

LFC Requester:

Julisa Rodriguez

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** \_\_\_\_\_ *Check all that apply:*  
**Bill Number:** SB 215 Original  Correction   
 Amendment  Substitute

**Sponsor:** Leo Jaramillo **Agency Name and Code Number:** Office of Superintendent of Insurance - 440  
**Short Title:** Coverage for Certain Insurance Risks **Person Writing Phone:** Tim Vigil  
**Title:** Risks **Phone:** \_\_\_\_\_ **Email:** Timothy.vigil@osi.nm

**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$0	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0	\$42	\$0	\$42	N/A	

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

Section 1 of the bill adds a new Subsection (G) to the existing Insurance Code Section 59A-18-17. The change is modeled after a similar provision adopted by the State of California in 2018. Referred to as the efficient proximate cause doctrine, the provision provides coverage if a covered risk is the predominate cause of the excluded risk. If enacted, property insurance industry would be prevented from denying policyholder claims for damages to covered property due to a combination of covered and excluded risks. For example, if fire was a covered risk and mudslide was an excluded risk, the mudslide damage would be covered as long as the damage was proximately caused by the covered risk (fire).

#### **FISCAL IMPLICATIONS**

None.

#### **SIGNIFICANT ISSUES**

The Office of the Superintendent of Insurance (“OSI”) received a significant increase in the number of complaints regarding insurance companies’ failure to cover flood, mudflow, debris flow, landslide following the recent wildfires (Hermit’s Peak/Calf Canyon, South Fork and Salt Fires).

#### **PERFORMANCE IMPLICATIONS**

None indicated.

#### **ADMINISTRATIVE IMPLICATIONS**

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None known at this time.

#### **TECHNICAL ISSUES**

None.

#### **OTHER SUBSTANTIVE ISSUES**

In 2023, the CA Insurance Commissioner issued a notice explaining "efficient proximate cause":

Pursuant to the efficient proximate cause doctrine, “When a loss is caused by a combination of a covered and specifically excluded risks, the loss is covered if the covered risk was the efficient proximate cause of the loss,” but “the loss is not covered if the covered risk was only a remote cause of the loss, or the excluded risk was the efficient proximate, or predominate cause.” (*State Farm Fire & Casualty Co. v. Von Der Lieth* (1991) 54 Cal.3d 1123, 1131–1132, 2 Cal.Rptr.2d 183, 820 P.2d 285.)

*Julian v. Hartford Underwriters Ins. Co.*, 35 Cal. 4th 747, 750, 110 P.3d 903, 904 (2005), as modified (May 5, 2005)

#### **ALTERNATIVES**

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If this bill does not pass, the insurance industry can continue to include a clause in insurance contracts which industry refers as the “anti-concurrent cause clause” which allows an insurance

company to deny certain excluded risks (such as flood, mudslide, landslide, etc.), even when the damage was proximately caused by a covered risk (such as fire).

**AMENDMENTS**

None.