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FISCAL IMPACT REPORT

ORIGINAL DATE 01/22/13
 LAST UPDATED 02/12/13 HB _____

SPONSOR Wirth

SHORT TITLE Uniform Real Property Transfer on Death SB 107/aSJC

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 107 recognizes statutory allowances to a surviving spouse or children to make SB 107 consistent with the uniform probate code.

Synopsis of Original Bill

Senate Bill 107 (SB 107) would repeal the current statutory provision for transfer on death deeds found at NMSA 1978, Section 45-6-401, and enacts the Uniform Real Property Transfer on Death Act (the Act), as originally drafted and approved by the National Conference of Commissioners on Uniform State Laws. As does current law, the Act allow for the non-probate transfer of real property upon the death of the transferor by means of a transfer on death deed recorded prior to the transferor's death in the real property records of the counties in which the property is located. Both current laws and SB 107 allow the transferor to revoke the transfer on death deed during the transferor's lifetime by properly recording a later-executed revocation or conflicting transfer on death deed. SB 107 clarifies and explains the process of creating and revoking transfer on death deeds as well as the rights of beneficiaries and joint owners. The bill also provides simple updated forms and "Common Questions" (or FAQs) sections explaining the bill's provisions in lay terms.

SIGNIFICANT ISSUES

The Act has been enacted by the District of Columbia, Hawaii, Illinois, Nebraska, Nevada, North Dakota and Oregon, and has been introduced in 2013 in Alaska and Virginia.

The Uniform Law Commission of the National Conference of Commissioners on Uniform State Laws (NCCUSL) notes that:

Asset-specific mechanisms for the non-probate transfer of personal property and funds at death are now common. They are known informally as “will substitutes.” The proceeds of life insurance policies and pension plans, securities registered in transfer on death form, and funds held in pay on death bank accounts are examples of personal property that have benefitted from this trend in modern law to recognize and support the use of will substitutes. However there is no generally available straightforward, inexpensive, and reliable means of passing real property, which may be a decedent’s major asset, directly to a beneficiary at death. The Uniform Real Property Transfer on Death Act (URPTODA), promulgated by the Uniform Law Commission in 2009, enables an owner of real property to pass the property to a beneficiary on the owner’s death simply, directly, and without probate.

Under URPTODA, real property passes by means of a recorded transfer on death (TOD) deed. URPTODA establishes the requirements for the creation and revocation of a TOD deed and clarifies the effect of the TOD deed on all parties while the transferor is living and after the transferor dies. URPTODA provides optional forms to create or revoke a TOD deed.

NCJ/svb