OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: S.B. 273 of the 131st G.A.

Date: December 7, 2016

Status: As Enacted

Sponsor: Sen. Bacon

Local Impact Statement Procedure Required: No

Contents: Regulates frequency and composition of corporate governance reporting requirements for insurers

State Fiscal Highlights

- There would be minimal fiscal effect on the state. The Department of Insurance (DOI) may incur additional administrative costs due to the bill. Any new administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540).
- The bill excludes any public entities from the reporting requirements.
- A penalty may be imposed on any insurer who fails to file the corporate governance annual disclosure by the annual deadline (June 1). The penalty would be $100 per day past due, capped at $10,000, and deposited in the GRF. The collection of penalties under this provision is expected to be minimal.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill enacts the Corporate Governance Annual Disclosure Act, modeled by the National Association of Insurance Commissioners (NAIC). The bill would require all insurers domiciled in Ohio to file an annual disclosure with the Superintendent of Insurance that outlines the insurer's corporate governance structure, policies, and practices. The bill excludes any public entities from the requirements. Currently under Ohio law, insurers domiciled in Ohio are required to file an annual enterprise risk report,[1] submit to an examination of financial affairs every three to five years,[2] and

[1] R.C. 3901.33.

[2] R.C. 3901.07.

conduct an internal "own risk and solvency assessment" at least annually,[3] which can be requested for submission to the Superintendent of Insurance at any time, among other irregular filing and reporting requirements.

The corporate governance annual disclosure (CGAD), to be due on the first day of each June, may add to the regulatory cost of compliance for insurers domiciled in Ohio. In order to limit regulatory costs, the bill allows an insurer to reference duplicative information previously filed in other documents in lieu of a complete recreation in the CGAD. This may result in a larger portion of the CGAD regulatory costs falling on small insurers, who, exempt from other regulatory filings such as the "own risk and solvency assessment," are less likely to have previously completed a similar report.

Ohio insurers pay state tax based on the amount of premium written, which LSC economists do not expect this bill to change materially. Therefore, as with most other regulatory costs of compliance, the costs of the bill should be absorbed by insurers. It is possible that an insurer could seek to change its state of domicile if the regulatory environment were to become particularly overbearing. However, given that this legislation is modeled by the NAIC, has been enacted in multiple other states, and has further been proposed in many others, it seems an unlikely catalyst for such insurer movement.

The Department of Insurance, which will need to receive, review, and monitor compliance of the CGAD, may have additional administrative costs from the bill. Any new administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540). However, the bill does provide that the Superintendent may retain a third-party consultant to assist with the review of the CGAD at the expense of the applicable insurers. Additionally, the bill provides for a civil penalty to be imposed by the Superintendent on any insurer who fails to file the CGAD by the deadline. The penalty would be $100 per day past due, capped at $10,000, and deposited in the GRF. The collection of civil penalties under this provision is expected to be minimal.

The first CGAD would be due on June 1, 2017 for all insurers with annual premium written of more than $5 billion as of December 31, 2015, and on June 1, 2018 for all others.

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[3] R.C. 3901.374 and 3901.375.