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FISCAL IMPACT REPORT

ORIGINAL DATE 1/24/08
 LAST UPDATED 2/4/08 HB _____

SPONSOR Griego

SHORT TITLE Real Estate Broker Insurance Premiums SB 229/aSCORC

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment for SB 229 reduces the annual premium that the Real Estate Commission’s contract liability insurance provider can charge New Mexico real estate brokers for errors and omissions insurance from \$400 to \$300.

The amendment on page 2, lines 12 and 13, strikes “four hundred dollars (\$400)” and inserts in lieu thereof “three hundred dollars (\$300)”.

Synopsis of Original Bill

Senate Bill 229 will increase the maximum annual premium that the Real Estate Commission’s contract liability insurance provider can charge New Mexico real estate brokers for errors and omissions insurance from \$200 to \$400.

Section 61-29-4.2, NMSA, authorizes the Real Estate Commission to provide mandatory group professional liability (errors and omissions) insurance to New Mexico-licensed real estate brokers. The statute provides brokers with an affordable alternative to purchasing errors and omissions insurance on the open market, and provides consumers with an avenue for recovering

financial losses incurred by inadvertent errors and omissions that occur in the course of residential real estate transactions.

Section 61-29-4.2 (C) caps annual errors and omissions insurance premiums at \$200. The premium for the group program in 2008 is \$195. Paid claims of more than \$1 million in two of the last three policy years threaten to drive premiums above the cap no later than the 2009 policy year. Therefore, the premium cap must be amended in the 2008 legislative session.

Section 61-29-4.2 (D) provides that errors and omissions insurance will cease to be mandatory if a contract insurance provider cannot offer insurance within the statutory cap described in Section 61-29-4.2 (C).

According to RLD, the implementation by the Real Estate Commission of mandatory errors and omissions insurance with statutory coverage and premium caps was done in response to the rising costs of errors and omissions insurance to real estate brokers on the open market. Cessation of the mandatory errors and omissions insurance program could result in real estate brokers having to pay open market rates for insurance coverage.

FISCAL IMPLICATIONS

The insurance contractor bills and collects annual insurance premiums directly from the real estate broker. Therefore, there are no fiscal implications for the Real Estate Commission fund.

SIGNIFICANT ISSUES

The most significant issue is that cessation of the mandatory errors and omissions insurance program could result in increased costs of doing business for real estate brokers, and perhaps the loss to New Mexico consumers of a significant mechanism for recouping financial losses incurred as a result of errors and omissions committed by real estate brokers during the course of real estate transactions.

PERFORMANCE IMPLICATIONS

The mandatory errors and omissions insurance program assists the Real Estate Commission in its mission of protecting the public.

ADMINISTRATIVE IMPLICATIONS

Because the insurance provider bills and collects insurance premiums directly from real estate brokers and processes all claims, there are no administrative implications to the Real Estate Commission, other than answering general broker questions about the insurance requirement.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

POSSIBLE QUESTIONS

Does this legislation strengthen consumer protection?

CS/nt:bb