u>

According to the PRC, the mandatory collection of retaliatory fees on rate and form filings is a cumbersome process that is inconsistently applied, difficult to enforce, and produces little revenue compared to the effort currently involved. Permitting the Superintendent, in his discretion, to forego collection of these fees will to eliminate inefficient operations and unfairly applied taxes until appropriate automated systems can be employed to handle this complex task efficiently and uniformly.

Promoting prompt notice of change of address by licensees will help to reduce significant quantities of returned mail and associated postage costs for re-mailing.

Making agent appointment fees non-refundable in all cases will eliminate a statutory barrier to complying with other statutory requirements that all monies received by the agency must be deposited within 24 hours, enabling the agency to more efficiently and timely handle the fees, and avoid the personnel costs of processing numerous small refunds along with associated costs of mailing.

FISCAL IMPLICATIONS

The Insurance Division of the PRC currently collects a surcharge on agent appointment fees for the purpose of purchasing hardware and software. SB 181 expands the permitted uses of the funds to include related services of maintenance, operation, systems planning, deployment, and training. The PRC claims that this will reduce costs to the general fund because the PRC will be able to allocate labor costs to this fund. There is a sunset date on this fund, which could cause problems for future budgeting and staffing. The savings would likely be used by the Insurance Division for other programmatic functions.

In the LFC budget narrative on the PRC budget request, the LFC reports major concerns with Insurance Division's IDEAL computer system. To the division's credit, it pursued, at the LFC urging, an audit of the Phase 1 development of the system to determine deficiencies before moving forward into Phase II development. At the time, the LFC recommended against further funding of the project until the Insurance Division resolved the issues raised in the audit. Expanding the use of the agent surcharge fund could allow the division more flexibility. It will also require continued legislative oversight on the expenditures out of this fund, which has been a concern of the LFC over the eight years of this project development. A potential resolution could be routine reporting to both the LFC and DFA of revenues and expenditures out of the fund.

The PRC states that postage and handling costs should decrease as a result of not refunding agent appointment fees to applicants who are denied, and the fees currently being refunded will be retained. Postage and handling costs should decrease as a result of increased compliance with change-of-address requirements. The penalty for failing to notify the Superintendent of address changes will increase revenue to the Insurance Division, but the PRC cannot quantify the amount.

Foregoing retaliatory fees will decrease revenue slightly for the period that they are not collected, but will eliminate the need for increased FTE pending implementation of automated systems that are appropriate to the task.

Fees will be deposited immediately, and errors in calculating the retaliatory tax will not result in returning the fees for reissue of the proper amount, resulting in increased interest earnings and decreased postage costs. The PRC argues retaliatory tax is much less burdensome to administer, produces greater revenue, and will continue to be collected.

Continuing education fees are currently collected at $5 per filing. SB 181 changes the fee to $1 per credit hour filed. Agents who file all of their earned credits at the same time pay $5. Some agents file two or three times or more, for a total cost of $10, $15, or more. At $1 per credit hour, the 15-hour continuing education requirement will generate $15 in all cases. Though difficult to estimate, the PRC projects approximately $150.0 of new revenue for the continuing education fund. The Superintendent may decide, however, to contract out this responsibility which will decrease current revenues for this function, but will allow the staff that collect the continuing education fees to be utilized elsewhere.

ADMINISTRATIVE IMPLICATIONS

The PRC will handle the changes with existing resources.

TECHNICAL ISSUES

The PRC offers the following comments:

In Section 1, page 9, lines 6 and 7, paragraph (7) is unnecessary because it duplicates 59A-6-1.U. On page 9, lines 6 and 7, strike paragraph (7) in its entirety.

In Section 5, page 13, lines 7 and 8, it would be helpful to require codification at 59A-12-20.1, and it is important to indicate that the new section is enacted as a new section of the Insurance Code. On page 13, line 7, strike “Chapter 59A, Article 12,” and insert in lieu thereof “the Insurance Code, Section 59A-12-20.1”.

MV/prr