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FISCAL IMPACT REPORT

ORIGINAL DATE 2/25/09

SPONSOR Boitano LAST UPDATED _____ HB _____

SHORT TITLE Maximum Sales Price On Private Lots & Homes SB 629

ANALYST Haug

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General (AGO)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 629 prohibits any political subdivision of the state or home rule municipality from enacting any ordinance, resolution or regulation or adopt any requirement that establishes a maximum sales price for a privately produced housing unit or residential building lot.

FISCAL IMPLICATIONS

Senate Bill 629 has no apparent fiscal implications.

SIGNIFICANT ISSUES

The AGO states the purpose of Senate Bill 629 is not clear. The language of the statute does not provide a context within which it may be read or analyzed. It may be viewed as a free market proponent or it may be viewed as an attempt to prohibit political subdivisions and home rule municipalities from enacting affordable housing or other types of social and economic legislation, which carry a presumption of validity for equal protection purposes if the legislation does not employ suspect classifications or impinge on fundamental rights. Substantive due process provides a basis for overturning validly enacted legislation if legislation is clearly

arbitrary and unreasonable, and has no substantial relation to public health, safety, morals, or general welfare. [U.S.C.A. Const.Amends. 5, 14](#). If challenged on substantive due process grounds, a court may not be able to decide whether Senate Bill 629 constitutes a proper exercise of the state's police power in the absence of a declaration in the statute that it is in the interests of the public health, safety, and general welfare, or identifying the evils it intends to redress.

The DFA notes that this bill's purpose is not clear, therefore making it difficult to analyze. It is indeterminate as to whether this is an attempt to prohibit political subdivisions and home rule municipalities from enacting affordable housing or a free market proponent.

GH/mt