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FISCAL IMPACT REPORT

SPONSOR <u>Matthews</u>	LAST UPDATED _____
	ORIGINAL DATE <u>1/26/23</u>
SHORT TITLE <u>Federal Home Loan Banks</u>	BILL
	NUMBER <u>House Bill 44</u>
	ANALYST <u>Torres, J</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		Indeterminate but minimal	Indeterminate but minimal			

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From

Mortgage Finance Authority (MFA)
Regulation and Licensing Department (RLD)
Administrative Office of the Courts (AOC)
New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of House Bill 44

This Bill provides additional protection for federal home loan bank creditors in the context of rehabilitation or liquidation of an insolvent insurer under the Insurers Conservation, Rehabilitation, and Liquidation Law, Sections 59A-41-1, *et seq.* NMSA 1978.

Under the existing Section 59A-41-42, NMSA 1978, a receiver may void a fraudulent transfer within one year prior to filing a petition for rehabilitation or liquidation of an insolvent insurer when the transfers are made without fair consideration or with the actual intent to hinder, delay, or defraud either existing or future creditors. If House Bill 44 becomes law, transfers involving federal home loan banks would still be voidable if made with actual intent to hinder, delay, or defraud, but not when made without fair consideration.

A preferential transfer arising under or in connection with a federal home loan bank security agreement or similar arrangement involving a federal home loan bank is non-voidable under proposed Section 59A-41-43.1 NMSA 1978.

The Bill prevents a federal home loan bank from being enjoined from exercising or enforcing a right or cause of action regarding collateral pledged under a security agreement or similar federal home loan bank arrangement.

Section 7 establishes that redemption of stock or equity securities made by a federal home loan bank within four months of the commencement of a delinquency proceeding shall not be void unless done with the actual intent to hinder, delay or defraud. It also requires that the federal home loan bank, within 10 business days of the receiver's request, provide a process and establish time lines for the release of collateral, payment of fees, and possible redemptions or repurchase of stock that the insurer member is required to own.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

None noted.

OTHER SUBSTANTIVE ISSUES

MFA states:

The Federal Home Loan Bank System was created by the Federal Home Loan Bank Act as a government sponsored enterprise to support mortgage lending and related community investment. The FHL Banks provide long- and short-term advances (loans) to their members. Advances are primarily collateralized by residential mortgage loans, and government and agency securities. The amendment provides additional exceptions regarding the transfer of money or property where a federal home loan bank is party through a security agreement.

JT/al/ne