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FISCAL IMPACT REPORT

SPONSOR Ramos/Townsend LAST UPDATED _____
ORIGINAL DATE 3/05/2024
BILL
SHORT TITLE Additional Unfair Claims Practice NUMBER Senate Bill 403
ANALYST Rodriguez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|----------------|------------------|------------------|------------------|-------------------|---------------------------|---------------|
| | No fiscal impact | No fiscal impact | No fiscal impact | No fiscal impact | | |

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Duplicates Senate Bill 221

Sources of Information

LFC Files

Agency Analysis Received From

Office of Superintendent of Insurance (OSI) (on duplicate Senate Bill 221)

New Mexico Office of the Attorney General (NMAG) (on duplicate Senate Bill 221)

SUMMARY

Synopsis of Senate Bill 403

Senate Bill 403 (SB403) adds a new prohibited unfair claims practice that would prevent insurers from improperly categorizing policyholder inquiries as claims when no coverage applies, no payment is made, and there is no fraud involved.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

SB403 has no fiscal impact.

SIGNIFICANT ISSUES

Section 59A-16-20 NMSA 1978 defines unfair and deceptive insurance practices, prohibiting insurers from engaging in actions that knowingly harm policyholders, including misrepresentation of policy details, failure to promptly respond to claims, delaying decisions on coverages after proof of loss, unfair settlement practices, and forcing litigation by offering low settlement claims.

SB403 adds an additional provision to unfair and deceptive insurance practices that would prevent insurers from treating an inquiry as a claim, specifically when no coverage applies, no payment is made, and there is no fraud involved. This would affect policies in which insureds are penalized, for example through higher premiums, for filing a claim.

In their response to a duplicate of this bill (Senate Bill 221), the Office of the Superintendent of Insurance (OSI) notes that this bill is in response to a Federal Emergency Management Agency (FEMA) requirement for insured individuals to obtain a denial of coverage letter from an insurer to claim federal benefits. This requirement caused insurers to record claims for individuals, which could ultimately raise their premiums or lead to a full denial of coverage. OSI writes:

SB211 would prevent insurance companies from increasing, non-renewing, or denying coverage to a consumer who made an inquiry about coverage or placed a claim for a factual situation where the policy did not offer coverage.

SB211 prohibits insurers from knowingly committing or engaging in a business practice that would penalize policyholders seeking to obtain a denial letter or to inquire about their coverage.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB403 duplicates Senate Bill 221.

TECHNICAL ISSUES

In their response to a duplicate of this bill (Senate Bill 221), the New Mexico Office of the Attorney General (NMAG) notes that the proposed language could be clarified. NMAG states:

The exact words for the third condition for not treating an inquiry as a “claim,” is that “the claim does not involve deceptive practices on the part of the insured.” Because the whole point [of SB211] is that the inquiry is not to be treated as a claim, the word “inquiry” should replace the word “claim” in that instance.

In their response to a duplicate of this bill (Senate Bill 221), OSI raises concerns over the use of “deceptive” in the third condition. OSI writes:

Use of the term “deceptive” in the Insurance Code generally relates to acts engaged in by an insurer, not the insured. The term “insurance fraud” would appear to be the more appropriate term. Insurance Fraud is defined in Section 59A-16C-3 of the Insurance Code and is usually committed by an insured.