

COMMITTEE ON LEGISLATIVE RESEARCH  
 OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4706-02  
Bill No.: SCS for SB 1157  
Subject: Insurance - General; Insurance Department; Civil Procedure; Courts  
Type: Original  
Date: April 8, 2002

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
 This fiscal note contains 3 pages.

**FISCAL ANALYSIS**

ASSUMPTION

Officials from the **Department of Insurance (INS)** assume this proposal would not fiscally impact their agency. This legislation could be used to prevent INS examiners from using information contained within a compliance self-evaluative audit. This could increase the length of time it takes to examine a company if information is privileged or otherwise protected and examiners must start from source documents INS states the cost of examinations are charged to the insurance companies.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal makes any information collected in the course of an insurance compliance audit or contained in an insurance compliance self-evaluative document privileged information unless an exception applies.

Audit documents submitted to the INS remain property of the insurer and are not subject to disclosure under the Sunshine Law. Persons preparing the audit documents shall not be examined in civil, criminal or administrative hearings unless the documents are not privileged. The information is not admissible as evidence in any legal action, unless the insurer expressly waives the privilege, a court requires disclosure after in camera review, or the information shows that the insurer failed to undertake action to correct noncompliance within a reasonable time. The privilege does not extend to any information that is already required to be provided to a regulatory agency or to any information that is independently obtained. A court may order disclosure of the privileged information for a criminal proceeding under certain conditions. An insurer may voluntarily submit the audit to the Department of Insurance without waiving the privilege. The privilege is deemed to be waived by the insurer 14 days after receiving a request

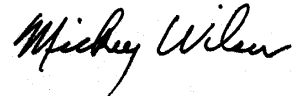
DESCRIPTION (continued)

for disclosure of a self-evaluative audit by the department or a prosecutor, unless the insurer files a petition for an in camera examination. Any compelled disclosure of an audit will not make the audit a public document.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance



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Acting Director  
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