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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Cates</u>	<b>LAST UPDATED</b> _____
<b>SHORT TITLE</b> <u>Condominium Owner Occupancy Requirements</u>	<b>ORIGINAL DATE</b> <u>02/26/2025</u>
	<b>BILL NUMBER</b> <u>House Bill 122</u>
	<b>ANALYST</b> <u>Gygi</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact		

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

### Sources of Information

LFC Files

Agency Analysis Received From  
 Regulation and Licensing Department (RLD)

Agency Analysis was Solicited but Not Received From  
 Governor’s Office on Housing  
 New Mexico Counties  
 New Mexico Mortgage Finance Authority (NMMFA)

## SUMMARY

### Synopsis of House Bill 122

House Bill 122 (HB 122) amends the Condominium Act (Section 47-7B-1 NMSA 1978 *et seq.*) to include an owner-occupancy requirement for newly constructed condominiums with 12 or more units or condominiums that receive a subsidy or any other thing of value from a federal, state, or local government source for renovation or any other purpose. The new requirement is:

- At least 55 percent of the units of the condominium created by a declaration recorded on or after July 1, 2025, be owner-occupied; and
- At least 35 percent of the members of the condominium association own and occupy units within that condominium.

HB122 owner-occupancy requirements shall be included in the declaration recorded as required by the act.

The effective date of this bill is July 1, 2025.

## FISCAL IMPLICATIONS

HB122 does not include an appropriation or an implementation mechanism. Since no state agency is tasked with implementation or enforcement, there is no fiscal impact.

## SIGNIFICANT ISSUES

Condominiums and co-ops are generally more affordable for first-time homebuyers and retirees than single-family homes. However, they are in short supply. A recent Urban Land Institute report indicates that federal financing policies are a major reason these multifamily units are not available to would be buyers.<sup>1</sup> For example, it is difficult for potential buyers who cannot pay cash to purchase these units since they cannot get federal loans. According to the report:

A potential condo buyer cannot get a Federal Housing Administration (FHA) loan or a Fannie Mae or Freddie Mac loan unless (1) at least 50 percent of the condo units are owner-occupied and (2) no more than 15 percent of the units in the complex have association dues that are more than 30 days behind.

In addition, the FHA requires no more than 10 percent of the units in the complex secure existing FHA loans, further limiting access by the low-income borrowers the FHA typically serves. And Fannie Mae and Freddie Mac require that no single entity can own more than 2 units in projects consisting of 5 to 20 units and 20 percent of units in projects consisting of 21 or more units, and that the homeowners' association is not named in any lawsuits.

These policies make it less risky for multifamily developers to build rental housing than for-sale construction, further reducing the supply of units for purchase. Another concern, according to a recent public policy brief, is that condo fees are increasing, as is insurance, and low- and moderate-income owners may not be able to pay their share of capital expenses.<sup>2</sup> The brief warns these owners are at risk of having the condo association foreclose on their units and sell them at public auction to recoup the fees. “An owner may lose their homes even after diligently paying their mortgage and property taxes.”

HB122 potentially could make federal financing available to more buyers. By imposing an owner-occupancy requirement, the bill could also prevent vacation rentals and institutional investors from buying up the limited supply of condominiums.

## WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The supply of condominiums available to first-time homebuyers and seniors will continue to decrease at the same time demand increases for these affordable multi-family units.

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<sup>1</sup> <https://www.urban.org/urban-wire/housing-market-needs-more-condos-why-are-so-few-being-built#:~:text=Condos%20are%20more%20affordable%20than,corrected%20February%201%2C%202022>).

<sup>2</sup> <https://www.may8consulting.com/wp-content/uploads/Brief-PublicPolicyBlindSpotsPuttingCondosAtRisk.pdf>