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FISCAL IMPACT REPORT

SPONSOR Leavell DATE TYPED 1/26/05 HB _____

SHORT TITLE Insurance Product Regulation SB 38

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Attorney General's Office (AGO)
 Public Regulation ICC (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 38 permits New Mexico to become part of a group of compacting states that will serve as a single point filing clearinghouse for the review of individual and group annuity, life insurance, disability income and long-term care insurance product filings and advertisements under a set of uniform standards. New Mexico would participate in an Interstate Compact Commission (ICC) that will exercise rule making for reasonable uniform standards for products and advertisements, as well as certain enforcement authority with the participating state.

The ICC is comprised of the chief insurance regulatory officer of each participating state. Approval of a uniform standard requires a two-thirds vote of the ICC. An insurer may opt to submit a product for approval to either individual member states or to the ICC.

The ICC could establish uniform standards only after the ICC has been enacted by 26 states or states representing forty percent of the total amount of premiums volume for the covered products. As of the date of this analysis, nine states have enacted legislation to join the ICC.

A state that has joined the ICC by enacting this legislation can reject a uniform standard adopted by the ICC only by enacting legislation rejecting such standard, or by an administrative ruling

that the uniform standard fails to provide reasonable protections for consumers given the particular circumstances within the state.

Significant Issues

By enacting this legislation and joining the ICC, New Mexico would cede some of its sovereign power to regulate insurance to the ICC, upon which it would have only one vote. However, New Mexico can opt-out of specific uniform standards established by the ICC. A state may also withdraw from the ICC at any time by enacting legislation repealing the statute that enacted the ICC into law.

Proponents argue that this legislation would stave of the threat of federal preemption by offering a state-based solution that provides uniformity, speed-to-market and single-point filing.

Opponents argue that it diminishes the local “hands-on” authority of the Superintendent to regulate the life, annuity, disability and long-term care markets in New Mexico.

The PRC argues the ICC proposed in this legislation is a state response to avoid federal preemption through a state-based solution that offers uniform standards, single point filing and speed-to-market.

FISCAL IMPLICATIONS

The PRC states that participating in the ICC will have no fiscal impact. The ICC is financed by filing fees paid by insurers with funding from the National Association of Insurance Commissioners (NAIC). This bill will be revenue neutral. Existing statutory fees associated with forms and rate filings in the New Mexico Insurance Code will be collected by the ICC and remitted to the State of New Mexico.

ADMINISTRATIVE IMPLICATIONS

SB 38 would relieve the Superintendent of some day-to-day review and processing of form and rate filing review, approval and fee collection to a certain extent. Companies will retain the choice of filing products through the ICC or directly with the Insurance Division. Insurance Division staff resources currently performing these functions may be reassigned and trained for other areas within the Insurance Division.

The Superintendent would also be relieve of certain rule-making authority that would be assumed by the ICC, although New Mexico could opt-out of a proposed uniform standard if it does not provide reasonable protection for the citizens of New Mexico.

According to the PRC, the Insurance Division would designate one voting member to represent New Mexico in the ICC. This individual will most likely be the Insurance Division’s Chief Life & Health Actuary.

The Superintendent would continue to perform form & rate review and fee collections for products filed directly by insurance companies.

OTHER SUBSTANTIVE ISSUES

Over the past few years, Congress has explored legislative proposals to create an optional federal charter for insurance companies or establish national regulatory standards for insurance companies and producers. These proposals have arisen out of the insurance industry's arguments that states cannot achieve uniformity or speed-to-market goals, hindering their ability to effectively compete in the national and international arenas against other sectors of the financial services industry.

The NAIC opposes federal legislation to establish mandatory national regulatory standards as being unnecessary because the NAIC and the states have a specific plan to develop and implement national standards in all needed areas by 2008. Identified areas include consumer protection, market regulation, property & casualty rate regulation, insurance policy form approvals, producer licensing, company licensing, financial condition examinations and approval of mergers and acquisitions.

The NAIC also opposes the total regulation of interstate insurance by the federal government. For over 130 years, state insurance departments have regulated the business of insurance. The first insurance department was formed in New York at the request of insurance companies as a result of serious fires that ravaged New York City leaving many insurers bankrupt and unable to pay claims. Insurance companies, at that time, sought to restore public confidence and trust through state regulation. Despite the opinions of modern-day critics, the insurance industry has thrived under the state regulatory system.

The PRC believes that the most valuable feature or legacy of the 130 year-old state insurance regulatory systems is local access. More specific, having an Insurance Department and an Insurance Superintendent in Santa Fe ensures that each New Mexico consumer, each New Mexico insurance company, each New Mexico bank or investment firm and each New Mexico insurance producer can pick up the phone or drive to Santa Fe and meet face-to-face with the Superintendent and his staff.

New Mexico companies, consumers and producers have a voice that the large national insurance companies cannot avoid. This system allows the Superintendent to protect New Mexico consumers and promote the healthy competitiveness of the New Mexico insurance market, in the interests of New Mexico.

DW/yr