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FISCAL IMPACT REPORT

SPONSOR: Fidel DATE TYPED: 01/27/03 HB

SHORT TITLE: Real Estate Broker Responsibilities SB 45

ANALYST: Geisler

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
		NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

RLD/Real Estate Commission

SUMMARY

Synopsis of Bill

SB45 would eliminate the term “nonagent” from the list of brokerage relationships available in New Mexico real estate license law. The bill would continue to provide that a real estate brokerage may provide real estate services to a client pursuant to a written agreement without creating an agency relationship. The bill would also continue to provide that a real estate brokerage may provide real estate services to a customer without entering into a written agreement and without creating an agency relationship. The bill would eliminate the current requirement that a licensee give a prospective buyer, seller, landlord or tenant a brokerage relationship disclosure “at first substantive contact” with such prospective buyer(s). The bill would add the requirement that a licensee provide to such prospective buyer(s), at the time the parties enter into a written contract, a list of basic real estate licensee duties established by the Real Estate Commission.

Significant Issues

The term “nonagent” was placed in the statute in 1999 as a way to give real estate licensees an avenue for providing real estate services without entering into a formal agency relationship. The term has been a source of confusion to licensees and members of the public since its inception. SB45 would eliminate the term, but retain the licensee options for providing real estate services that are included under the present “nonagent” definition.

Similarly, the term “first substantive contact”, which defines the point in a transaction at which a licensee is required to disclose to a consumer the range of brokerage relationships available through their brokerage, is a nebulous term that has been a source or constant confusion among licensees. SB45 would fix the point at which disclosures must be made when the parties enter into a written contract, and change what must be disclosed from a list available brokerage relationships to a list of licensee duties established by the Real Estate Commission.

SB45 has a delayed effective date of January 1, 2004 to allow the Commission time to revise its rules and regulations, and to give real estate professional associations time to revise various forms before the new law takes effect.

PERFORMANCE IMPLICATIONS

The amendments to the real estate license law contained in SB45 would allow the Commission to carry out its public protection responsibilities through a clear and concise law that defines licensee responsibilities free of ambiguous terms and definitions.

FISCAL IMPLICATIONS

SB45 carries no fiscal implications.

ADMINISTRATIVE IMPLICATIONS

SB45 carries no administrative implications other than providing Commissioners and staff with a clearer law under which to carry out their public protection responsibilities.

CONFLICT, DUPLICATION, COMPANIONSHIP OR RELATIONSHIP

Although there is no conflict or duplication with SB43, Amending Real Estate Licensing, SB43 and SB45 both propose to amend different sections of the real estate license law.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The main consequence of not enacting this bill will be the retention in the law of ambiguous terms and definitions that cause confusion on the part of licensees and the public about the responsibilities of real estate licensees to consumers.

GG/njw