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FISCAL IMPACT REPORT

ORIGINAL DATE 1/22/09

SPONSOR Boitano LAST UPDATED _____ HB _____

SHORT TITLE Eliminate Real Estate Broker Exemption SB 98

ANALYST C.Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Commission of Higher Education (CHE)

SUMMARY

Synopsis of Bill

The Real Estate License Law at Section 61-29-4 currently exempts real estate brokers who are 65 years of age and have 20 years of continuous licensure from the requirement to complete 30 hours of Real Estate Commission approved continuing education courses every three years as a condition of license renewal. SB98 would eliminate that exemption, thereby making all real estate brokers, regardless of age or years of licensure, subject to continuing education requirements.

SIGNIFICANT ISSUES

According to the Real Estate Commission, the exemption from continuing education requirements for brokers who are 65 years of age and have 20 years of continuous licensure was enacted by the legislature in the 1980's at the urging of the late former State Rep John J. McMullan of Albuquerque, himself a real estate broker.

This exemption has been controversial, with some brokers arguing that the changing trends in real estate brokerage and the changing laws and rules governing real estate brokerage require

continuing education for all brokers, regardless of age or tenure, for the sake of public protection. Others argue that a broker who has reached 65 years of age and has been continuously active in real estate brokerage does not require additional continuing education.

On at least one occasion in recent years, the Real Estate Commission requested legislation to eliminate the exemption, believing that requiring continuing education of all real estate brokers is consistent with the Commission's mission of protecting the public and enhancing the professional competence of real estate brokers. The legislation, which was part of a larger bill proposing several changes to the Real Estate License Law, passed the Senate but the exemption was restored by the House before the larger bill was passed.

PERFORMANCE IMPLICATIONS

Enactment of SB 98 could enhance the Real Estate Commission's ability to ensure that all brokers complete a minimal level of continuing education during each three year licensing cycle.

ADMINISTRATIVE IMPLICATIONS

SB98 would have no significant administrative implications. A system is already in place to monitor and enforce real estate broker compliance with continuing education requirements. SB98 would eliminate the need for staff to verify a broker's eligibility for what has come to be known as the "65 and 20" exemption.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The consequences of not enacting this bill are that the existing exemption from continuing education will remain in place and a segment of the real estate broker population will not be required to stay current with industry trends, laws, and rules governing real estate brokerage practice.

CS/mt