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FISCAL IMPACT REPORT

SPONSOR Griggs ORIGINAL DATE 02/10/17
LAST UPDATED 02/21/17 HB _____

SHORT TITLE Filing Duplicate Instruments Of Writing SB 212/aSJC

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

No Responses Received From
Association of County Clerks
Office of the Attorney General (AGO)

SUMMARY

Synopsis of Amendment

The Senate Judiciary Committee amendment to SB 212 removes redundant language.

Synopsis of Bill

Senate Bill 212 (SB 212) amends Section 14-8-4 NMSA 1978 relating to recording duplicates.

FISCAL IMPLICATIONS

The bill does not allow a fee for filing a duplicate to be greater than filing an original instrument.

SIGNIFICANT ISSUES

For purposes of filing records, rules, and local notices by county clerks, SB 212 provides an alternative when an original instrument is unavailable. Supportive documentation includes the name, phone number, and address of the person recording the duplicate; specifies the reason the duplicate is filed and recorded in place of the original instrument; and includes an acknowledged statement by the person filing that the duplicate is a true copy of the original instrument.

AGO notes SB 212 modifies current law at NMSA 1978 Section 14-8-4 that states, “A duplicate of an instrument of writing duly acknowledged may be filed and recorded to the same extent as the original.” A “duly acknowledged” record is one that is notarized. Currently, there are nine legal exceptions to the requirement that a duplicate record used to substitute for an original be “acknowledged” -- among them court records, judicial decrees, land patents and receipts, notices of lis pendens, provisional orders creating improvement districts, real estate taxes, land surveys that show only existing tracts of record; certified copies of foreign wills, marriages or birth certificates; and certain instruments affecting real property. For these types of documents, no extra acknowledgement is required before a duplicate can substitute for an original record.

PERFORMANCE IMPLICATIONS

Public records law currently states “An acknowledgment of an instrument of writing shall not be necessary to its execution unless expressly so provided by statute.” Section 14-13-12

ADMINISTRATIVE IMPLICATIONS

AGO notes that changing the law to require another document attesting to the reason for using a substitute could take additional time in authenticating documents, which may be burdensome.

TECHNICAL ISSUES

To gain clarity, AGO suggests establishing a date after which a duplicate must be accompanied by an authenticating statement in order to substitute for an original document.

AHO/jle