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FISCAL IMPACT REPORT

ORIGINAL DATE 01/20/17
 LAST UPDATED 03/14/17

SPONSOR Gentry HB 80/aHJC/aSF1#1

SHORT TITLE Insurance Broker Payments to Estates SB _____

ANALYST Amacher

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
None	None		

(Parenthesis () Indicate Expenditure Decreases)

Relates to: SB 79, SB 88

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Regulation and Licensing Department (RLD)
 Office of Superintendent of Insurance (OSI)

SUMMARY

Synopsis of the Senate Floor Amendment # 1

The Senate Floor amendment ensures the “trust or beneficiary” of a deceased agent or broker is included in the possible payment of a commission, compensation or other valuable consideration of which the deceased would otherwise have been entitled.

Synopsis of House Judiciary Committee Amendment to House Bill 80

The House Judiciary Committee amendment ensures the personal representative of the estate, or the heirs or devisees if the estate has been distributed, are prohibited from the payment of a commission, compensation or other valuable consideration of which a deceased agent or broker would otherwise have been entitled.

Synopsis of Bill

House Bill 80 as amended the Insurance Code (Chapter 59A NMSA 1978) allowing for insurance agent and broker commissions and other compensation to deceased agents’ and brokers’ estates.

FISCAL IMPLICATIONS

No known fiscal impacts.

SIGNIFICANT ISSUES

House Bill 80 as amended makes clear that nothing in the Insurance Code shall be deemed to prohibit the payment of a commission, compensation or other valuable consideration to the estate of a deceased agent or broker if that agent or broker would otherwise be entitled to that payment.

OTHER SUBSTANTIVE ISSUES

The Insurance Code (Chapter 59A NMSA 1978) does not explicitly state or mandate an insurance carrier to remit to the estate of a deceased agent or broker the payment of commissions and other compensation otherwise due.

The AGO mentions that under Section 59A-12-28 NMSA 1978 (effective July 1, 2017) commissions, service fees, brokerage or other valuable consideration may not be paid to persons who are unlicensed (subsection A) or who do not sell, solicit or negotiate insurance in this state (subsection D). However, this section could be interpreted in such a way as to prohibit payment to estates of deceased agents or brokers. House Bill 80 as amended clarifies that Section 59A-12-28 would not apply to deceased agents or brokers (who otherwise meet the qualifications of licensed and engaged in business in New Mexico prior to passing.)

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The inheritors of deceased insurance agents' and brokers' estates may be unable to obtain their otherwise rightful commissions.

JMA/al/jle