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FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/09

SPONSOR Gutierrez LAST UPDATED _____ HB 347

SHORT TITLE Diversification of Trust Investments SB _____

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	None		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 347 amends Section 45-7-604 NMSA 1978, a provision of the Uniform Prudent Investor Code to provide a trustee whose trust assets include a closely held family business to retain that asset with the approval of a majority of adult trust beneficiaries. The bill provides that the trustee's exercise of such discretion is not a breach of the trustee's duty to diversify investments, provided that the trustee has received the requisite approval of the beneficiaries. The effective date of the Act is July 1, 2009.

FISCAL IMPLICATIONS

House Bill 347 makes no appropriations.

SIGNIFICANT ISSUES

The AOC comments that the draft Uniform Prudent Investor Act (UPIA) was approved and recommended for enactment by the states in 1994. The UPIA, as drafted, does not include the provision contained within House Bill 347.

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The Attorney General's Office states that if House Bill 347 is enacted, it would provide protection to trustees managing property for the benefit of others, by making explicit the trustee's authority, subject to the consent of the majority of the adult beneficiaries, to retain ownership of closely-held family business, when that ownership might otherwise contravene the Act's prudent investor diversification requirements.

TECHNICAL ISSUES

The AOC notes that the title of the bill states that House Bill 347 is amending the Uniform Probate Code. House Bill 347 in fact amends the Uniform Prudent Investor Act, Section 45-7-601 NMSA 1978 et seq.

CH/svb