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FISCAL IMPACT REPORT

SPONSOR	Ingle	ORIGINAL DATE	1/28/16	LAST UPDATED	2/13/16	HB	
SHORT TITLE	Insurance Licensing Provisions					SB	108/aSJC
						ANALYST	Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18	FY19	FY20		
	\$0.0	\$2,680.0	\$2,680.0	\$2,680.0	Recurring	General Fund

Parenthesis () indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			Unknown but likely a reduction		Recurring	Insurance Operating Fund and General Fund

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of Superintendent of Insurance (OSI)

Attorney General's Office (AGO)

State Investment Council (SIC)

Worker's Compensation Administration (WCA)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment performs the following actions.

Items 1, 3, and 5 replace the term "credit health" with the preferred term "credit disability." These changes simply substitute a more accurate term for one no longer used in the industry.

Item 2 categorizes “excess or stop loss” coverage as an accident and health product. This allows carriers in both property and casualty as well as accident and health to write this kind of insurance without needing to be licensed in an area in which they are not otherwise doing business.

Item 4 recognizes that credit insurance products are often sold on a group basis.

Item 6 allows limited license producers to be licensed in other lines of insurance.

Items 7 through 10 remove the repeal of Section 59A-12B-3 NMSA 1978, thereby continuing the requirement that managing general agents obtain a producer’s license.

Synopsis of Original Bill

Senate Bill 108 updates and streamlines sections of the Insurance Code (see Section 59A NMSA 1978) to allow the Office of Superintendent of Insurance (OSI) to replace its current proprietary software system with a system designed and promoted by the National Association of Insurance Commissioners (NAIC) to administer, monitor, and enforce many functions related to company and producer licensing. The bill amends or replaces provisions of the Insurance Code in order to bring the statutes into closer conformance with regulatory practice throughout the United States. A significant component is revising the broad definitions of the various types of insurance and providing lists of insurance products that are to be found in each of these broad types of insurance.

See the attachment “Index of Sections” for a detailed list of changes from OSI, where they are found in the bill, and descriptions. The following is a summary of many of the important provisions of the bill.

- The bill replaces the term “insurance agent” wherever it appears in the Insurance Code with the more modern term “insurance producer.”
- The bill requires insurance producers to periodically renew their licenses.
- The bill extends most license renewal periods from one year to two years, thereby reducing paperwork for both licensees and OSI.
- The bill increases application fees for many licenses to avoid the reduction in revenues that would otherwise occur by extending the license renewal periods.
- The bill introduces examination and continuing education requirements for claims adjusters.
- The bill introduces licensing requirements and fees for continuing education providers and for independent review organizations.
- The bill increases the deposits that insurance companies must maintain with OSI for the protection of policyholders.
- The bill requires the superintendent to grant licenses to non-residents that are licensed in good standing in their home states if their home state grants such licenses to New Mexicans on the same reciprocal basis.
- The bill defines stop loss insurance, which is an excess layer of insurance sold to health insurers, as a casualty insurance product, thereby exempting stop loss insurance from the regulatory requirements of health insurance products.
- The bill changes procedures for denying applications or license renewals and grounds and procedures for suspending licenses. It provides that certain records in the possession or control of OSI related to the termination or cancellation of an insurance producer’s appointment are not subject to the Inspection of Public Records Act.

- The bill adds provisions governing commissions and requires the producer to disclose to the consumer any compensation paid to the producer by the insurer or certain third parties.

FISCAL IMPLICATIONS

There would be no fiscal impact for FY16 or FY17 because the bill's effective date is the start of FY18. In FY18 and subsequent years, OSI projects an annual increase in revenue of approximately \$2.68 million resulting from amendments to Section 2 of the bill, of which approximately \$2.53 million results from the introduction of license renewal requirements for insurance producers. The positive revenue impact is the result of higher fees or license renewal requirements, but OSI reports many of the fees have not been significantly revised in decades.

See attachment "Revenue Impact" for a detailed list of the impacts resulting in the total estimate.

SIGNIFICANT ISSUES

The bill updates and streamlines the Insurance Code, bringing New Mexico into regulatory conformance with the majority of states (about 40 such states). Most insurers do business in multiple states, and having uniformity in provisions which govern licensing, supervision, and enforcement have important benefits for the cost and administrative burden for insurance producers and the protection of the public and consumers.

The bill modernizes and standardizes certain licensing procedures for both companies practicing the business of insurance in New Mexico as well as individuals acting as agents, who perform an independent function in the industry. Now referred to as "producers," these professionals, known as insurance agents or brokers, act as intermediaries between the carrier and those to whom the insurance product is sold. The bill also requires continuing education for insurance producers.

