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SENATE BILL 633

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

GARY DON REAGAN

AN ACT

RELATING TO TITLE INSURANCE; CLARIFYING TITLE INSURANCE AND  
TITLE COMMITMENTS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1. Section 59A-30-5 NMSA 1978 (being Laws 1985,  
Chapter 28, Section 5) is amended to read:

"59A-30-5. POLICY FORMS.--No title insurer or title  
insurance agent shall use any form of title insurance policy  
other than the uniform forms promulgated by the superintendent  
under the New Mexico Title Insurance Law. The uniform title  
insurance policy form shall be a contract of indemnity. The  
form's terms and language shall state the limit and extent of  
the protection, assurances and coverage provided. The  
superintendent shall not promulgate any uniform form under which  
the coverage offered is excessive or inadequate in relation to

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1 the premium charged for the coverage. "

2 Section 2. Section 59A-30-11 NMSA 1978 (being Laws 1985,  
3 Chapter 28, Section 11) is amended to read:

4 "59A-30-11. UNDERWRITING STANDARDS AND RECORD RETENTION. --

5 A. In order to protect the financial stability of  
6 title insurance underwriters doing business in the state, no  
7 title insurance policy or commitment to issue title insurance  
8 may be written unless the title insurer or its title insurance  
9 agent has caused to be conducted a reasonable search and  
10 examination of the title using an abstract plant meeting the  
11 requirements of Section 59A-12-13 NMSA 1978 and has caused to be  
12 made a determination of insurability of title in accordance with  
13 sound underwriting practices. A title insurance policy or title  
14 commitment is not and does not contain a statement of the  
15 condition of title to real property. A title commitment is a  
16 statement of the terms and conditions upon which the underwriter  
17 is willing to issue its title insurance policy, which is a  
18 contract of indemnity. This section neither establishes nor  
19 creates a statutory duty owed to any seller of real estate by a  
20 title insurer. Violations of this section shall be reported to  
21 the superintendent for investigation and enforcement.

22 B. Evidence of the examination of title and  
23 determination of insurability shall be preserved and retained in  
24 the files of the title insurer or its title insurance agent for  
25 a period of not less than fifteen years after the title

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1 insurance policy has been issued. Instead of retaining the  
2 original evidence, the title insurer or title insurance agent  
3 may in the regular course of business establish a system whereby  
4 all or part of the evidence is recorded, copied or reproduced by  
5 any process that accurately and legibly reproduces or forms a  
6 durable medium for reproducing the contents of the original.

7 This subsection shall not apply to:

8 (1) a title insurer assuming liability through  
9 a contract of reinsurance; or

10 (2) a title insurer acting as coinsurer if one  
11 of the other coinsuring title insurers has complied with this  
12 section. "