

Synopsis of Bill

This bill adopts the National Association of Insurance Commissioners' "Risk Management and Own Risk and Solvency Assessment" model act. This act requires large insurers to maintain a risk management framework, to regularly conduct assessments of their risks and solvency, and to file with the Superintendent confidential summary reports of their assessment of their risks and solvency.

This bill creates new sections of the New Mexico Insurance Code as follows:

1. Section 1 creates a short title of chapter 59A, Article 5B NMSA 1978 as the "Own Risk and Solvency Assessment Act."
2. Section 2 creates definitions to be used in the Own Risk and Solvency Act.
3. Section 3 creates a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on its material and relevant risks.
4. Section 4 creates own risk and solvency requirements in constructing an own risk and solvency assessment that shall be performed no less than annually.
5. Section 5 creates own risk and solvency assessment summary report that upon the superintendent's request, and no more than once a year, an insurer shall submit to the superintendent an own risk and solvency assessment summary report. The summary report, if requested, shall be due thirty days after the completion of the insurer's most recent own risk and solvency assessment.
6. Section 6 creates exemptions to the Own Risk and Solvency Assessment Act (See significant issues).
7. Section 7 creates the contents which shall be contained in each own risk and solvency report.
8. Section 8 creates confidentiality for the Own Risk and Solvency Assessment Act, stating that all documents materials or other information shall contain trade secrets. The Superintendent may not otherwise make the documents, materials other information public without prior written notice to the insurer.
9. Section 9 creates sanctions for not filing own risk and solvency reports (see fiscal implications).

FISCAL IMPLICATIONS

SB105 carries no appropriation.

If enacted, SB105 states that any insurer failing, without just cause, to timely file the summary report as required in the Own Risk and Solvency Assessment Act shall be required, after notice and hearing, to pay a penalty of \$1,000 for each day's delay to be recovered by the Superintendent, and the penalty shall be paid to the general fund. The maximum payment under this section is \$100,000. The superintendent has the authority to reduce the penalty if the insurer demonstrates to the Superintendent that the penalty would cause a financial hardship.

SIGNIFICANT ISSUES

SB105, section 7, states that insurers shall be exempt from the provisions of the Own Risk and Solvency Assessment Act if:

1. The insurer has an annual direct written and unaffiliated assumed premium of less than five hundred million dollars (\$500,000,000).
2. The insurance group of which the insurer is a member has an annual direct written and unaffiliated assumed premium of less than one billion dollars (\$1,000,000,000).

OSI states that of the 25 insurers that are domiciled in New Mexico, 3 insurers (Presbyterian Health Plan Inc., Molina Healthcare of New Mexico, and United Healthcare of New Mexico, Inc) currently have a sufficiently large premium volume to be subject to this bill.

PERFORMANCE IMPLICATIONS

OSI states that passage of this bill would enable OSI to maintain its accreditation with the National Association of Insurance Commissioners.

TECHNICAL ISSUES

Article XII, Section 4 requires “...all fines collected under general laws...shall constitute the current school fund of the state.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

OSI states that the agency will risk losing its accreditation with the National Association of Insurance Commissioners if this bill is not enacted.

JM/sb/al