FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/13

SPONSOR Munoz   **LAST UPDATED**   **HB**

SHORT TITLE Real Property Sale Affidavits   **SB** 117

ANALYST Smith

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$0.0				All Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Association of Counties

SUMMARY

Synopsis of Bill

Senate Bill 117 requires affidavits be filed with the County Assessor on real property sold in a county.

The bill was introduced for the interim Legislative Revenue Stabilization and Tax Policy Committee.

The bill has an emergency clause.

FISCAL IMPLICATIONS

No significant immediate impacts on state or local funding sources would likely result from enactment of the proposed legislation. The proposed measure would increase information available to assessors and therefore result in more "current and correct" assessment levels among nonresidential properties. Under these circumstances, revenues flowing to various property tax recipients (the State of New Mexico, municipalities, school districts and other entities) may grow or be more than they would otherwise be.

SIGNIFICANT ISSUES

This is a TRD generated bill. They note that:

"Section7-38-12.1 NMSA 1978 has not been vigorously enforced. Section 7-38-12.2(A) provides for the imposition of a fine of not more than $1,000 for people who fail to file a sales affidavit or knowingly make a false statement on a sales affidavit. To our knowledge, this fine has never been imposed. Failing to meet the affidavit requirements is generally the province of sophisticated taxpayers. These taxpayers seem willing to bet the $1,000 fine that their county assessors won't follow up on an inaccurate completed or omitted affidavit. So far, it has proven a good bet spreading property tax burdens disproportionly to less valuable properties, resulting in regressive trend in the property tax system."

"This expansion of the affidavit requirement for all properties eliminates the unequal treatment of residential taxpayers by spreading the requirement to all classes of property. As the move toward full disclosure, the additional problems of property tax inequities, underfunded school budgets, inaccurate appraisals for mortgage loans and difficulties in evaluating the consequences of natural disasters will recede. When TRD checked about a year ago, thirteen states were non-disclosure or partial disclosure states. Alaska, Idaho, Kansas, Louisiana, Maine, Mississippi, Missouri, Montana, New Mexico, North Dakota, Texas, Utah and Wyoming. A number of those disclose to the Assessors and/or state only and therefore are partial disclosure states. It should also be noted New Mexico where there is only disclosure to Assessors of residential property along with three other full non-disclosure states (Alaska, Louisiana, Mississippi) are all ranked among the lowest for public education."

TRD has attempted to draft a comprehensive disclosure law which is presented below. In addition, TRD believes believe title companies should be proscribed from issuing a policy unless the property deed is recorded as called for in statute subject to the changes below.

47-1-4.1 - Conveyances of Real Property
A. All instruments conveying or transferring interest to real property must be recorded with the county clerk's office in the county where the property is located in order to complete the transfer. The recorded record shall include the purchase price and all additional consideration paid for the transferred interest in the property. The purchase price and other consideration shall be evidenced by an executed contract of sale or an executed copy or the transfer instrument.
B. All instruments conveying or transferring interest to real property must include the mailing address of the grantee which is sufficient to allow the county assessor and county treasurer to notify the grantee the Notice of Value (Section 7-38-20 NMSA 1978) and the Property Tax Bill (Section 7-38-36 NMSA 1978).

7-38-12.2 Property transfers; copies of documents to be furnished to assessor; penalty for violation.

A. Whenever a deed or real estate contract instrument conveying or transferring an interest in real property is received by a county clerk for recording, a copy of the recorded deed or real estate contract instrument shall be given to the county assessor by the clerk. This instrument shall include the purchase price and other consideration paid for the property or interest.
    (1) Upon presentation of the recorded instrument to the county assessor, the county assessor shall update the assessment record for the subject real property to include the name and mailing address of the new grantee and purchase price paid as reflected on the recorded instrument.

OTHER SUBSTANTIVE ISSUES

This is a bill that was voted by the New Mexico Association of Counties Board of Directors as a priority bill.

Does the bill meet the Legislative Finance Committee tax policy principles?
1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

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SS/svb