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### FISCAL IMPACT REPORT

SPONSOR	PONSOR Sanchez		ORIGINAL DATE LAST UPDATED		НВ	
SHORT TITLE		Gifts and Prizes for Insurance Customers			SB	79/aSCORC
				ANAI	YST	Amacher

# **APPROPRIATION (dollars in thousands)**

Appropr	iation	Recurring	Fund	
FY17 FY18		or Nonrecurring	Affected	
None	None			

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SOURCES OF INFORMATION**

LFC Files

New Mexico Regulation and Licensing Department (RLD)

Attorney General's Office (AGO)

Office of the Superintendent of Insurance (OSI)

#### **SUMMARY**

## Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee removes title insurer, and a nonprofit health care or prepaid dental plan or other insurance-type organization from being prohibited from providing customers or prospective customers prizes and gifts. Gifts and prizes may include goods, gift cards and certificates, charitable donations, raffle entries, meals, event tickets and other items in an amount not to exceed one hundred dollars (\$100).

### Synopsis of Original Bill

Senate Bill 79 enacts provisions allowing insurance agents to give prospective customers limited gifts and prizes in an amount not to exceed one hundred dollars (\$100) per customer in any one calendar year. SB 79 has an effective date of July 1, 2017.

### FISCAL IMPLICATIONS

No known fiscal impacts.

#### SIGNIFICANT ISSUES

Senate Bill 79 as amended expands the provisions of the Insurance Code (Chapter 59A NMSA 1978), outlined under Unfair Discrimination, Rebates Prohibited, Other Coverages, by adding a provision for prizes and gifts in an amount not to exceed one hundred dollars (\$100) per customer, or prospective customer, in any one calendar year. Specifically, the provisions shall not prohibit a property or casualty insurance producer, or any representative thereof, from providing customers prizes and gifts. This includes goods, gift cards and certificates, charitable donations, raffle entries, meals, event tickets and other items in an amount not to exceed one hundred dollars (\$100).

### **TECHNICAL ISSUES**

As recommended by the RLD and OSI on the original bill:

On page 2, line 6, after the word "law" insert "," (a comma).

### **OTHER SUBSTANTIVE ISSUES**

The AGO noted that terms such as "customer" and "prospective customer" are not defined in the bill, or elsewhere in the existing statutory scheme. Doing so may aid in delineating precisely to whom such inducements will be permitted.

The RLD mentioned the current law prohibits insurers and their agents from giving anything of value to a current or prospective customer, including discounts on their premium or any kind of valuable inducement. The purpose of this current prohibition is to ensure fair and equal treatment to all purchasers of an insurer's product. If an insurer offers premium reductions or other costly inducements to some of its customers, this increases the insurer's operating expense and leads, to some extent, to an eventual increase in the price of the product, forcing their non-induced customers to share in the cost by having to pay somewhat higher renewal premiums. The RLD also recommends a clarifying amendment be made on page 2, lines 6 and 7, to ensure that the phrase "or as allowed by this section" does not refer to "an applicable filing".

The OSI noted that there is no objective criterion valuation provided. Is \$100 the actual purchase price to the person providing the inducement or is it the market price of the item? OSI also noted that the term "customer" is undefined. Furthermore, OSI mentioned that in property and casualty insurance the "customer" receiving the inducement would typically be the actual insured person.

# WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Gifting, offering any inducements to current and prospective clients from insurance companies and their agents, would continue to be prohibited.

JMA/sb/al