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FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/12

SPONSOR SPAC LAST UPDATED _____ HB _____

SHORT TITLE Foreclosure Maintenance Ordinance Requirement SB 70/SPACS

ANALYST Chabot

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate			Recurring	Local Governments

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General Office (AGO)

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Public Affairs Committee Substitute for Senate Bill 70 would create the “Foreclosure Maintenance Act” applicable to Class A Counties (Bernalillo, Dona Ana, Sandoval, San Juan and Santa Fe) requiring them to enact a Foreclosure Maintenance Ordinance requiring the legal owner of a foreclosed residential real property to maintain the property, and establishing a penalties for failure to do so. The ordinance to be enacted is to have a new definition of public nuisance. The local ordinances will include notice of violation procedures to the homeowner, citation and monetary penalties of up to \$1,000 per day if the owner fails to maintain property and corrections have not started within 14 days after notice and not completed within 30 days, a process for determining application of penalty, a process for collecting penalties into a nuisance abatement or similar fund, and an appeal process. Local ordinances may include provision to establish different compliance periods for different conditions on the property and less than 30 days notice to remedy the violations if they threaten public health or safety. The bill has an emergency clause.

FISCAL IMPLICATIONS

Counties will have varying costs associated with developing and enforcing ordinances required by this bill.

SIGNIFICANT ISSUES

The AGO identified no significant legal issues with this bill.

RLD states the bill lead to significant costs for financial institutions to maintain abandoned properties. This could threaten the “safety and soundness of many financial institutions...needing to purge...non-performing assets from their books.” RLD further points out, the bill only refers to residential properties but not to commercial ones.

TECHNICAL ISSUES

RLD suggests there are conflicting definitions of an abandoned residential real property in Sections 2 and 3. “This language is conflicting as it implies that only the legal owner of property purchased at a foreclosure sale or acquired through foreclosure should have to maintain abandoned residential real property. However as per the definition provided a legal owner can still be the homeowner who has vacated the property under a notice of default or notice of mortgagee sale. During the foreclosure process the legal owner can vacate the property and not be subject to the provisions of the ordinance however once ownership is transferred, that new entity is subject to the ordinance and the deficiencies created by the previous legal owner.”

GAC/lj