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FISCAL IMPACT REPORT

ORIGINAL DATE 02/12/15
 SPONSOR Youngblood LAST UPDATED 03/19/15 HB 380/aHGEIC/aSJC
 SHORT TITLE Homeowner Association Disclosure & Fees SB _____
 ANALYST Cerny / Sanogo

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate but Minimal	Indeterminate but Minimal		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 320, SB 491

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Office of the Attorney General (AGO)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amends HB 380, removing Section 2 of the original bill. Section 2 proposed to eliminate certain disclosure requirements of the Homeowners Association Act (see, “significant issues”).

Synopsis of HGEIC Amendment

House Government, Elections and Indian Affairs Committee amendment to House Bill 380 would reinstate “the current operating budget of the association” as one of the items included in any disclosure certificate or disclosure statement. This means that potential buyers of lots in subdivisions covered by the bill would now have access to this information.

However HB 380 as amended would still eliminate provisions in current statute that give potential buyers access to information regarding rights of first refusal, a statement of reserves for capital expenditures, balance sheet and income and expense statement of the association, details about insurance coverage and a statement of the remaining term of any leasehold estate affecting the association.

Synopsis of Original Bill

House Bill 380 amends the Homeowner Association Act (HAA), Sections 47-16-1 through 15, NMSA 1978, to eliminate the certain disclosure requirements from a “disclosure certificate” or “disclosure statement” to be provided by a selling lot owner to a prospective buyer.

HB 380 also amends Section 47-16-12(G) NMSA 1978 to place a cap of \$150 on the fee an association may impose for preparation of an HAA-required disclosure certificate.

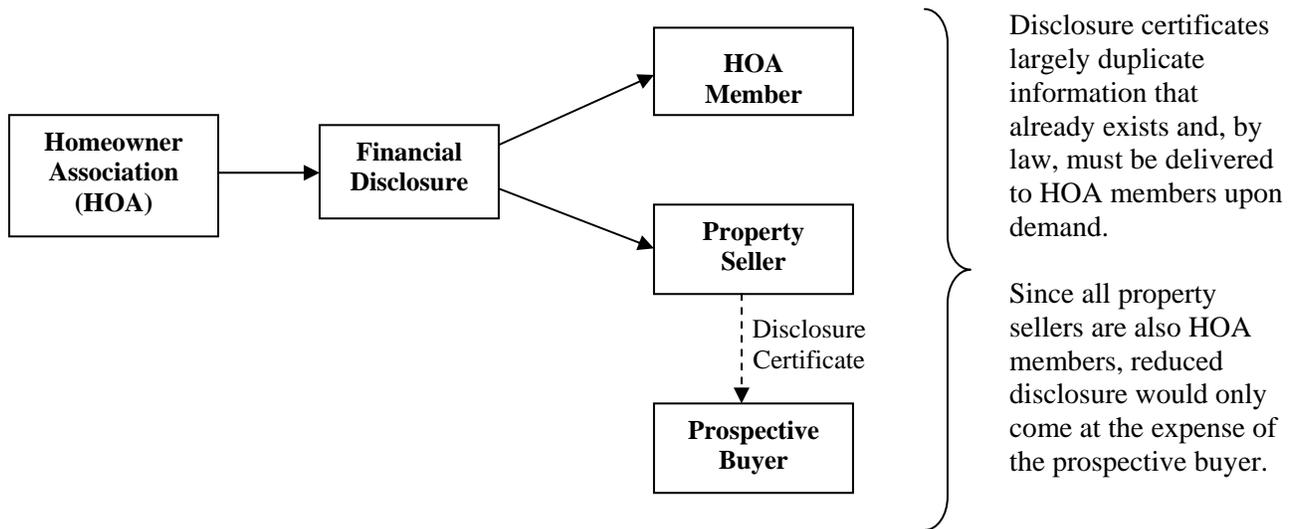
FISCAL IMPLICATIONS

HB 380 includes no appropriation and has indeterminate but likely insignificant fiscal impact.

SIGNIFICANT ISSUES

The high fees that homeowner associations (HOAs) charge property sellers to prepare disclosure certificates are sometimes attributed to the extensive disclosure requirements of the Homeowners Association Act. Although HB 380 would reduce some of these requirements, HOAs are statutorily required to be able to provide the full set of disclosures to their members anyway (Section 47-16-5C NMSA 1978).

Since the cost of reproducing (e.g. photocopying) and distributing the disclosure information to property sellers is zero, the proposed legislation fails to meet its apparent intent of reducing HOA fees. That is to say, if an additional X property sellers were to request disclosure information, the cost to the HOA would only be the cost of producing X additional copies of documents that already exist.



Importantly, financial economics indicates that optimal market prices are only possible when information is transparently communicated. By introducing reduced disclosure requirements, the transparency between property buyers and property sellers would decrease under HB 380, potentially inviting volatility into the state’s real estate market.

RELATIONSHIP

Relates to HB 320 which also amends Section 47-16-1 NMSA 1978 and enacts a new statutory section within the Homeowner Association Act to limit associations from enacting or enforcing certain restrictions relating to flag flying.

Relates to SB 491 which also amends Sections 47-16-1 and 47-16-2 NMSA 1978 and provides for alternative dispute resolution in a dispute between an association and a lot owner/member.

CAC/AIS/bb/je