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## FISCAL IMPACT REPORT

**SPONSOR** Berry **ORIGINAL DATE** 1/28/09  
**LAST UPDATED** 2/2/09 **HB** 34  
**SHORT TITLE** Property Tax Information Disclosure **SB** \_\_\_\_\_  
**ANALYST** Lucero

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

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$0.1			Nonrecurring	Title Insurance Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Related to HB160, HB251, HB261, SB181,

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulation Commission (PRC)

Department of Finance and Administration (DFA)

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 34 enacts a new section of the New Mexico Title Insurance Law requiring that a disclosure notice be attached to all residential title insurance policies issued in the state. This notice would advise the purchaser that previous increases in property taxes may have been limited to three (3) percent but that the annual increase in property taxes after a change of ownership may not be so limited. It would also state that the valuation for tax purposes and the resulting property taxes may be substantially higher than those paid by the previous owner or owners.

Additionally, the bill requires the Superintendent of Insurance to promulgate rules ensuring that the disclosure be in clear, conspicuous writing that the purchaser is likely to notice and that the standard for disclosure be uniform and applied statewide.

## **FISCAL IMPLICATIONS**

There may be a minimal additional operating budget impact for promulgating rules, developing the disclosure, and the application of a uniform statewide policy to the PRC.

## **SIGNIFICANT ISSUES**

The Public Regulation Commission (PRC) notes that County rules developed by county assessors are not uniform throughout the state; therefore this issue may or may not be applicable in certain counties. Also, real estate transactions are closed according to contractual agreements and instructions. Prorations of taxes are typically described in detail and may be in contradiction to the standardized notice. The title insurance industry may question the assignment of this responsibility to notify citizens of local governmental policy and regulations, however it would be a simple matter to design a disclosure form and require that it be attached to the title insurance commitment at the time of issuance.

According to the Department of Finance and Administration:

New Mexico does not have purchaser disclosure requirements. This bill is an attempt to bring awareness to the purchaser that property tax imposed may be potentially higher than the tax imposed on the prior owners.

New Mexico Association of Counties Assessors affiliate supports implementing property tax disclosure laws.

## **ADMINISTRATIVE IMPLICATIONS**

The PRC's Department of Insurance will need to go through the process of generating applicable rule(s).

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Related to HB160, HB251, HB261, SB181,

## **OTHER SUBSTANTIVE ISSUES**

The state of Florida has a similar requirement; however, the disclosure must be in the sales contract:

**689.261 Sale of residential property; disclosure of ad valorem taxes to prospective purchaser.--**

(1) A prospective purchaser of residential property must be presented a disclosure summary at or before execution of the contract for sale. Unless a substantially similar disclosure summary is included in the contract for sale, a separate disclosure summary must be attached to the contract for sale. The disclosure summary, whether separate or included in the contract, must be in a form substantially similar to the following:

PROPERTY TAX

DISCLOSURE SUMMARY

BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

(2) Unless included in the contract, the disclosure summary must be provided by the seller. If the disclosure summary is not included in the contract for sale, the contract for sale must refer to and incorporate by reference the disclosure summary and include, in prominent language, a statement that the potential purchaser should not execute the contract until he or she has read the disclosure summary required by this section.

**ALTERNATIVES**

An alternative to the current draft legislation would be to place the burden of this disclosure on real estate licensees or lenders.

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

Some residential purchasers may not realize the true property tax liability they will incur upon purchasing a new home in certain counties.

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