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HOUSE BILL 33

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Mimi Stewart

AN ACT

**RELATING TO INSURANCE; RESTORING DUTY OF REASONABLE CARE IN
CONDUCTING TITLE SEARCHES AND EXAMINATIONS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-30-11 NMSA 1978 (being Laws 1985,
Chapter 28, Section 11, as amended) is amended to read:

"59A-30-11. UNDERWRITING STANDARDS AND RECORD
RETENTION. --

A. No title insurance policy may be written unless
the title insurer or its title insurance agent has caused to be
conducted a reasonable search and examination of the title
using an abstract plant meeting the requirements of Section
59A-12-13 NMSA 1978 and has caused to be made a determination
of insurability of title in accordance with sound underwriting
practices. ~~[The duty to search and examine imposed by this~~

underscored material = new
[bracketed material] = delete

1 ~~section is solely for the purpose of enhancing the financial~~
2 ~~stability of title insurers for the benefit of insureds under~~
3 ~~title insurance policies. The New Mexico Title Insurance Law~~
4 ~~is not intended and should not be construed to create any duty~~
5 ~~to search and examine that runs to the benefit of, or to create~~
6 ~~any right or cause of action in favor of, any person other than~~
7 ~~a title insurer.]~~

8 B. Evidence of the examination of title and
9 determination of insurability shall be preserved and retained
10 in the files of the title insurer or its title insurance agent
11 for a period of not less than fifteen years after the title
12 insurance policy has been issued. Instead of retaining the
13 original evidence, the title insurer or title insurance agent
14 may in the regular course of business establish a system
15 whereby all or part of the evidence is recorded, copied or
16 reproduced by any process that accurately and legibly
17 reproduces or forms a durable medium for reproducing the
18 contents of the original. This subsection shall not apply to:

19 (1) a title insurer assuming liability through
20 a contract of reinsurance; or

21 (2) a title insurer acting as coinsurer if one
22 of the other coinsuring title insurers has complied with this
23 section. "