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FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/11

SPONSOR Sapien LAST UPDATED 03/12/11 HB _____

SHORT TITLE Insurance Adjuster License Requirements SB 477/aSJC

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

Workers' Compensation Administration (WCA)

No Response Received From

Public Regulation Commission (PRC)

SUMMARY

Synopsis of SJC Amendment

Senate Judiciary Committee amendment narrows the definition of "public adjuster" contained in the original bill. The amendment eliminates the reference to third-party claim adjusters as part of the "public adjuster" definition.

Synopsis of Original Bill

Senate Bill 477 amends the various sections of the Insurance Code to:

1. Section 1 provides for a biennial fee to support a biennial adjuster license;
2. Section 2 provides for biennial continuation of an adjuster's license;
3. Section 3 provides that an insurance agent, solicitor, broker, surplus line broker and adjuster license can be suspended, revoked, to denied renewal of the licensee is charged or indicted for a criminal act related to duties under the license;
4. Section 4 enacts a new section of the Insurance Code to allow the Superintendent of Insurance to waive, suspend or extend licensing requirements of an adjuster during a state of catastrophe or emergency;
5. Section 5 provides for a new definition of "adjuster", "Client", Independent adjuster", "Public Adjuster", Resident adjuster", and "Staff adjuster" under the Insurance Code;

6. Sections 6 provides that the Superintendent of Insurance can assess penalties against an insurer that employs, contracts, or uses an adjuster that is not licensed under the Insurance Code;
7. Section 7 clarifies that the reciprocity no longer applies to the qualifications for an adjuster license;
8. Section 8 specifies that an independent public adjuster must provide a \$20,000 surety bond. The bill also clarifies that an independent adjuster may not have to be bonded if employed by a bonded adjuster;
9. Section 9 eliminates the ability of the Insurance Superintendent to issue a temporary license to a staff adjuster;
10. Section 10 clarifies an adjuster shall identify the principal place of business on the application for a license;
11. Section 11 clarifies the type of information that must be retained at the principal place of business, and in the case of a public adjuster must keep the records for at least three years;
12. Section 12 specifies that Workers' Compensation insurers must use adjusters that are resident adjusters;
13. Section 13 enacts a new section of the Insurance Code to identify that public adjuster contract shall provide a disclosure statement to client; shall include certain specific information including the full name as it is specified on the license, address, license number, compensation, etc; and provide a statement that the client has a right to rescind the contract within three business days and provisions regarding compensation should the insurer pays the claim during the three days. The section provides that compensation shall not be based on a percentage of the settlement, a claim shall not be made payable to the public adjuster, charge collection costs or late fees, or preclude a client from pursuing a civil remedy;
14. Section 14 identifies the procedures for compensating a public adjuster if an insurer pays or commits to pay claim with three days after a loss is reported;
15. Section 15 requires a public adjuster to deposit any client settlement money in an escrow or trust account insured by the federal government;
16. Section 16 identifies a standard of conduct for public adjusters;
17. Section 17 requires an adjuster to report to the Superintendent of Insurance any administrative actions against the adjuster as it pertains to the adjuster's professional capacity
18. Section 18 provides the Superintendent of Insurance to promulgate rules as necessary to carry out the purposes of the Insurance Code regarding adjusters;
19. Section 19 if any part or application of this act is held invalid, the application to other situations or persons shall not be affected.

FISCAL IMPLICATIONS

No fiscal implications to the state.

SIGNIFICANT ISSUES

The bill strengthens the regulation of insurance adjusters operating in New Mexico to provide accountability, records requirements, and standards of conduct.

Public adjusters work to adjust claims for insurance policy holders instead of insurance companies. Insured individuals are at a disadvantage when dealing with insurance companies over insurance claims; therefore, members of the public often seek out an adjuster to protect their insurance-policy interests. Public adjusters primarily appraise the damage, prepare an estimate and other claim documentation, read the policy of insurance to determine what is covered by the policy, and negotiate with the insurance company's adjuster

Staff adjusters are employed by an insurance company or self-insured entity and independent adjusters are independent contractors hired by the insurance company.

States typically license public adjusters so that the public can receive adequate representation when filing an insurance claim.

POSSIBLE QUESTIONS

Do the proposed statute changes correspond with National Association of Insurance Commissioners (NAIC) model practices for adjuster license requirements?

DL/mew:svb