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FISCAL IMPACT REPORT

SPONSOR SCORC ORIGINAL DATE 02/02/17
LAST UPDATED 02/23/17 HB _____

SHORT TITLE Real Estate Auctioneer License Exemptions SB 125/SCORCS/aSJC

ANALYST Amacher

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of Attorney General (AGO)

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendments makes clear that the auctioneer may only receive a fee for services in an auction and not a commission as authorized for brokers in the Real Estate Brokers and Salesman (Chapter 61-29 NMSA 1978).

Synopsis of Original Bill

The Senate Corporations and Transportation Committee substitute for Senate Bill 125 amends Real Estate Brokers and Salesmen (Chapter 61-29 NMSA 1978) to exempt an auctioneer working under the control of a qualifying broker from the licensure requirements. If this bill is enacted, it would become effective June 16, 2017.

FISCAL IMPLICATIONS

There is no known fiscal impact.

SIGNIFICANT ISSUES

The Senate Corporations and Transportation Committee substitute for Senate Bill 125 amends

Real Estate Brokers and Salesmen to exempt an auctioneer working under the control of a qualifying broker from the licensure requirements. The term “auctioneer” is added to the definitions (Chapter 61-29-2 NMSA 1978). “Auctioneer” means any person who auctions or offers to auction real property.

Furthermore, this bill exempts an auctioneer working under the control of a licensee by means of an express written agreement with the brokerage. This in effect, removes an auctioneer from the requirement to become a licensed real estate broker. An auctioneer may auction real property but will not be required to be licensed as a real estate broker, if this bill is enacted.

ADMINISTRATIVE IMPLICATIONS

The OAG’s Open Government Divisions provides legal counsel to over 100 state boards and commissions, including the real estate commission. Changes to the commission’s statute will likely result in additional resources being used from the OAG with legal interpretation, drafting and implementing any new regulations promulgated by the commission as a result of the statutory change.

OTHER SUBSTANTIVE ISSUES

RLD noted that on May 24, 2016, the OAG issued a written opinion stating that, since the definition of a “real estate broker” in the licensure law includes persons auctioning real estate, an auctioneer auctioning real property in New Mexico, must be a real estate broker licensed as such by the New Mexico Real Estate Commission.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The New Mexico Real Estate Commission would continue to require auctioneers auctioning real estate to be licensed as real estate brokers.

JMA/sb/al/jle