The national accrediting organization for state regulatory agencies is the National Association of Insurance Commissioners (NAIC). This organization performs many tasks on behalf of their state regulatory members, including assistance in researching and preparing model laws and regulations to help standardize insurance practice across the country. NAIC promulgated standardized software, known as the State Based System (SBS), to assist regulators in administering and enforcing licensing procedures. The adoption of the SBS system will allow New Mexico to conform its licensing procedures to those already in use in other states, allowing more efficiency in the practice of insurance across state lines. To adopt the SBS system, it is necessary to conform New Mexico's licensing provision to the model act promulgated by NAIC, the so-called Producer Licensing Model Act (PLMA). That is what this bill attempts to accomplish.

With the adoption of PLMA, the states are able to introduce statutory language in order to support a more efficient, streamlined, and reciprocal licensing system for producer licensing as well as establish uniform standards in key areas of producer licensing. PLMA is designed to assist the states in creating a uniform system of producer licensing among all states. OSI argues this enhances the ability of those in the industry to do business more efficiently, and this in turn allows for enhanced price competition in this very competitive industry, benefitting consumers, both individual and commercial, by lowering costs and providing better products and services.

PERFORMANCE IMPLICATIONS

Adoption of this bill would allow OSI staff to put in place modern and superior procedures and software to provide greater efficiency and effective supervision of regulated individuals and companies.

ADMINISTRATIVE IMPLICATIONS

There would be an additional administrative burden on OSI at first to implement the new software system, rules, and procedures, but subsequently the software and streamlined rules would ease OSI's current administrative burden. OSI reports this bill would have a significant positive impact for the agency's administrative functions, stating "OSI will benefit greatly from the ability to convert from its current convoluted and hard-to-maintain legacy IT system to the State-Based System (SBS) that is promulgated by the National Association of Insurance Commissioners and is used by most state insurance departments across the country."

Additionally, the bill renews licenses for individuals on their birth month rather than on April 1, thereby allowing OSI to issue most license renewals evenly throughout the year rather than on April 1.

TECHNICAL ISSUES

The effective date of the bill is July 1, 2017, but it is possible it might be more useful to OSI to make the effective date July 1, 2016. The current effective date would delay by a year the agency's ability to adopt the NAIC software to improve operational efficiencies.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

OSI will not be allowed by NAIC to replace its problematic and hard-to-fix legacy IT system with the robust system used by the majority of state insurance departments.

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Index of Sections

<u>Section</u>	<u>Pages</u>	<u>Description</u>
1	2 - 6	Revises minimum amounts of capital, surplus and deposits required of insurers.
2	6 - 17	Revises fees required from licensees. Introduces fees for independent review organizations, for continuing education providers and for renewal of producer licenses.
3	17	Replaces the phrase "agents and solicitors" with "insurance producers."
4	18	Provides a list of the major types of insurance.
5	18 - 19	Lists the types of life insurance and annuity products.
6	19 - 20	Lists the types of accident and health insurance products.
7	20 - 21	Lists the types of property insurance products.
8	21 - 24	Lists the types of casualty products.
9	24	Lists the types of variable life insurance and annuity products.
10	24 - 29	Replaces the phrase "broker or insurance agent" with "insurance producer."
11	29 - 30	Cleans up language regarding the scope of Article 11.
12	30 - 31	Specifies the maximum duration of a temporary producer's license.
13	31 - 34	Clarifies provisions relating to examinations for license.
14	34 - 35	Allows rejected license applicants to request a hearing. Allows Superintendent to revoke, after a hearing, licenses of business entities that fail to report violations by their licensed employees.
15	35 - 36	Cleans up language related to the contents of licenses.
16	36 - 40	Renews individual licenses on licensee's birth month rather than on April 1. Sets March 1 as the renewal date for business entity licenses and appointments.
17	40 - 42	Modernizes the language and procedures for the appointment of producers.
18	42 - 50	Specifies the reporting duties of insurers that cancel appointments with producers.
19	50 - 53	Expands the list of reasons for suspending, revoking or refusing to issue a license.
20	53 - 55	Requires the Superintendent to provide 30 days notice to applicants and licensees prior to nonrenewing or failing to issue a license, and allows such persons to request a hearing. Requires the Superintendent to participate in the monitoring of actions taken against licensees in other states.
21	55	Requires licensees to report to the Superintendent any administrative actions or criminal prosecutions against them in other states.
22	55 - 56	Requires the Superintendent to grant licenses to non-residents that are licensed in their home state, if their home state grants licenses to New Mexicans on the same reciprocal basis.
23	56 - 58	Provides more detail on the granting of licenses to non-residents.
24	58	Replaces the phrase "agent" with "insurance producer."
25	58 - 59	Clarifies that Article 12, in conjunction with Article 11, provides the licensing guidelines for producers, and also that Article 12 does not apply to surplus lines brokers.
26	59 - 62	Creates a section of definitions for terms used in Article 12.
27	62 - 63	Defines terms used elsewhere in the Insurance Code.
28	63	States that a license is required to sell insurance in New Mexico.
29	63 - 66	Modernizes the list of insurance-related functions that don't require a producer's license.
30	66 - 67	Replaces the phrase "agent, broker or solicitor" with "insurance producer."
31	67 - 68	Modernizes the general qualifications for obtaining an individual producer's license.
32	68 - 70	Cleans up language regarding title insurance producers.
33	70 - 73	Modernizes the license qualifications for a business entity.
34	73 - 76	Modernizes the language regarding examination requirements for producers and also waives the examination requirement for producers who are licensed in another state.
35	76 - 79	Modernizes the types of insurance that a producer may be licensed to sell and provides other details regarding licenses.
36	80 - 81	Replaces the phrase "agent" with "insurance producer."

