

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/06

SPONSOR Rodriguez LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Local Government Affordable Housing SB 534

ANALYST Leger

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Mortgage Finance Authority (MFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 534 makes an amendment based on the results of the 2006 General Election. Voters passed Constitutional Amendment 4, amending Article 9, Section 14 of the constitution, commonly referred to as the “anti-donation clause”, to permit the state, an instrumentality of the state, MFA, and local governments to provide or pay a portion of the cost of land, buildings, or necessary financing for affordable housing projects. The Affordable Housing Act (Section 6-27-3 NMSA 1978) is the enabling legislation for the affordable housing exception to the anti-donation clause.

### SIGNIFICANT ISSUES

The Affordable Housing Act must be updated after voters approved Constitutional Amendment 4. Prior to the passage of Constitutional Amendment 4, MFA points out, affordable housing exception to the anti-donation clause permitted the state, counties, and municipalities to “donate” land and/or buildings, and “provide or pay the costs of” infrastructure to support affordable housing projects. Importantly, the exception permitted governments only to donate land and existing buildings they *own*; unlike infrastructure, which can be paid for or provided, the

exception did not cover monetary contributions or donations for land and buildings. This posed no problem for governmental agencies who own land and/or buildings, however, MFA and other governmental entities that do not “own” real property but wish to facilitate the donation or discounted sale of such property for affordable housing. The passage of Constitutional Amendment 4 was important to MFA because they could not provide state or locally funded grants or loans below market rate to facilitate the acquisition or donation of real property for affordable housing.

MFA indicates SB534 clarifies the role of the MFA as a reviewer of proposed ordinances drafted pursuant to the Affordable Housing Act, the process municipalities and counties must undertake in order to enact said ordinances, and the potential for investigation by the attorney general if a local government fails to comply with this process or if it violates its own ordinance after enactment.

### **PERFORMANCE IMPLICATIONS**

This bill will ensure the state statutes are consistent with the amended state constitution. The bill allows for the state, a county, municipality, or MFA to provide incentives for the development of affordable housing by helping to pay the cost of construction or renovation, land acquisition, financing, or other costs associated with operating and owning affordable housing.

### **ADMINISTRATIVE IMPLICATIONS**

MFA will update its rules and regulations to reflect changes with the Affordable Housing Act. MFA indicates it is imperative that local governments comply with the provisions of Section 6-27-7 of the Act so that they can timely review and provide feedback to the county or municipality proposing an ordinance pursuant to the Act; if they fail to do so, they may be found to be in violation of the act and the attorney general may determine an investigation is warranted.

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

The Affordable Housing Act is the enabling legislation for the affordable housing exception, and if SB534 is not enacted the existing law will be inconsistent with the state constitution.

JL/mt