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FISCAL IMPACT REPORT

ORIGINAL DATE 02/17/09

SPONSOR Lujan, B. LAST UPDATED 03/06/09 HB 488 & 357/HBIC

SHORT TITLE Title Insurance Rates, Hearings and Coverages SB _____

ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Minor Savings	Minor Savings	Minor Savings	Recurring	General Fund and Title Insurance fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Original Bill

House Business and Industry Committee (HBIC) substitute for House Bills 488 and 357 provides title insurers with the opportunity to compete on price by allowing them to file rates (for use in specific counties) that are below the statewide rates promulgated by the Superintendent of Insurance. The bill requires the Superintendent to set rules for the filing and approval of such company and county specific rates. Furthermore, the bill requires the Superintendent to disseminate comparative title insurance rate and closing cost information to consumers and to produce an annual report on price competition and other title statistics in New Mexico.

The bill replaces the current annual title rate hearing with a biennial hearing. It also guarantees that title agents will retain at least 80% of the title premium revenues they generate and sets an initial agent premium retention rate of 81%. Furthermore, the bill mandates specific rate discounts for refinanced properties that are somewhat lower than the refinance rate discounts currently set in rule.

The bill prohibits title insurers and agents from providing any form of compensation to realtors, lenders and others for referring title business. It also forbids title insurers from entering into reinsurance agreements (without the Superintendent's approval) with parties that directly or indirectly refer business to the title insurers.

The bill addresses the title insurance premiums to be charged for properties held in trust by the federal government for American Indian tribes and pueblos.

FISCAL IMPLICATIONS

There are minor administrative costs associated with updating statutes and promulgating rules. The increased costs may be partially offset by savings associated with having biennial hearings as called for in this bill.

SIGNIFICANT ISSUES

This bill introduces limited rate competition into New Mexico's current promulgated title rate system by allowing title insurers to file and seek approval for rates lower than the rates promulgated by the Superintendent. The required dissemination of title rate and settlement cost consumer comparison guides should assist policyholders in shopping for title insurers and agents that offer lower rates and costs.

The bill augments the stated purpose of title insurance regulation to include protecting New Mexico's independent title agents from competitive disadvantages with title agencies owned by national title insurance conglomerates.

This Committee Substitute shifts authority from the Superintendent of Insurance and to the federal government in the determination of title insurance premiums for properties that federally recognized American Indian tribes and pueblos purchase at fair market value and then submit to the federal government to place in trust status. In no other context or state does the federal government have such ratemaking authority. In addition, the amendment does not address the possibility that a property may not be taken into trust. If the property is not taken into trust by the federal government, then the property will be underinsured (i.e. at a level that does not equal its fair market value). Additionally, there may not be actuarial justification for mandating premium reductions for these types of properties.

ADMINISTRATIVE IMPLICATIONS

The bill reduces the frequency of title rate hearings by replacing annual hearings with biennial hearings. This reduced hearing burden is offset by the requirement that the Superintendent compile and disseminate comparative title rate and closing cost information to consumers and produce an annual statistical report on the level of price competition in title insurance.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HBIC Substitute for HB 488 and HB 357 supplants HB 488 and HB 357.

TECHNICAL ISSUES

There may not be actuarial justification for mandating reductions of 40% or more in the rates for refinanced properties.

OTHER SUBSTANTIVE ISSUES

New Mexico is one of only three states in which the rate is set by the Superintendent of

Insurance (the other two are Florida and Texas.) This bill introduces limited rate competition into New Mexico's current promulgated title rate system by allowing title insurers to file and seek approval for rates lower than the rates promulgated by the Superintendent.

The bill provides additional consumer relief and stimulus by mandating specific rate discounts for refinance properties that are lower than the refinance rate discounts currently set in rule.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The title insurance industry in New Mexico will continue to be shielded from the forces of free-market competition.

DL/svb:mc