

Synopsis of Corporations and Transportation Committee Amendment

The Corporations and Transportation Committee Amendment removes that during an investigatory hearing, “Only the superintendent or the superintendent's representative” shall conduct cross-examination.

The Corporations and Transportation Committee Amendment also inserts that an insurer, “may pay” by electronic transfer of funds.

Synopsis of Original Bill

This bill provides a variety of technical revisions to the Insurance Code. These revisions, which are summarized on the attached “Index of Sections”, include the following areas:

- Insurance company examinations
- Surplus lines insurance
- Student health plans
- Miscellaneous items

FISCAL IMPLICATIONS

SB367 carries no appropriation.

SB367, section 4, does not change the amount required for a penalty. The penalty will remain as one hundred dollars for each day's delay, not to exceed \$5,000. However, it does remove the requirement that the Attorney General file a civil suit against insurers that file their annual statements late in order for the Office of the Superintendent of Insurance (OSI) to be able to fine them. This will allow OSI to collect fees without going through litigation.

The litigation expenses that would be incurred by the Attorney General's Office will not be expensed if the OSI can collect fees without litigation being required in SB367.

ADMINISTRATIVE IMPLICATIONS

The bill facilitates OSI's administrative duties by:

1. Removing the requirement that the Attorney General file a civil suit against insurers that file their annual statements late in order for the Office of the Superintendent of Insurance to be able to fine them.
2. Providing a due date and a penalty for the late payment of fraud assessments.
3. Giving OSI 60 days rather than 30 days to review credit life and credit health product filings and to review marketing materials for products that are subject to the Minimum Healthcare Protection Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Section 4 of the bill is similar to HB 336. Section 12 of the bill is identical to HB 127, which adds electronic funds transfer as a means of settling reimbursable claims under the New Mexico Insurance Code.

TECHNICAL ISSUES

The first three sections of the bill bring New Mexico's procedures for examining insurance companies into compliance with the National Association of Insurance Commissioners' Model Law on Examinations. The bill also attaches a severability clause to the Risk-Based Capital Act as required by the National Association of Insurance Commissioners.

OTHER SUBSTANTIVE ISSUES

The Office of the Superintendent of Insurance provided the following substantive issues:

1. The bill's removal of stop loss insurance from the list of health insurance products resolves the Insurance Code's current failure to exclude stop loss insurance from the requirements of major medical insurance.
2. SB367 also ensures that property/casualty insurers can continue to write accident & health products.
3. Several sections of the bill regulate student health plans as individual or managed health plans rather than as blanket sickness or accident policies.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

1. OSI will remain out of compliance with the National Association of Insurance Commissioners' model laws on Examinations and on Risk-Based Capital.
2. Stop loss insurance will remain subject to medical loss ratios and other aspects of the Affordable Care Act that will curtail the viability of stop loss insurance in New Mexico.
3. Property/casualty insurers will not be allowed to write accident & health products in New Mexico despite being able to write those products elsewhere throughout the nation.
4. Surplus lines insurance statutes will remain outdated.
5. Insurance claimants will not be able to receive claim payments electronically.
6. The ability of OSI to collect fraud assessments on a timely basis will remain compromised.

JM/jle/sb/al

SB 367 "Insurance Code Changes"

Source: Office of the Superintendent of Insurance

Index of Sections

Section	Pages	Code	Description	Reason
1	2	59A-4-9	Gives an examiner 60 days to write and file an examination report after completion of the examination.	Provides a specific time frame for writing an exam report.
2	2 - 7	59A-4-10	Requires an examinee to confer with OSI within 20 days of receiving an exam report. Provides detail on examination orders and related investigatory hearings. Provides deadlines for superintendent's actions related to exams.	Provides greater clarity on post-examination procedures.
3	7 - 8	59A-4-12	Requires an examined insurer to file, within a stated deadline, signed affidavits from its board members that they have received the exam report.	Verifies that an examined insurer has submitted the exam report to its board members on a timely basis.
4	8 - 9	59A-5-30	Removes the requirement that the Attorney General file a civil suit against insurers that file their Annual Statements late in order for us to be able to fine them.	The current process is extremely unwieldy.
5	9 - 10	59A-7-3	Removes stop loss from list of health products. Allows health insurers to continue to write stop loss.	Removes stop loss from being regulated as major medical health insurance.
6	10 - 12	59A-7-6	Allows casualty insurers to continue to write accident and health.	Throughout the nation casualty insurers are allowed to write accident and health.
7	13 - 20	59A-14-2	Adds and clarifies definitions related to surplus lines insurance.	Provides greater legal clarity.
8	20 - 23	59A-14-4	Minor updates to language.	Provides greater legal clarity.
9	23 - 24	59A-14-4.1	Allows the Superintendent to use email to notify surplus lines brokers of ineligible surplus lines insurers.	Keeps current with technology.
10	24 - 26	59A-14-11	Removes the requirement that surplus lines brokers provide OSI with copies of producing brokers' affidavits of their efforts to place the business with authorized insurers.	New IT system eliminates need for manual record-keeping by OSI.
11	26 - 28	59A-14-12	Allows Superintendent to enter into a multi-state surplus lines compact.	Keeps Superintendent's options open if a multi-state surplus lines contract eventually launches.
20	42	59A-14A	Repeals Article 14A, the Surplus Lines Insurance Multistate Compliance Compact.	The Compact never launched.
12	28 - 30	59A-16-21	Allows insurers to pay claims by electronic fund transfer.	Keeps up with modern payment options.
13	30 - 31	59A-16C-14	Provides a due date and a penalty for late payment of fraud assessments.	Needed for effective enforcement.
14	31 - 32	59A-22-1	Includes student health policies within the scope of Article 22.	Required by federal law.
15	32 - 34	59A-23-2	Prohibits blanket sickness or accident policies sold to colleges from being marketed as student health plans.	Required by federal law.
18	39 - 42	59A-57-3	Removes student health plans from the list of products that are not managed health care plans.	Required by federal law.
16	34 - 37	59A-23B-5	Gives OSI 60 days, rather than the current 30 days, to review marketing materials for products that are subject to the Minimum Healthcare Protection Act.	Staff needs more time to process these reviews.
17	37 - 39	59A-25-8	Gives OSI 60 days, rather than the current 30 days, to review credit life and credit health product filings.	Staff needs more time to process these reviews.
19	42	59A-5A	Attaches a severability clause to the Risk-Based Capital Act.	Required by the NAIC for OSI's continued accreditation.
21	42		Sets July 1, 2017 as the bill's effective date.	Ensures that this bill's amendments to the versions of 59A-7-3 and 59A-7-6 that become effective July 1, 2017 are not overridden.
<i>Color-coded sections:</i>				
			Examination of insurance companies	
			Surplus lines	
			Student health plans	