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FISCAL IMPACT REPORT

SPONSOR Stewart DATE TYPED 1/26/05 HB 33

SHORT TITLE Restore Title Search Duty of Reasonable Care SB _____

ANALYST Rosen

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI		NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

Public Regulation Commission (PRC)

New Mexico Land Title Insurance Association (NMLTA)

SUMMARY

Synopsis of Bill

House Bill 33 deletes language restricting liability only to underwriters of title insurance for reasonable care in conducting title searches. House Bill 33 restores liability for reasonable care in conducting title searches to both the underwriter and the agent.

Significant Issues

PRC indicates House Bill 33 reinstates the previous double liability situation for underwriters and agents. PRC indicates title searches are conducted only for the benefit of the title insurance underwriter and not the consumer; therefore, any defect in title or other actionable cause should not create a cause of private action between a consumer and an agent.

OTHER SUBSTANTIVE ISSUES

NMLTA indicates 90% of New Mexico's title insurance companies are small businesses that

cannot afford increased Errors & Omissions insurance premiums that will result from passage of this bill.

ALTERNATIVES

NMLTA is amenable to new language clarifying liability but not as submitted in this bill. NMLTA indicates alternative legislation will be introduced shortly with new language to clarify title insurance underwriters' liability for consumers.

JR/lg