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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/13
 SPONSOR HJC LAST UPDATED 01/24/13 HB 74/HJCS
 SHORT TITLE Foreclosed Affordable Housing Project Sales SB _____
 ANALYST Geisler

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		None Identified (See Narrative)				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Mortgage Finance Authority (MFA)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

The House Judiciary Committee substitute for House Bill 74 (HB 74) amends the Affordable Housing Act to make an exception to the Act's long-term affordability restriction in the event a donated property is foreclosed upon in order to facilitate the timely sale of these properties. In addition, HB 74 adds a penalty provision to the Affordable Housing Act that will provide a mechanism for the Act to be enforced by the State Attorney General's office.

FISCAL IMPLICATIONS

None have been identified, but it is possible that the workload of the staff of the Attorney General may increase if enforcement activities related to the Affordable Housing Act increase due to the addition of penalty provisions contained in HB 74.

SIGNIFICANT ISSUES

The New Mexico Mortgage Finance Authority (MFA) notes that over the past nine years, it has become apparent that there are two issues that need to be addressed by amending the Affordable

Housing Act. First, if a property donated by a local government is foreclosed upon, the ability of the local government to subsequently sell that property can be compromised by the remaining affordability restriction. Allowing the affordability period to be released will allow the local government to timely sell the property at a fair market value so that the proceeds from the sale will be maximized. The proceeds from any sale will be used solely for purposes pursuant to the Affordable Housing Act.

Second, the Affordable Housing Act should be amended to add a penalty provision to allow for the act to be enforced by the state's Attorney General. The Attorney General's Office has requested the inclusion of penalties for violation of the Act's provisions, including civil fines and where appropriate, criminal actions under current criminal statutes for fraud, theft, forgery, embezzlement and similar crimes.

RELATIONSHIP

SB 67, Affordable Housing Oversight Duties, requests \$100,000 for the purpose of funding oversight of the Affordable Housing Act. MFA has been administering the act since it was passed in the 2004 legislative session. Since that time 19 affordable housing ordinances have been enacted and 21 affordable housing plans have been approved by MFA.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Mortgage Finance Authority notes that if this bill is not enacted, the potential for the loss of public funds and the forfeiture of properties from the affordable housing stock is higher. In addition, enforcement of the Affordable Housing Act will be severely curtailed.

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