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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/13

SPONSOR Leavell LAST UPDATED 03/12/13 HB 312/aSCORC/aSJC/aSFI#1

SHORT TITLE Unclaimed Insurance Benefits and Policies SB aSFI#1

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	See Fiscal Implications	See Fiscal Implications	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)
 Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)

SUMMARY

Synopsis of SFI Amendment #1

The Senate Floor #1 amendment to Senate Bill 312 adds two new subsections. The first requires an insurer that has never conducted a crosscheck of its insureds' policies and contracts issued prior to July 1, 2013 against a death master file for the purpose of identifying deceased insureds shall provide to the superintendent by July 1, 2016 a list of all policies and contracts in force and issued in New Mexico.

The second subsection states that for an insurer that has never performed such a crosscheck, the provisions of this section shall apply only to policies and contracts issued and delivered in New Mexico on or after July 1, 2013. These two subsections combine to provide information on policies and contracts to the superintendent while not placing a substantial paperwork burden on insurers that have never performed such a crosscheck. However, the burden of ensuring beneficiaries are located and paid is now shifted in part from the insurers to the superintendent of insurance.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 312 strikes the severability section of the bill and renumbers the remaining section accordingly. By striking the severability section, if any part or application of the provisions of this act (all of which is new material) is held invalid, it is likely the remainder or its application to other situations or persons could be affected.

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment to Senate Bill 312 repositions language for clarification but has no substantive impact on the effects of any section of the bill.

Synopsis of Original Bill

Senate Bill 312 amends the insurance code to require life insurers to make good faith efforts to locate beneficiaries at least twice a year, and provide claim materials, with unclaimed life insurance policies escheating to the state. Additionally, the bill requires that certificates of evidence of liability insurance be completed accurately on forms filed with and approved by the superintendent of insurance.

The Administrative Office of the Courts (AOC) provides the following detailed summary of the four sections of the bill.

Section 1: This section deals with unclaimed life insurance benefits including definition of pertinent terms referenced in the Section 1 of the act. Stipulations require that insurers cross check their policies and retained asset accounts against a death master file at least twice yearly; and within 90 days of each potential match take specific steps to verify the death of a policy holder, identify beneficiaries, and provide beneficiaries with the materials necessary to process their claim. It authorizes insurers, as permitted by law, to share minimal information with other parties whom they believe can help them locate beneficiaries and, should beneficiaries not be located in the time required by law, that the benefits plus interest will be submitted to the Taxation and Revenue Department per the Uniform Unclaimed Property Act.

Section 2: This section addresses certificates of property or casualty insurance, defining these certificates as documents prepared or issued by an insurer as evidence of property or casualty insurance, while excluding insurance policies or binders and auto insurance identification cards or similar endorsements. It is made clear in this section that a certificate of insurance is not an insurance policy and in no way impacts the coverage provided by the policy to which it refers or conveys any rights beyond this policy nor does it alter the terms and conditions of notices of cancellation or renewal.

Certificates of insurance, as defined in this act, are not to be issued unless the insurer has electronically filed the certificate with the superintendent at least 60 days before its effective date. Those filing such certification shall not alter the certificate of insurance form or provide false or misleading information. The superintendent may, during this 60-day period, prohibit the use of the certificate if it is found to be unfair or deceptive or in violation of public policy, law, or rule. It defines the conditions under which an insurer is not required to file a certification of insurance form, i.e., if the insurer is using a pre-

approved standard certificate of insurance or the content and wording of the certificate are provided for in federal or state laws, regulations, or rules.

All provisions of this section apply to all certificates of insurance issued in connection with property, operations, or risk in New Mexico, regardless of location of the parties involved and any certificate that is not in compliance with this section shall be considered void.

Section 3: This section enables the enacting of valid provisions of this act from other provisions which may be determined to be invalid.

Section 4: The effective date is July 1, 2013.

FISCAL IMPLICATIONS

The Public Regulation Commission (PRC) reports it is suspected that some life insurers do not try to locate such beneficiaries or remit such unclaimed benefits to the state in accordance with escheat laws. Section 1 of this bill would remedy this situation.

The fiscal impact to the state is unknown because there is no report available regarding the number of life insurance benefits that should have been remitted to the state under current code but were not, and it is impossible to know how many additional policy benefits would escheat to the state after enactment of this bill. However, any policies that escheat to the state would provide a positive fiscal impact.

SIGNIFICANT ISSUES

When the holder of a life insurance policy dies, his or her listed beneficiaries may not be aware of the existence of the policy and hence would not submit a claim to receive their benefits. Additionally, beneficiaries might not be aware what forms are needed to claim the benefits. This bill requires life insurers to actively seek out beneficiaries and to supply such forms.

The PRC reports general contractors, commercial lenders, and other parties often require proof of liability insurance from parties prior to entering into business arrangements with them. Certificates of insurance are often used, in lieu of the actual insurance policy, to provide such proof. There are some insurance agents who, in order to obtain business, enter false information on such forms. This bill attempts to remedy this situation by forbidding the use of unauthorized forms and the entering of false information on such forms.

ADMINISTRATIVE IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes.

JC/svb