

<b>LFC Requester:</b>	<b>Jon Clark</b>
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:

Original     Amendment      
Correction     Substitute   

Date Prepared: 2/20/15

Bill No: SB 663

Sponsor: Sen. Carroll R. Leavell

Agency/Code: Attorney General's Office

Person Writing Analysis: Betsy Glenn

Short Title: Insurance Code Changes

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

## **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act:

### **SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

### **BILL SUMMARY**

#### **Synopsis:**

SB 663 amends the Insurance Code to, among other things:

- increase the minimum capital requirements for insurers;
- specify and define the lines of insurance in which an insurer may engage;
- add a definition of and provisions regulating an "insurance producer," which replaces the current provisions in the Insurance Code relating to insurance agents, solicitors and brokers;
- make corresponding changes in the Code to reflect the licensing of individuals and business entities acting as insurance producers, including requirements for applications and examinations, procedures for denying applications or license renewals, and grounds and procedures for suspending licenses;
- add provisions governing a licensee's duty to report administrative action against the licensee in other jurisdictions and by other NM governmental agencies;
- add provisions allowing reciprocity for nonresident licensees with valid licenses from home states that award nonresident licenses to NM residents on the same basis;
- add provisions for nonresident licenses;
- add provisions governing commissions; and
- add provisions requiring disclosure of compensation, recordkeeping requirements and other requirements for the practice of insurance producers.

### **FISCAL IMPLICATIONS**

#### **SIGNIFICANT ISSUES**

SB 663 has a few apparent drafting errors.

Section 2. The bill adds a subsection (C) to Section 59A-7-1 regarding permissible insurance activities. The first sentence of subsection (C) refers to "insurance companies." To be consistent with the rest of the Insurance Code, this reference might be changed to "insurer."

Section 9. The bill adds a new Section 59A-11-2. Subsection (A) refers to "a person" applying for a resident insurance producer license. The term "person" in a statute often refers to individuals and entities. To avoid ambiguity, the term "person" in subsection A might be changed to "individual." Unless it is already defined for purposes of the Code, the word "person" should probably be defined to cover individuals and business entities.

Section 10. The bill adds a new Section 59A-11-3. The new provision refers to a “business entity” acting as an insurance producer. The use of the term “business entity” conflicts with the title of the section, which is “Application by Partnership or Corporation.” To avoid ambiguity, the title should be changed to “Application by a Business Entity” and the term “business entity” should be defined for purposes of Chapter 59A, Article 11 NMSA 1978. The bill now defines “business entity” only for purposes of Article 12. See SB 663, Section 24.

Section 24. SB 663 adds a new Section 59A-12-2. Subsection (J) refers to “Section 22 of this 2015 act.” Subsection (J) discusses “limited lines insurance” and Section 22 governs the requirements for a nonresident license. The disparity in the subjects covered by the two provisions suggests that the reference to Section 22 in Subsection (J) is an error.

Section 25. The bill enacts a new Section 59A-12-3. In pertinent part, it provides: “... unless the person is licensed for that line of authority in accordance with the Insurance Code.” The word “authority” in the quoted language should probably be changed to “insurance.”

In a few places, SB 663 includes sections that appear to govern the same subject. For example, Sections 9, 10 and 28 address requirements for insurance producer licenses and Sections 12 and 27 address examination requirements for insurance producer applicants. If, as it appears, these provisions are duplicative or inconsistent, they should be reconciled to avoid any confusion in their application and interpretation.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**

See discussion above under “Significant Issues.”