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Section	Pages	Description
37	81 - 86	Replaces the phrase "agent" with "insurance producer."
38	86 - 87	Modernizes the language and requirements regarding temporary producer licenses.
39	87 - 88	Requires a producer to have a place of business accessible to the public.
40	88 - 89	Requires a producer to maintain records of his transactions.
41	89 - 91	Replaces the phrase "agent, broker, solicitor" with "insurance producer."
42	91 - 92	Replaces the phrase "agent" with "insurance producer."
43	92 - 94	Replaces the phrase "broker, agent or solicitor" with "insurance producer."
44	94 - 96	Applies continuing education requirements to a 2-year period rather than a 1-year period.
45	96	Cleans up language regarding the "insurance licensee continuing education fund."
46	96	Prohibits producers from using assumed names.
47	96 - 97	Prohibits the payment or receipt of commissions with anyone not licensed as a producer.
48	97 - 100	Prohibits a broker from obtaining compensation from both the customer and the insurance company, unless previously disclosed and agreed to by the parties.
49	100 - 105	Replaces the phrase "agent" with "insurance producer."
50	105 - 106	Eliminates the requirement that a business entity licensed as an insurance administrator have each of its officers, managers and partners individually licensed as insurance administrators.
51	106 - 107	Replaces the phrase "agent" with "insurance producer."
52	107 - 109	Replaces the phrase "agent or broker" with "insurance producer."
53	109 - 110	Replaces the phrase "agent" with "managing general agent."
54	111 - 112	Includes passage of an examination within the list of qualifications for an adjuster license.
55	112 - 114	Provides the procedures for examinations of applicants for an adjuster's license.
56	114 - 115	Provides the procedures for continuing education requirements for adjusters.
57	115 - 116	Replaces the phrase "agent or broker" with "insurance producer."
58	116 - 119	Replaces the phrase "agent, solicitor or broker" with "insurance producer."
59	119 - 122	Replaces the phrase "broker, agent, solicitor" with "insurance producer" and removes references to obsolete lines of insurance.
60	122 - 123	Replaces the phrase "agent" with "insurance producer."
61	123	Replaces the phrase "agent" with "insurance producer."
62	123 - 126	Replaces the phrase "agent" with "insurance producer."
63	126 - 127	Replaces the phrase "agent" with "insurance producer."
64	127 - 128	Replaces the phrases "agent" and "broker" with "insurance producer."
65	128	Replaces the phrase "agents and solicitors" with "insurance producers."
66	128 - 130	Replaces the phrase "agents" with "insurance producers."
67	130 - 132	Replaces the phrases "agents" and "agents and solicitors" with "insurance producers."
68	132 - 133	Replaces the phrase "agents or brokers" with "insurance producers."
69	133 - 134	Replaces the phrase "agent or broker" with "insurance producer."
70	134	Repeals sections defining marine & transportation insurance, wet marine insurance, surety insurance and title insurance. Repeals the requirement that licensees return revoked licenses to the Superintendent. Repeals the prohibition against a producer writing business primarily for business associates or family. Repeals a lengthy section on the licensing of lending institutions. Renders the solicitor function obsolete and repeals special requirements for solicitors. Repeals the requirement that managing general agents be licensed.
71	135	Severability provision.
72	135	Effective date of July 1, 2017. This is the date when the national insurance regulatory IT system will be available to New Mexico.

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Revenue Impact