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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/26/07

SPONSOR Lujan, B. LAST UPDATED \_\_\_\_\_ HB 1087

SHORT TITLE Property Tax Transfer Affidavit & Protests SB \_\_\_\_\_

ANALYST Earnest

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 1087 amends sections of the tax code governing the administration and enforcement of property taxes to allow the release of residential property transfer affidavits for a county valuation protest board hearing. The bill declares an emergency.

### FISCAL IMPLICATIONS

None identified.

### SIGNIFICANT ISSUES

Current law only allows the use of the affidavits for analytical and statistical purposes in the application of appraisal methods. House Bill 1087 allows the release of the affidavit for a county valuation protest hearing if the information is material to resolving the dispute.

Property transfer affidavits contain:

1. the complete names of all transferors and transferees;
2. the current mailing addresses of all transferors and transferees;
3. the legal description of the real property interest transferred as it appears in the document of transfer;
4. the full consideration, including money or any other thing of value, paid or exchanged for the transfer and the terms of the sale including any amount of seller incentives; and
5. the value and a description of personal property that is included in the sale price.

The bill does not specify to whom the affidavit shall be released.

Paragraph C of the section states that the “county assessor shall retain the original affidavit as a confidential record and as proof of compliance. . . .” It appears this bill would alter confidentiality of the affidavit if released for a county valuation protest hearing.

### **ADMINISTRATIVE IMPLICATIONS**

TRD indicates that the bill would impose no significant administrative costs on the department or local governments and would improve administration of the property tax system. The measure would provide county assessors and representatives of the Property Tax Division, who serve on county protest boards, with improved information on which to base their decisions.”

### **TECHNICAL ISSUES**

According to TRD, the preamble of this bill is directed toward using a residential tax protestant’s affidavit to resolve that protestant’s valuation issues in a hearing if it contains information material to resolving the dispute. “Material” is not defined.

TRD:

Information used to determine a protested value is intended to be available to both parties in a protest hearing. This raises several issues relating to confidentiality that will have to be resolved:

- First, it is unclear if, in cases where sales affidavits from other property transfers are used in determining assessed value of a protestant’s property, those affidavits would be available to the protestant through the discovery process.
- Second, since county valuation protest board hearings are public, it is unclear whether releasing any affidavit would violate confidentiality statutes of the law as modified by the proposed measure.
- Third, it is unclear if an assessor would be able to use an affidavit filed between January 2004 and when the proposed measure is enacted, since those affidavits were filed with the expectation of confidentiality.