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FISCAL IMPACT REPORT

SPONSOR Maestas **ORIGINAL DATE** 02/01/14
LAST UPDATED _____ **HB** 185

SHORT TITLE Commercial Real Estate Broker Lien Act **SB** _____

ANALYST Martinez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 185 creates the Commercial Real Estate Broker Lien Act (CREBLA), to permit a broker to place a lien upon commercial real estate or any interest in commercial real estate in the amount that the broker is due for licensed services connected with the leasing of the commercial real estate, including brokerage fees and consulting fees if the broker is entitled to a stated fee or commission.

This bill states that a lien must be recorded in the county clerk’s office in which the commercial real estate is located and must be filed within ninety days following the date on which payment was due. The broker must also mail a copy of the notice of lien by certified mail to the last known address of the owner of the commercial real estate or the owners authorized agent within ten days of recording the notice of lien. Within two years of recording the notice of lien, a broker must bring suit to enforce the lien in the district court in the county where the commercial real estate is located. Failure to do so shall extinguish the lien.

Furthermore HB 185 provides that the owner of any commercial real estate upon which a lien has been filed may petition the district court for the county in which the real estate is located for an order canceling the lien. Upon the filing of the petition, the court shall determine an amount sufficient to satisfy the recorded demands and shall require the owner of the commercial real

estate to deposit with the court such amount conditioned on the payment of any sum found to be validly owed to the broker. Upon deposit of such funds, the court shall issue an order canceling the lien.

FISCAL IMPLICATIONS

No Fiscal Impact

SIGNIFICANT ISSUES

RLD writes:

House Bill 185 would not amend the New Mexico Real Estate License Law. It would be a new, separate law and would not be under the jurisdiction of the Real Estate Commission.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Commercial real estate brokers will continue to be unable to record liens against commercial real estate for commissions and fees owed to brokers for services performed as licensed commercial real estate brokers.

RM/ds:svb