

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4943-01  
Bill No.: HB 1651  
Subject: Insurance Dept.; Insurance - General  
Type: Original  
Date: March 14, 2006

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
General Revenue	\$0	\$0	\$0
<b>Total Estimated Net Effect on General Revenue Fund*</b>	<b>\$0*</b>	<b>\$0*</b>	<b>\$0*</b>

\* Collected penalties and distribution to county treasurers nets to \$0.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
Consumer Restitution	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Local Government</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

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#### **FISCAL ANALYSIS**

##### **ASSUMPTION**

Officials from the **Office of Administration - Administrative Hearing Commission** and **Office of State Courts Administrator** assume the proposal will not have a fiscal impact on their organizations.

Officials from the **Office of Attorney General (AGO)** assume that the AGO may be referred some additional matters pursuant to the provisions of the proposal. The AGO assumes that any additional referrals could be absorbed with existing resources. However, if the number of referrals exceeds expectations, the AGO may seek appropriations to handle the additional workload.

Officials from the **Office of Prosecution Services** assume the proposal will not have a significant direct fiscal impact on county prosecutors although it may lead to an increase in prosecutions/caseloads.

Officials from the **Office of Secretary of State (SOS)** state the proposal synchronizes the penalties, civil actions and other remedies for violations of the insurance code. The director of insurance may promulgate rules to carry out the provisions of this proposal. These rules would be published in both the Missouri Register and Code of State Regulations. These rules may require as many as 48 pages in the Code of State Regulations and 72 pages in the Missouri Register because of cost statements and fiscal notes, etc. that are not repeated in the Code. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the

ASSUMPTION (continued)

Code of State Regulations is \$27. The SOS estimates a total cost of \$2,952 [(72 pgs. X \$23) + (48 pgs. X \$27)]. These costs are estimates and depend on the number of rules printed, rescinded, and amended.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitment depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through either incarceration (FY 05 average of \$39.13 per inmate per day or an annual cost of \$14,282 per inmate) or through supervision provided by the Board of Probation and Parole (FY 03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender per year).

DOC assumes the narrow scope of the crime will not encompass a large number of offenders. The low felony status of the crime enhances the possibility of plea-bargaining or the imposition of a probation sentence. The probability also exists that offenders would be charged with a similar but more serious offence of that sentences may run concurrent to one another.

Supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Insurance (INS)** state the proposal creates the "Consumer Restitution Fund" for the purpose of preserving and distributing to aggrieved consumers funds obtained through enforcement proceedings brought by the director. As the number of cases and the amount of funds recovered are not known, the fiscal impact to the fund is unknown.

The INS assumes a minimal fiscal impact for computer programming changes will be incurred, but the costs will be covered with current appropriations.

ASSUMPTION (continued)

**Oversight** notes that any civil penalty or forfeiture collected by the Director of the INS as a result of violations related to insurance (Section 374.049) are to be paid to the county treasurer.

Officials from the **Office of State Public Defender** did not respond to our request for a statement of fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>GENERAL REVENUE</b>			
<u>Income - Civil Penalties Collected</u>	Unknown	Unknown	Unknown
<u>Transfer-Out - County Treasurers</u>			
Transfer-out of penalties collected for distribution to schools	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE*</b>	<u><b>\$0*</b></u>	<u><b>\$0*</b></u>	<u><b>\$0*</b></u>

**CONSUMER RESTITUTION FUND**

<u>Income - Department of Insurance</u>			
Funds from enforcement proceedings	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON CONSUMER RESTITUTION FUND</b>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>
<b>* Collected penalties and distribution to county treasurers nets to \$0.</b>			

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>LOCAL GOVERNMENTS - SCHOOLS</b>			
<u>Income - County Treasurers</u>			
Transfer-in of penalties collected for insurance infractions	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS - SCHOOLS</b>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>

### FISCAL IMPACT - Small Business

The proposal may impact small business insurance companies if they engage in practices that result in infractions and the occurrence of fines or penalties.

### DESCRIPTION

This proposal revises the laws regarding the Department of Insurance's enforcement of violations of the state insurance code. The proposal: (1) Synchronizes the penalties, administrative orders, civil actions, and other remedies available to the Director of the Department of Insurance; (2) Allows the director, upon determining that a person has violated or attempted to violate provisions of the insurance laws, to order the following relief: (a) An order directing the person to cease and desist from engaging in the act, practice, omission, or course of business; (b) A curative order or order directing the person to take other action necessary to comply with insurance laws; (c) Order a civil penalty or forfeiture; and (d) Award reasonable costs of the investigation; (3) Authorizes fines up to \$100,000 and imprisonment up to 10 years if a person violates a cease and desist order. Currently, a person may be punished by a maximum \$1,000 fine and up to one year in jail; (4) Allows the director to suspend or revoke a corporation's or insurer's certificate of authority for violating insurance laws or for felony or misdemeanor convictions. The director must provide 30 days' notice and a hearing, if requested, before revocation; (5) Allows the director to seek redress in county circuit courts. The court can issue injunctions, freeze assets, or take other action as specified. A consumer restitution fund is created for preserving and distributing disgorgement or restitution funds obtained through enforcement procedures to aggrieved consumers; (6) Classifies various violations of insurance laws into five categories from level one through level five. Maximum fines are established at each level with level one being the least and level five the highest. All fines collected will go to fund public schools as required by Article IX, Section 7, of the Missouri Constitution; (7) Allows any applicant who is refused a license to sell insurance to file a petition with the Administrative Hearing Commission. The director will have the burden of proof to defend the refusal; (8) Allows administrative hearings before the director for persons aggrieved by any order of the director; and (9) Authorizes the director, at his or her discretion, to consult and share information with other members of the National Association of Insurance Commissioners, the Commissioner of Securities within the Office of Secretary of State, state securities regulators, the Commissioner of the Division of Finance within the Department of Economic Development, the Attorney General, federal banking and securities regulators, the National Association of Securities Dealers (NASD), the United States Department of Justice, the Commodity Futures Trading Commission, and the Federal Trade Commission to effectuate greater uniformity in insurance and financial services regulation among state and federal governments, and self-regulatory organizations. The cooperation, coordination, consultation, and sharing of records and information authorized by the proposal include: (a) Establishing or employing one

DESCRIPTION (continued)

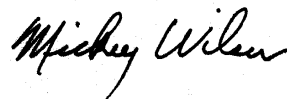
or more designees as a central electronic depository for licensing and rate and form filings with the director and for records required or allowed to be maintained; (b) Encouraging insurance companies and producers to implement electronic filing through a central electronic depository; (c) Developing and maintaining uniform forms; (d) Conducting joint market conduct examinations and other investigations through collaboration and cooperation with other insurance regulators; (e) Holding joint administrative hearings; (f) Instituting and prosecuting joint civil or administrative enforcement proceedings; and (g) Sharing and exchanging personnel.

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

Office of Attorney General  
Office of Administration -  
    Administrative Hearing Commission  
Office of State Courts Administrator  
Department of Corrections  
Department of Insurance  
Office of Prosecution Services  
Office of Secretary of State

**NOT RESPONDING: Office of State Public Defender**

A handwritten signature in black ink, appearing to read "Mickey Wilson". The signature is written in a cursive, flowing style.

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Mickey Wilson, CPA  
Director  
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