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## FISCAL IMPACT REPORT

**SPONSOR** Martinez, K. **ORIGINAL DATE** 02/06/10 **LAST UPDATED** 02/17/10 **HB** 205/HJCS  
**SHORT TITLE** Mortgage Foreclosure Consultant Fraud **SB** \_\_\_\_\_  
**ANALYST** Leger

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	See Fiscal Implications	See Fiscal Implications	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
Administrative Office of the Courts (AOC)

#### No Responses Received From

New Mexico Mortgage Finance Authority (MFA)

### SUMMARY

#### Synopsis of Bill

House Judiciary Committee Substitute to House Bill 205 enacts a Mortgage Foreclosure Consultant Fraud Prevention Act.

### FISCAL IMPLICATIONS

Fiscal impact would be proportional to the enforcement of the law and commenced prosecutions by AGO, AOC, and AODA.

### SIGNIFICANT ISSUES

House Bill 205 is introduced in accordance with Executive Message #69.

The bill enacts the Mortgage Foreclosure Consultant Fraud Act (the Act). The Act defines the duties of a foreclosure consultant and terminology directly relating to the Act. The bill further

lays out the requirements of the foreclosure consultant contract including the notice required by state law and addresses the issue of rescinding a foreclosure consultant contract.

The bill lists measures that a foreclosure consultant can not violate. Should the Act be violated a fourth degree felony and, upon conviction, shall be sentenced. Each violation of the provisions of Section 5 of the Act constitutes a distinct offense. The AGO or the district attorney for the district in which the violation arose may prosecute any violation of the Act.

HB 205 contains a severability clause that states *“If any provision of the Mortgage Foreclosure Consultant Fraud Prevention Act or the application of any of its provisions to any person or circumstance is held to be unconstitutional and void, the remainder of the Mortgage Foreclosure Consultant Fraud Prevention Act remains valid.”*

- According to the AGO, HB 205 is significant to consumer protection issues because the offer of foreclosure consultant services have increased throughout the country and within the State of New Mexico and such services are not specifically regulated.

#### **ADMINISTRATIVE IMPLICATIONS**

AOC further reports increased penalties cases take up a considerable amount of judicial time because the district courts have to conduct not only a trial, but a sentencing phase as well. There may be an increase in the amount of work that needs to be done by the courts, thus requiring additional resources needed to handle the increase.

JLL/mew