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FISCAL IMPACT REPORT

SPONSOR Barela **ORIGINAL DATE** 1/25/09 **LAST UPDATED** _____ **HB** 145
SHORT TITLE Uniform Residential Mortgage Satisfaction Act **SB** _____
ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Regulation & Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 145 enacts the Uniform Residential Mortgage Satisfaction Act as published by the National Conference of Commissioners on Uniform State Laws.

The bill provides time sensitive rules for giving notice of satisfaction of mortgage and allows for a rescission period if the satisfaction was erroneously recorded. A person that erroneously or wrongfully records a document of rescission is liable to any person injured for actual damages caused by the recording; and reasonable attorney fees and costs. The bill provides rules regarding complying with requests for a payoff statement to the entitled person.

A secured creditor that is required to submit a satisfaction of a security instrument for recording and does not do so by the end of the period specified is also liable to the landowner for dollars and any reasonable attorney fees and court costs incurred. There are disclosure requirements which must be met in order for a document to be considered a security instrument. There are safe harbors if a secured creditor established a reasonable procedure to achieve compliance with its obligations pursuant to the Uniform Residential Mortgage Satisfaction Act. There are guidelines for qualifying as a satisfaction agent. A form of affidavit is provided at the end of the

bill for use by parties subject to the provisions of the bill.

FISCAL IMPLICATIONS

There are no fiscal implications to the State

SIGNIFICANT ISSUES

This bill will allow a buyer to record a satisfaction of mortgage if the secured creditor fails to do so.

OTHER SUBSTANTIVE ISSUES

The National Conference of Commissioners on Uniform State Laws NCCUSL mission is to provide states with non-partisan, well-conceived and well-drafted legislation bringing clarity and stability to critical areas of the law. NCCUSL's work supports the federal system and facilitates the movement of individuals and the business of organizations with rules that are consistent from state to state.

The NCCUSL has worked for the uniformity of state laws since 1892. It is a non-profit unincorporated association, comprised of state commissions on uniform laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Each jurisdiction determines the method of appointment and the number of commissioners actually appointed.

There is only one fundamental requirement for the more than 300 uniform law commissioners: that they are members of the bar. While some commissioners serve as state legislators, most are practitioners, judges, and law professors. They serve for specific terms, and receive no salaries or fees for their work with the NCCUSL.

The state uniform law commissioners come together as the NCCUSL for one purpose—to study and review the law of the states to determine which areas of law should be uniform. The commissioners promote the principle of uniformity by drafting and proposing specific statutes in areas of the law where uniformity between the states is desirable. It must be emphasized that the Conference can only propose—no uniform law is effective until a state legislature adopts it.

The NCCUSL is a working organization. The uniform law commissioners participate in drafting specific acts; they discuss, consider, and amend drafts of other commissioners; they decide whether to recommend an act as a uniform or a model act; and they work toward enactment of NCCUSL acts in their home jurisdictions.

DW/mc