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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>Leavell</u>	<b>ORIGINAL DATE</b>	<u>2/26/15</u>	
		<b>LAST UPDATED</b>	<u>3/17/15</u>	<b>HB</b>
<b>SHORT TITLE</b>	<u>Escrow Company Bonds &amp; Audits</u>			<u>412/aSCORC/aSJC/aS</u>
				<b>SB</b> <u>FI#1</u>
				<b>ANALYST</b> <u>Elkins</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)

Office of Superintendent of Insurance (OSI)

### SUMMARY

#### Synopsis of Senate Floor Amendment

Senate Floor Amendment 1 to Senate Bill 412 requires escrow companies to obtain a surety bond of at least \$100 thousand.

#### Synopsis of Senate Judiciary Committee Amendment

Senate Judiciary Committee Amendment to Senate Bill 412 strikes section 2 of the bill. Section 2 of SB 412 amended the purpose of the Escrow Company Act.

#### Synopsis of Senate Corporations and Transportation Committee Amendment

Senate Corporations and Transportation Committee Amendment to Senate Bill 412 strikes the reference to Section 55-22-10 NMSA 1978 and inserts in lieu thereof a reference to Section 58-22-10 NMSA 1978, which is the correct reference, on page 10, line 17.

#### Synopsis of Original Bill

Senate Bill 412 amends the Escrow Company Act by:

- requiring licensees to submit a copy of the company's corporate income tax returns or federal Schedule C if the licensee is a sole proprietor from the previous year and a copy

of reconciliations and corresponding bank statements for the three months immediately preceding when renewing a license;

- requiring escrow companies to obtain a surety bond of at least \$50 thousand;
- removing insurance requirement exemptions for escrow companies operating from more than three years;
- requiring an escrow company to send notice, containing a final statement of account, to the seller and the buyer of a property within the ten-day period following a buyer depositing the final payment on the account; and
- stating FID examination reports, financial information contained in licensee applications and renewal applications, and information on investigations relating to violations of the Escrow Company Act that do not result or have not yet resulted in administrative, civil or criminal action are not public records subject to the Inspection of Public Records Act and are not subject to subpoena.

### **FISCAL IMPLICATIONS**

There are no identified fiscal implications.

### **SIGNIFICANT ISSUES**

Senate Bill 412 proposes to improve escrow regulations and to allow for early detection of violations. The bill increases FID ability to prevent the need for drastic action and costly remedies such as receivership. Also, the bill will enable the director of FID to carry out the legislative purpose of the Escrow Company Act and effectively monitor escrow companies' fiduciary duty to the citizens of New Mexico.

Financial Institutions Division (FID) placed two of the escrow companies examined, into receivership in 2012. FID obtained permanent injunctions against the companies for violations of the Escrow Company Act, the most egregious of which was misappropriations of customer monies, held in escrow accounts, in excess of one million dollars.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

According to RLD, the Escrow Act will contain the current requirements which lack the safety measures and bonding requisite, proposed by Senate Bill 412. FID will be less aware of potential transgressions by escrow companies and less able to minimize harm to the population the escrow companies serve.

CE/aml/je/bb/je