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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/07

SPONSOR Ortiz y Pino LAST UPDATED 3/2/07 HB \_\_\_\_\_

SHORT TITLE Condominium Declaration Disclosure Statements SB 1111/aSFL

ANALYST C. Sanchez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
 Regulation and Licensing Department (RLD)  
 Department Finance Administration (DFA)

### SUMMARY

#### Synopsis of SFl amendment

The Senate Floor amendment on page 1, line 19, after "statement" inserts the words "pursuant to this section".

The amendment makes a technical change to the original bill.

#### Synopsis of Original Bill

Senate Bill 1111 amends NMSA Section 47-7D-3 of the Condominium Act to allow a "declarant" creating or selling a condominium to provide a disclosure statement to a purchaser before the recording of the condominium declaration.

## FISCAL IMPLICATIONS

According to the Regulation and Licensing Department there is no fiscal impact on their Construction Industries Division.

## SIGNIFICANT ISSUES

The effect of this bill would be to specifically authorize a person creating or selling a condominium to provide a disclosure statement to a purchaser, who may have signed a contract of sale, *before* the condominium is officially created or built. However, current law already authorizes the signing of a contract of sale before the declaration creating the condominium is filed, or before substantial completion of the condominium, and requires that a disclosure statement be delivered to the purchaser no later than the date of that contract of sale. See NMSA 47-7D-20. It is unclear as to how this bill will affect current law governing the provision of condominium disclosure statements.

Pursuant to the Condominium Act, persons creating or selling condominiums must record a “declaration” creating the condominium and containing certain information regarding the property including a description of each unit, common areas, etc. NMSA Sections 47-7B-1, 47-7B-5. A condominium may only be created upon filing the declaration. NMSA Section 47-7B-1A. In general, a declaration may not be recorded unless all structural components and mechanical systems of all buildings containing or comprising any units created are substantially completed in accordance with the plans. NMSA 47-7B-1B.

The act also requires a “declarant” creating or selling units in a condominium to prepare a disclosure statement which must be delivered to a purchaser of a condominium unit before conveyance of that unit and not later than the date of any contract of sale. NMSA Section 47-7D-8. The disclosure statement must contain information regarding the condominium property, financing, and common expenses. NMSA Section 47-7D-3. Unless a purchaser is given the disclosure statement more than seven days before execution of a contract for the purchase of a unit, the purchaser, before conveyance, may cancel the contract within seven days after first receiving the disclosure statement. NMSA Section 47-7D-8.

In case of a sale of a unit where delivery of a disclosure statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed until the declaration is recorded and the unit is substantially completed, as evidenced by a recorded certificate of substantial completion. NMSA Section 47-7D-20. This bill does not affect that provision.

The bill amends provisions describing the contents of the disclosure statement. It does not amend NMSA Section 47-7D-8 which generally governs delivery of the disclosure statement.

## OTHER SUBSTANTIVE ISSUES

The Governor's Task Force on Our Communities, Our Future recommends in its January 2007 report, "Querencia," that to offer greater housing opportunities for all New Mexicans, policies must make it easier to build multi-family housing in neighborhoods. SB-1111 allows the delivery of a disclosure statement to a purchaser prior to the recordation of the condominium declaration. This would bring the condominium law into harmony with the law regarding construction of single-family detached housing.

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

There will continue to be an uneven playing field between condominium and single family construction.

CS/nt