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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Anyanonu</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>1/31/25</u>
<b>SHORT TITLE</b> <u>Attorneys and Contractors as Property Managers</u>	<b>BILL NUMBER</b> <u>House Bill 100</u>
	<b>ANALYST</b> <u>Chavez</u>

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Real estate licenses fees	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Indeterminate but minimal loss	Recurring	Real Estate Commission Fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

New Mexico Attorney General (NMAG)  
Regulation and Licensing Department (RLD)

#### Agency Analysis was Solicited but Not Received From

Administrative Office of the District Attorneys (AODA)  
New Mexico Mortgage Finance Authority (MFA)

## SUMMARY

### Synopsis of House Bill 100

House Bill 100 (HB100) amends exceptions to the Real Estate Brokers and Salesman Act, allowing attorneys and contractors licensed under the Construction Industries Licensing Act to perform property management services without a real estate license.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## FISCAL IMPLICATIONS

Creating two new exemptions to licensure requirements for property managers would result in loss of revenue for the real estate commission fund. Additionally, attorneys and contractors who act as property managers with a current real estate license will no longer need to pay to maintain the license, further reducing fund revenue. However, LFC staff believe the fiscal impact of

HB100 is indeterminate but minimal due to the exemptions being for attorneys, who do not typically operate in property management as a regular function, and for contractors, who only render the service when contracted and not on a regular basis.

## SIGNIFICANT ISSUES

The Regulation and Licensing Department (RLD) provides the following:

When preparing this fiscal impact response, RLD contacted the Real Estate Commission, which is administratively attached to RLD, to give Commission members an opportunity to provide input regarding HB100. The following concerns about HB100 were raised by a member(s) of the Real Estate Commission:

1. **Regulatory Gaps:** By exempting attorneys and contractors from property management oversight, this creates a regulatory gap where these individuals are not held to the same standards as licensed property managers.
2. **Consumer Protections:** The exemption potentially reduces protections for property owners and tenants, as attorneys and contractors may not adhere to the professional and ethical standards enforced by the Real Estate Commission.
3. **Jurisdictional Overlap:** Attorneys are already regulated by the State Bar, and contractors by the Construction Industries Division. Allowing these exemptions creates jurisdictional confusion and inconsistent oversight for property management activities.
4. **Market Confusion:** Consumers might struggle to understand why attorneys and contractors are not held to the same accountability standards as licensed property managers.
5. **Dilution of Professional Standards:** Property management requires specialized skills, education, and training. Exemptions for attorneys and contractors do not guarantee that they possess the necessary expertise for effective property management.
6. **Fiduciary Responsibility:** Currently under Real Estate Commission requirements, licensees engaged in property management must maintain a trust account of all monies received from tenants and then disburse those funds as specified in the management agreement. While attorneys regularly have trust accounts for their clients, it is not clear that they would be required to do the same for property management. Contractors would have no responsibility to maintain a trust account for property management services, providing less protection for owners and tenants.

## ADMINISTRATIVE IMPLICATIONS

RLD provides the following:

The Real Estate Commission, with administrative assistance from RLD, would be required to conduct an administrative rulemaking process in order to amend and update New Mexico Administrative Code 16.61.24, Property Management, in compliance with the terms of HB100.