

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

**SPONSOR** Rawson                      **DATE TYPED** 3/05/05                      **HB** \_\_\_\_\_

**SHORT TITLE** Real Estate Transaction Funding Deadlines                      **SB** 652/aSJC/aSFC

**ANALYST** Ford

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	None				

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with  
SB 675

#### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

Attorney General (AGO)  
Department of Finance and Administration (DFA)  
Economic Development Department (EDD)  
Regulation and Licensing Department (RLD)

#### **SUMMARY**

##### Synopsis of SFC Amendment

The Senate Finance Committee amendment removes the appropriation from the bill.

##### Synopsis of SJC Amendment

The Senate Judiciary Committee amendment makes clarifying changes by changing the definition of “lender” to refer to mortgage loans instead of real property loans and by removing the definition of “real property.”

Synopsis of Original Bill

Senate Bill 652 appropriates \$50 thousand from the general fund to the financial institutions division (FID) of the RLD for the purpose of enforcing new requirements on lenders regarding the funding of real estate transactions.

The bill establishes deadlines for funding real estate transactions. It provides that a closing agent shall not allow any party to a real property transaction to finalize the transaction unless the necessary consideration has been previously delivered to the seller or the closing agent.

The bill establishes deadlines for lenders, requiring that lenders provide funds to complete the real property purchase at the time they provide the documentation to the closing agent. It also requires lenders, within 2 business days from the time the lender receives the copies of the required documents, to authorize the closing agent to record with the county clerk, advise the closing agent if any lender's funding conditions have not been met, or advise the closing agent that the documentation does not satisfy instructions.

Lenders who do not comply with these requirements, unreasonably refuse to approve documents or unreasonably delay authorization of recordation of the documents may have their licenses revoked or suspended.

**FISCAL IMPLICATIONS**

The appropriation of \$50 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY 06 shall revert to the general fund.

The AGO writes that, as the administrative prosecutor for FID, it too may incur enforcement costs for which there is no appropriation.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

This bill conflicts with Senate Bill 675, which seeks to repeal the existing Mortgage Loan Company and Loan Broker Act and enact a new act in its place.

**TECHNICAL ISSUES**

Section 2 of the bill, which establishes requirements for closing agents, presents enforcement issues because the closing agents it seeks to regulate are not licensed by or registered with FID.

RLD notes that the definition of a "real property loan" includes "personal property" which may conflict with the terms "real property" and "real estate transaction" used throughout this bill. It also notes that the definition does not exclude commercial real estate transactions.

The AGO notes that the term "lender" as defined in Section 2 of the bill includes federally chartered entities that are not subject to regulation by the State.

RLD notes that the definition of closing agent may be unintentionally limiting the described functions performed by a closing agent. This could be addressed by amending the definition of

closing agent to include, but not be limited to, the list of actions functions.

EF/yr:lg:rs