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HB 19-1291

FISCAL NOTE

Drafting Number: LLS 19-1000
Prime Sponsors: Rep. Arndt

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Bill Status: House Business
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Bill Topic: INSURANCE DISCLOSURES & SUPERVISION

- Summary of Fiscal Impact: State Revenue (minimal), State Expenditure (minimal), State Transfer, TABOR Refund, Local Government, Statutory Public Entity

The bill requires insurers to submit annual filings to the Department of Regulatory Agencies disclosing their corporate governance structure, policies, and practices. It increases state workload and may potentially increase state revenue on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill establishes requirements for insurers to provide annual disclosures regarding their corporate governance to the Commissioner of Insurance in the Department of Regulatory Agencies (DORA), based on model laws put forth by the National Association of Insurance Commissioners (NAIC). The commissioner is authorized to hire consultants to assist in reviewing a disclosure at the expense of the insurer.

Corporate governance filings. Beginning in 2020, on June 1 of each year, every insurer or insurance group (insurer) must submit to the commissioner a corporate governance annual disclosure (CGAD) that provides the commissioner sufficient information to understand the insurer's corporate governance structure, policies, and practices. Insurers that have provided the required information to the commissioner in other documents are not required to duplicate that information in the CGAD, but must indicate in the CGAD where the information can be found. The commissioner may promulgate rules concerning CGAD filings, and may request additional information from insurers as needed. Insurers are required to maintain documentation and supporting information and provide this information to the commissioner upon request. An insurer that fails to file a CGAD is required to pay a penalty of \$200 per day, up to a maximum of \$25,000, or a smaller amount at the discretion of the commissioner.

Confidentiality. CGAD filings and associated documents are designated as confidential and are not subject to the Colorado Open Records Act, not subject to subpoena, and not subject to discovery or admissible as evidence in any private civil action. However, the commissioner may use any materials as part of a regulatory or legal action under the commissioner's official duties.

Insurers active in multiple jurisdictions. The bill authorizes the commissioner to cooperate with other regulatory entities to supervise insurers that are internationally active or active in other jurisdictions. The commissioner can cooperate either by acting as the group-wide supervisor or by designating another regulatory entity as the supervisor. The bill specifies the activities that a designated group-wide supervisor is authorized to engage in.

Background

National Association of Insurance Commissioners (NAIC). Insurance regulation is under the purview of each state. The NAIC is an advisory body and service provider for state insurance regulators. The NAIC is comprised of the chief insurance regulatory officials of all 50 states. Committees of regulators develop model laws and regulations that states can adopt or modify based on the state's specific regulatory needs.

State Revenue

The fiscal note assumes that insurers will file disclosures as required by the bill and will not be required to pay penalties. To the extent that insurers fail to file CGADs and are assessed penalties, state revenue will increase. Penalty revenue will be deposited into the General Fund and is subject to TABOR.

State Expenditures

The bill has the potential to both increase and decrease various components of workload for the Division of Insurance in DORA. Reviewing CGAD filings may increase workload, and could lead to an increase in regulatory or legal action. Conversely, for some insurers DORA may elect to rely on oversight by regulatory entities in other jurisdictions. The net impact is expected to be minimal, and no change in appropriations is required.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Information Technology Regulatory Agencies