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FISCAL IMPACT REPORT

SPONSOR White **ORIGINAL DATE** 1/29/2019
LAST UPDATED 2/15/19 **HB** _____

SHORT TITLE Require Bond to Protect Property Owner **SB** 238/aSCORC

ANALYST Chabot

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of SCORC amendment

The Senate Corporations and Transportation Committee amendment 1 to Senate Bill 238 provides a grammatical change without changing intent. Amendment 2 adds the phrase “or required to be deposited” to funds in a property management trust account.

Synopsis of Original Bill

Senate Bill 238 authorizes the Real Estate Commission to adopt rules requiring real estate brokers providing residential property management services to file with the Commission a surety bond for no less than \$100,000 to pay for any damages suffered by the property owner and tenants caused by mismanagement, misappropriation, deceit or embezzlement of an owner’s or tenant’s funds deposited in a property management trust account. The bill allows the commission to provide exceptions. In addition, the bill authorizes the Commission to solicit sealed, competitive proposals from bonding companies to provide a group professional bond program for residential property managers.

FISCAL IMPLICATIONS

The bill has no fiscal impact.

SIGNIFICANT ISSUES

According to RLD, Senate Bill 238 was introduced “in response to a recent rash of embezzlement from property management trust accounts by property managers that have cost property owners and tenants statewide hundreds of thousands of dollars. The intent of the bill is to require prospective property managers to demonstrate a solid financial record that would qualify them for a bond and to provide owners and tenants an avenue for at least partial recovery of financial loss.”

PERFORMANCE IMPLICATIONS

RLD assesses this bill would enhance the Commission’s ability to fulfill its mission of protecting the public and enhance the professional competence of real estate brokers.

TECHNICAL ISSUES

NMAG recommends the following changes to improve the bill:

1. Page 1, Line 22: strike “that” and replace it with “who”
2. Page 2, Line 4: insert after the word “funds” insert “required to be”
3. Page 2, Lines 7-8: clarify whether the exceptions be adopted by rule for consistent application or decided on a case-by-case basis.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Real Estate Commission will lack the authority to ensure surety bonds for property managers.

POSSIBLE QUESTIONS

GAC/gb/al