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FISCAL IMPACT REPORT

ORIGINAL DATE 1/19/2007
LAST UPDATED 3/13/2007 HB _____

SPONSOR SJC

SHORT TITLE Judicial Forum for Rental Contracts SB 69/SJCS/a HJC

ANALYST Schuss/Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Unknown	Unknown	Unknown	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Amendment

The House Judiciary Committee amendment to the Senate Judiciary Committee substitute for Senate Bill 69 adds a new Subsection to Section 2 that reads:

A lease or rental contract for equipment that does not contain a provision covered by this section shall be presumed to conform to Subsections A and B of this section.

Synopsis of Original Bill

The Senate Judiciary Committee substitute for Senate Bill 69 amends NMSA Section 55-2A-106. The bill states if the forum for an arbitration or mediation hearing chosen by the parties to a consumer lease is in a state or in a similar political subdivision in a foreign country other than the state or the similar subdivision in the foreign country in which the lessee resides at the time the

lease agreement becomes enforceable or within thirty days thereafter or in which the goods are to be used, the choice is not enforceable.

The bill also prohibits indemnification clauses where one party agrees to hold harmless, indemnify, etc. the other party for bodily injury claims caused by the negligence or wrongful acts of the other party. This prevents one party from having to assume risk even when the injury is caused by the other party.

The bill defines “indemnify” or “hold harmless” as any requirement to name the indemnified party as an additional insured on the indemnitor’s insurance for the purpose of providing indemnification for liability otherwise allowed in this section.

The following are exempt from the provisions of this bill:

- A lease or rental contract for a motor vehicle, as "motor vehicle" is defined in Section 66-1-4.11 NMSA 1978 and that is designed and used primarily to transport persons or property on a public highway.
- A security agreement as defined in Section 55-9-102 NMSA 1978 or to a finance lease as defined in Section 55-2A-103 NMSA 1978 or to a lease by a repossessing lessor for equipment repossessed upon default under such a finance lease.
- A lease or rental contract for equipment for use in the production of motion pictures or television.

FISCAL IMPLICATIONS

The Administrative Office of the Courts states that any fiscal impact on the judiciary is unknown and would be proportional to increase in lease disputes heard in New Mexico’s courts. There may be an increase in the amount of work that needs to be done by the courts, thus requiring additional resources to handle increase.

SIGNIFICANT ISSUES

This bill attempts to correct the situation when a renter of equipment is forced to indemnify a rental company for the company’s negligence and wrongful acts and still not deviate from the Model Uniform Commercial Code, as they have not been adopted by the National Conference of Commissioners on Uniform State Laws.

ADMINISTRATIVE IMPLICATIONS

The Administrative Office of the Courts states that there may be an administrative impact on the courts as the result of an increase in caseload and/or in the amount of time necessary to dispose of cases.

BS/DW:mt