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#### FISCAL IMPACT REPORT

SPONSOR:	Griego	DATE TYPED:	03/19/03	НВ	
SHORT TITLE: Alternative Form of Release of Mortgage				SB	570/aSJC
		ANALYST:			Gilbert

### **APPROPRIATION**

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

#### SOURCES OF INFORMATION

LFC Files

Response Received From

Regulation and Licensing Department (RLD)

# **SUMMARY**

## Synopsis of SJC Amendment

The Senate Judiciary Committee amended Senate Bill 570 to add a provision allowing a title insurer to charge a reasonable fee to the mortgagee for the preparation and recording of a release of mortgage.

## Synopsis of Original Bill

Senate Bill 570 permits title insurers to file real estate mortgage or deed of trust releases. Within ten days of the date of recording, title insurers must mail notice of intent to record to the mortgagee, the trustee and beneficiary of the deed of trust, or to the assignee of record of the debt or evidence of debt.

## Significant Issues

This bill increases the liability of title insurers by making them liable to mortgagees or beneficiaries of deeds of trust for damages, including attorney fees, that mortgagees or beneficiaries of

### Senate Bill 570/aSJC -- Page 2

deeds of trust may sustain by reason of wrongful recording of a release of mortgage or deed of trust.

## RELATIONSHIP

This bill relates to NMSA 1978, § 48-7-4, which pertains to the release of mortgages. **TECHNICAL ISSUES** 

The Regulation and Licensing Department (RLD) Financial Institutions Division recommends the following technical changes to this bill:

New Mexico is a mortgage state. As such, the wording in SB 570 should reflect the use of mortgages.

Page 1, line 25; insert the words "a mortgage," at the beginning of line 25, so the line reads: "a mortgage, a deed of trust or the assignee of record of the debt or".

Page 2, section (D) line 13 insert "a mortgage or" before "deed of trust", so the line will read: "any mortgagee or beneficiary of a mortgage or a deed of trust for damages".

Page 2 section (D) line 16 insert "mortgage or a" at the beginning of line 16, so the line reads: "mortgage or a deed of trust may sustain by reason of the wrongful recording"

RLG/prr:njw