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FISCAL IMPACT REPORT

SPONSOR Sapien **ORIGINAL DATE** 2/27/19
LAST UPDATED _____ **HB** _____
SHORT TITLE Risk & Solvency Assessment Act **SB** 443
ANALYST Daly

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
	Minimal	Minimal	Recurring	Insurance Department Suspense Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of Superintendent of Insurance (OSI)

SUMMARY

Synopsis of Bill

Senate Bill 443 enacts the Own Risk Solvency Assessment act (Act). The act requires New Mexico domiciled insurers writing more than \$500 million in gross premium and any New Mexico domiciled insurance group that collectively writes more than \$1 billion of annual direct written and assumed premium to conduct an annual Risk Management and Own and Risk Solvency Assessment (ORSA) consistent with the guidance manual developed and adopted by the National Association of Insurance Commissioners. In addition, an ORSA must be conducted any time there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

An ORSA assesses all reasonably foreseeable and relevant material risks that could have an impact on an insurer's ability to meet its policyholder obligations (e.g. underwriting, credit, market, operational, liquidity, etc.). Pursuant to Chapter 59A Article 4 of the Insurance Code, an insurer shall submit, and OSI may request, a summary report of an ORSA conducted by an insurer.

SB443 also contains confidentiality provisions, and sets a penalty for failure without just cause to timely file its ORSA summary report. The penalty is \$1,000 for each day's delay, with a maximum of \$100 thousand, subject to reduction by OSI to avoid financial hardship to an insurer. On recovery by OSI, any penalty shall be paid into the general fund. In addition, SB443 sets an ORSA summary report filing fee of \$200.

FISCAL IMPLICATIONS

OSI reports no estimates of revenue based on the filing fee set in SB443, so LFC staff assumes any revenues will be minimal. Nor does OSI note any fiscal impact to its operating budget.

SIGNIFICANT ISSUES

OSI explains that the ORSA requirement is a consumer protection measure:

and is in part due to lessons learned from the 2008 financial crisis. Following said crisis, insurance regulators across the country developed a Risk Management and Own and Risk Solvency Assessment Model Act (ORSA) to provide insurance regulators a clearer picture of the enterprise risk management practices of U.S. insurers, including the risks potentially posed to policyholders from other non-insurance entities within a holding company. If passed, the New Mexico specific ORSA Act will require certain New Mexico domiciled insurance companies to evaluate their current and future risk through an internal risk self-assessment process, and allow the New Mexico Office of Superintendent of Insurance to form an enhanced view of an insurer's ability to withstand financial stress.

The proposed act also allows OSI to share a New Mexico insurer's ORSA summary report with another state regulator when an insurer also writes business in that state.

OSI points out that if this act is not enacted, OSI will be one of only two insurance regulators across the United States and its territories unable to request an ORSA from a domiciled insurer. Such a circumstance puts New Mexico consumers at risk.

Section 9 of the act requires any penalty collected by OSI for delay in timely filing an ORSA to be paid into the general fund. That directive is contrary to another provision of the Insurance Code that requires all fines and penalties be deposited in the insurance department suspense fund. See 59A-6-5 NMSA 1978. In addition, Art. XII, Section. 4, of the New Mexico Constitution appears to require a penalty such as this one, which is in essence a fine, go to the current school fund.

PERFORMANCE IMPLICATIONS

OSI notes the act authorizes it to request an ORSA Summary Report pursuant to Chapter 59A Article 4 of the Insurance Code; such a request is no different from the current process by which OSI performs market conduct exams.

MD/gb/al