CITY OF ALBUQUERQUE CITY COUNCIL

INTEROFFICE MEMORANDUM

TO:

Richard J. Berry, Mayor

FROM:

Jon K. Zaman, Director of Council Services

SUBJECT: Transmittal of Legislation

Transmitted herewith is <u>Bill No. O-16-21</u> Establishing Reasonable Charges For Homeowners And Condominium Associations For The Preparation Of Disclosure Certificates, Disclosure Statements, Or Resale Certificates As Required By The New Mexico Homeowner Association Act And The New Mexico Condominium Act (Harris), which was passed at the Council meeting of October 5, 2016, by a vote of <u>7 FOR AND 2 AGAINST</u>.

Against: Gibson, Lewis

In accordance with the provisions of the City Charter, your action is respectfully requested.

RECEIVED ALBUQUEROUS ON CLERK

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CITY of ALBUQUERQUE TWENTY SECOND COUNCIL

COUNCIL BILL NO. O-16-21 ENACTMENT NO. DIDIL DED
SPONSORED BY: Don Harris

	1	ORDINANCE						
[Bracketed/Under	2	ESTABLISHING REASONABLE CHARGES FOR HOMEOWNERS AND						
	3	CONDOMINIUM ASSOCIATIONS FOR THE PREPARATION OF DISCLOSURE						
	4	CERTIFICATES, DISCLOSURE STATEMENTS, OR RESALE CERTIFICATES AS						
	5	REQUIRED BY THE NEW MEXICO HOMEOWNER ASSOCIATION ACT AND THE						
	6	NEW MEXICO CONDOMINIUM ACT.						
	7	WHEREAS, the Condominium Act and Homeowners Association Act (the						
	8	"Acts") establish certain minimum requirements and duties for condominium						
	9	and homeowner associations in New Mexico; and						
	10	WHEREAS, pursuant to the Acts, property sellers are required to provide						
	11	certain information to buyers about the respective association within which						
	12	the subject property falls, including but not limited to a "disclosure						
	13	certificate," "disclosure statement," or "resale certificate" that provides						
	14	records and information relating to rights and interests of the association with						
	15	respect to the subject property and financial information about the						
	16	associations and its dues structure; and						
	17	WHEREAS, pursuant to the Acts, associations must provide these						
	18	certificates to home sellers, but may impose a "reasonable charge" for						
	19	preparing and providing the certificates; and						
	20	WHEREAS, the Act does not define what constitutes a "reasonable charge,"						
	21	and the resulting lack of clarity has created highly divergent charges by						
	22	different homeowner or condominium associations for the exact same						
	23	information, which makes residential closing costs unpredictable – with						
	24	charges imposed by associations ranging from less than \$100 to over \$1,000:						

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and

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1	WHEREAS, because time is often of the essence in residential real estate
2	transactions to meet lender requirements, buyer needs, or other requirements,
3	without a fixed maximum charge, individual home buyers and sellers may
4	have little power to hold associations accountable to the requirement that
5	charges be reasonable; and
6	WHEREAS, establishment of a fixed and uniform reasonable charge for
7	provision of records that should be readily available to the association, and
8	need only be duplicated and provided, could help ensure greater equity and
9	predictability for home buyers and sellers.
10	BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
11	ALBUQUERQUE:
12	SECTION 1. A new Article, Article 16, titled "HOMEOWNER AND
13	CONDOMINIUM ASSOCIATIONS" is added to Chapter 13 of the Revised
14	Ordinances of Albuquerque as follows:
15	"§ 13-16-1 Reasonable Charges for Disclosure Certificates, Disclosure
16	Statements, or Resale Certificates. Homeowner and Condominium
17	Associations may impose a reasonable charge not to exceed \$200 payable at
18	the time of closing for preparation of a Disclosure Certificate as required by
19	the New Mexico Homeowner Association Act, or for a Disclosure Statement or
20	Resale Certificate as required by the New Mexico Condominium Association
21	Act."
22	SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph,
23	sentence, clause, word or phrase of this ordinance is for any reason held to be
24	invalid or unenforceable by any court of competent jurisdiction, such decision
25	shall not affect the validity of the remaining provisions of this ordinance. The
26	Council hereby declares that it would have passed this ordinance and each
27	section, paragraph, sentence, clause, word or phrase thereof irrespective of
28	any provisions being declared unconstitutional or otherwise invalid.
29	SECTION 3. COMPILATION. Section 1 shall amend, be incorporated in
30	and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

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2	BY A VOTE OF:7					
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4	Against: Gibson, Lewis					
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9	Dan Lewis, President					
10	City Council					
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14	APPROVED THIS DAY O)F_Oct	ober	, 2016		
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