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FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED

SPONSOR Rue **HB** _____

SHORT TITLE Affordable Housing Act Definitions **SB** 62

ANALYST Graeser/Dorbecker

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
	**	**	**	**	Recurring	General Fund

(Parenthesis () indicate revenue decreases)

** This bill may prevent future revenue losses to the General Fund. However, to date there have not been any affordable housing tax credits issued to cities or counties.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Mortgage Finance Authority (MFA)

SUMMARY

Synopsis of Bill

Senate Bill 62 amends the definition of “person” in the Affordable Housing Tax Credit Act (Section 7-9I-2 NMSA 1978) to remove counties and municipalities, thereby excluding them from eligibility for state tax credits under the Act.

The bill also resolves a conflict between the Affordable Housing Tax Credit Act and the Affordable Housing Act (Section 6-27-8 NMSA 1978).

The bill has been endorsed by the Mortgage Finance Authority Act Oversight Committee.

The effective date of the act is July 1, 2015.

FISCAL IMPLICATIONS

The bill should be viewed as a technical correction act to remove conflicts between the Affordable Housing Act and the Affordable Housing Tax Credit Act. As such, this bill sustains the Mortgage Finance Agency’s denials of tax credit vouchers for local governments. To date,

the MFA has rejected applications from local governments seeking affordable housing tax credits. The provisions of this bill may prevent future revenue losses to the General Fund.

SIGNIFICANT ISSUES

The MFA has provided the following perspective on this bill:

“The intent of the Affordable Housing Tax Credit Act of 2005 is to encourage private investment in affordable housing by issuing affordable housing tax credits against a person's state tax liability in exchange for donations of land, buildings, materials, services or cash for affordable housing. The definition of "person" in the current Act is broadly defined to include counties and municipalities that are already contributing resources to affordable housing under the Affordable Housing Act (Section 6-27-1 NMSA 1978). A contradiction exists between the two acts.”

“The Affordable Housing Act is intended to enable local governments to contribute resources to affordable housing outside of the state's anti-donation clause. Affordable Housing Act contributions are revocable because by operation of the Act (Section 6-27-8 NMSA 1978), the long-term affordability of a subsidized property is assured by means of a recorded mortgage and/or lien on the property. Therefore, any contributions made by a local government toward that subsidized property could not be considered "donations" for the purpose of the Affordable Housing Tax Credit Act because the local government is capable of demanding repayment or foreclosure. However, the broad definition of "person" in the Affordable Housing Tax Credit Act incorrectly enables local governments to apply for state tax credits for contributions they make under the Affordable Housing Act.”

“To date, MFA has rejected applications from local governments seeking affordable housing tax credits. However, the current wording of the Affordable Housing Tax Credit Act provides local governments with a basis for claiming tax credits. If MFA were to issue investment vouchers for these tax credit applications, local governments would be inappropriately entitled to state tax credits for contributions including things such as local government-owned land and infrastructure, local government services, local government grants or loans, or for federal or private funds received by the local government. There could be considerable fiscal impact to the State of New Mexico if these applications were to be processed and approved.”

PERFORMANCE IMPLICATIONS

MFA also comments on Performance and Administrative Implications of this bill:

“As currently written, the Affordable Housing Tax Credit Act provides local governments with a basis for claiming state tax credits. MFA cannot issue investment vouchers for these tax credit applications because donations made by local governments for affordable housing are inherently revocable and therefore would not be considered “donations” for the purposes of the Affordable Housing Tax Credit Act. MFA’s performance of its administrative responsibilities under the Affordable Housing Tax Credit Act is hampered by these conflicting issues.”

CONFLICT

This bill is intended to resolve a conflict between the Affordable Housing Act and the Affordable Housing Tax Credit Act.