

**CITY of ALBUQUERQUE
TWENTY SECOND COUNCIL**

COUNCIL BILL NO. O-16-21 ENACTMENT NO. 0-2016-020

SPONSORED BY: **Don Harris**

1 **ORDINANCE**
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;**
25 **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.”**

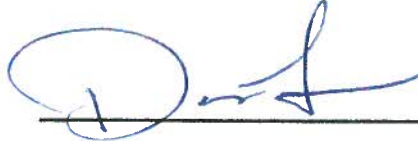
22 **SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph,**
23 **sentence, clause, word or phrase of this ordinance is for any reason held to be**
24 **invalid or unenforceable by any court of competent jurisdiction, such decision**
25 **shall not affect the validity of the remaining provisions 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.**

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

1 PASSED AND ADOPTED THIS 5th DAY OF October, 2016
2 BY A VOTE OF: 7 FOR 2 AGAINST.

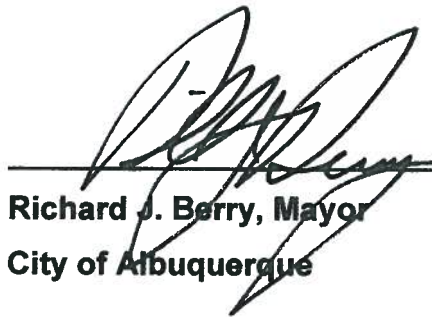
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4 Against: Gibson, Lewis

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8 _____
9 Dan Lewis, President
10 City Council

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14 APPROVED THIS 20th DAY OF October, 2016

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18 Bill No. O-16-21

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22 _____
23 Richard J. Berry, Mayor
24 City of Albuquerque

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26 ATTEST:

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29 _____
30 Natalie Y. Howard, City Clerk

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