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FISCAL IMPACT REPORT

SPONSOR Neville LAST UPDATED _____
ORIGINAL DATE 2/23/23
BILL
SHORT TITLE Transfer of Property Affidavits NUMBER Senate Bill 338
ANALYST J. Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal			General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From

Mortgage Finance Authority (MFA)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Senate Bill 338

Senate Bill 338 amends Section 7-38-12.1 NMSA 1978, governing tax assessment affidavits to be filed for real property transfers. The bill requires that an affidavit be filed with the county assessor for a deed transferring all real property; including nonresidential property. It also amends Subsection D to state that an affidavit is not required for:

A deed, patent or contract for sale or transfer of real property in which the property was valued pursuant to Section 7-36-20 NMSA 1978 in the prior tax year; or an instrument delivered to convey solely the mineral or subsurface estate of real property.

The Taxation and Revenue Department must print and distribute the required affidavits to county assessors as of November 1, 2023.

The effective date of the Act is January 1, 2024.

FISCAL IMPLICATIONS

MFA states no fiscal impact.

AOC states:

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

AOC states:

Section 7-38-12.2(A) NMSA 1978 provides a misdemeanor penalty of a fine of not more than \$1,000, for a person who intentionally refuses to make a report required under Section 7-38-12.1 NMSA 1978 within the time period specified or who knowingly makes a false statement on an affidavit required under Section 7-38-12.1 NMSA 1978.

Section 7-38-12.2(B) NMSA 1978 provides the same misdemeanor penalty for a secretary, any employee or any former employee of the Taxation and Revenue Department or any other person subject to the provisions of Section 7-38-12.1 NMSA 1978 who willfully releases information in violation of that section, except as provided in Section 7-38-4 NMSA 1978 (governing confidentiality of information) or as part of a protest proceeding as defined in Section 7-38-24 NMSA 1978.

MFA states:

Amending all references to “residential” amends the affidavit requirement to include all real property, providing the assessor with information on real property transfers related to the parties involved, the full consideration paid or exchanged for the transfer, and the value and description of the personal property included in the sale price.

PERFORMANCE IMPLICATIONS

AOC states:

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed.
- Percent change in case filings by case type.

JT/al/ne/rl