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FISCAL IMPACT REPORT

SPONSOR Romero/Ortez/Rubio/ Serrato ORIGINAL DATE 01/23/22 LAST UPDATED 02/11/22 HB 65/aHfI#1/aSHPAC/ec

SHORT TITLE Housing Modernization Changes SB _____

ANALYST Hitzman

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	See Fiscal Implications					

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 New Mexico Mortgage Finance Authority (MFA)
 New Mexico Finance Authority (NMFA)
 Administrative Office of the Courts (AOC)

No Response Received

Municipal League (ML)
 New Mexico Counties

SUMMARY

Synopsis of SHPAC Amendments

The Senate Health and Public Affairs Committee’s amendment to House Bill 65 removes the clause that requires any rights of owners to bring an action to be subject to the federal Fair Housing Act and other applicable fair housing and human rights laws. The amendment also removes a reference to practicability relating to the requirement for the courts to maintain a list of nonprofit legal service providers and rental assistance entities. The amendment also clarifies the period of time a resident may have to vacate the premises upon petition for restitution, not to exceed an additional 90 days.

Synopsis of HF1#1 Amendments

The House Floor Amendment to House Bill 65 changes the requirements surrounding late fees to be equal to the total rent payment for each rental period that the resident is in default, rather than

the total cost of the monthly rent payment. Further, related to the conditions under which a resident can prove retaliation, complaints must be made to the owner, rather than a gas, electric, or other utility company, regarding the functioning or safety of a mechanical device, utility service or owner-supplied appliance.

Synopsis of Original Bill

House Bill 65 expands what is considered unlawful discriminatory practices in housing and expands the renters' legal protections and recourse through several provisions. For instance, HB65 increases the time a resident is allowed to make rent payments, reduces the amount of late fees an owner may charge and increases the amount of time for a tenant to vacate the premises if ordered by the court. HB65 adds language to the Uniform Owner-Resident Relations Act to state that, if a residents' rent is subsidized by a government agency, the maximum late fee shall be 10 percent of the portion of rent that is paid by the resident and requires owners to provide tenants with written or electronic receipt of payment.

Related to tenant deposits, HB65 also adds clarification on when an owner may withhold deposit, requires owners to email or hand deliver a statement and any payment to the last known address of the resident and requires the owner to deliver at least one additional notice if mail is undeliverable. Failure to provide a written statement will result in forfeiture of any remaining deposit and any right to pursue independent action against the resident.

HB65 also extends the period that tenants have to submit late payments from three days to 11 days and notes circumstances under which a resident may prove retaliation by the owner.

HB65 notes that during an emergency or disaster declared by the government or a joint resolution of the legislature, an owner shall not refuse or seek termination of any rental agreement that expires during, or for 30 days after, the termination of the declaration of emergency or disaster. Emergency or disaster declarations include quarantine, isolation, and social distancing measures. The bill has an emergency clause.

FISCAL IMPLICATIONS

Amendments to the bill do not result in any changes to the estimated fiscal impact. The bill does not have a direct impact to the general fund and does not make an appropriation. However, HB65 will likely have a minimal fiscal impact since the increased time allotted for payment of rent and late fees may result in fewer evictions and a lower case load for administrative officers to conduct eviction hearings, resulting in some level of cost savings for those entities. For instance, as noted by AOC, the sections of HB65 having the most significant fiscal impact on the judiciary are the amendments regarding timing of notices, timing of hearings, the ability to cure post-filing of a petition, procedural changes to how writs are issued, and retaliation. These provisions have the potential to assist the judiciary in addressing an anticipated increase in eviction hearings and in implementing the AOC's Eviction Diversion Program, created January 4, 2022 to provide settlement facilitation and help with rental assistance applications for parties in non-payment of rent eviction cases.

In addition, landlords may see increased payment of rent and late fees during times of hardship by allowing additional flexibility to tenants, which may decrease the rate on non-payment to owners.

ADMINISTRATIVE IMPLICATIONS

As previously noted, there is both the potential for decreased caseloads for court staff and judges under HB65 because tenants will have additional time to pay past due rent and late fees, but there is also the potential for increased workload and an increased need for training to implement provisions related to retaliation, as both residents and owners will be required to prove a series of facts to the court, and for issuing both a judgement and a writ in some cases. AOC has not provided estimates of the costs for this increased staff time or training but notes that, in general, HB65 provides additional flexibility to the courts in timing on eviction cases.

PERFORMANCE IMPLICATIONS

As noted by MFA and DFA, the bill will allow residents additional time for seeking assistance from available resources for payment of past due rent and late fees and would likely reduce the number of evictions during an emergency declaration. In addition, workload related to hearing of eviction cases may be reduced or be more manageable as a result of this bill. While it is unclear how many residents would be helped by the bill under the new provisions and protections, LFC staff reported that in 2020 a total of 10,991 New Mexicans were enrolled in the federal Emergency Rental Assistance Program and 17,252 New Mexicans were enrolled in an MFA housing assistance program (see LFC evaluation [Stacking of Income Supports](#), published October 2021). Other estimates provided by AOC note that “in 2021, with the New Mexico eviction stay in place, there were still a total of 10,110 landlord-tenant cases filed statewide.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Without these changes that would be effective immediately upon signature into law, courts would continue to have limited flexibility in hearing eviction cases.

JH/al/acv/JH/al