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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/12

SPONSOR Lopez LAST UPDATED _____ HB _____

SHORT TITLE Raise Homestead Property Exemption SB 316

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14		
	NFI			

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Public Regulation Commission (NMPRC)

State Land Office (SLO)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 316 amends section 42-10-9 NMSA 1978 or the Homestead Exemption. The value of the homestead exemption to the owner is being changed from \$60,000 to \$75,000. If the homestead is jointly owned the \$75,000 exemption applied to both owners.

The effective date of this bill is July 1, 2012. There is no sunset date. The LFC recommends adding a sunset date.

FISCAL IMPLICATIONS

This bill has no fiscal impact on the general fund.

SIGNIFICANT ISSUES

According to the DFA, section 42-9 NMSA 1978 allows a creditor to legally seize the property of a debtor through an order of attachment. Section 42-10 details exemptions from attachment, including the homestead exemption. In 2007, the homestead exemption was increased to

\$60,000 from \$30,000.

The purpose of the homestead exemption is to "prevent families from becoming destitute as the result of misfortune through common debts which generally are unforeseen." The increase in the amount of the exemption will provide families additional protection against home seizures.

OTHER SUBSTANTIVE ISSUES

It is unlikely that this change would affect SLO. However, SLO's Commercial Resources Division does have some leases on which the lessee has a dwelling that serves as a residence. That residence is an improvement on the leasehold, and normally the improvement is the property of the lessee. Under NMSA 1978, § 19-7-34 and 19.2.9.12(E)(2) NMAC, the Commissioner has a first lien on any improvements for rental due and unpaid. Thus, the Commissioner could be in the position of the "judgment creditor" referenced above. If so, and if the homestead exemption applies in the case of a rental on state trust land (presumably it does, but there is no case on point in New Mexico of which we are aware), then the amount exempt from judgment and thus inaccessible to the Commissioner would increase under this bill.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

EWM/lj