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FISCAL IMPACT REPORT

SPONSOR Baldonado ORIGINAL DATE 1/28/2016
LAST UPDATED _____ HB 147

SHORT TITLE Enforcement of Homeowner Association Act SB _____

ANALYST Leger

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
	\$150.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 129, Homeowner Disclosure Certificate Fee Cap
Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney General's Office (AGO)

SUMMARY

Synopsis of House Bill 147

House Bill 147 appropriates \$150 thousand from the general fund to the Office of the Attorney General for the purpose of enforcement of the provisions of the Homeowner Association Act.

FISCAL IMPLICATIONS

The appropriation of \$150 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2017 shall revert to the general fund.

SIGNIFICANT ISSUES

The appropriation to AGO is for enforcement of the provisions of the Homeowner Association Act (The Act). The Act exists in NMSA 47-16-1 – 47-16-16 and the duties are as follows:

- A. The association shall exercise any powers conferred to the association in the community documents.
- B. The association shall have a lien on a lot for any assessment levied against that lot or for fines imposed against that lot's owner from the time the assessment or fine becomes due. If an assessment is payable in installments, the full amount of the assessment shall be a lien from the time the first installment becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate.
- C. Recording the declaration constitutes notice recorded in the office of the county clerk in the county or counties in which any part of the real property is located and perfection of the lien.
- D. Upon written request by a lot owner, the association shall furnish a recordable statement setting forth the amount of unpaid assessments against the lot owner's lot. The statement shall be furnished within ten business days after receipt of the request and is binding on the association and the board.

The Act does not indicate oversight or enforcement by the AGO or any other state agency. According to AGO, a Homeowners Association is set up for private remedies for a private attorney to enforce. In order to have enforcement action an amendment would be necessary to existing statute authorizing enforcement of The Act by AGO.

RELATIONSHIP

House Bill 129 seeks to amend 14-16-2 to change the amount of the fee that homeowner associations could impose for preparation of a disclosure certificate under the act, from “reasonable charge” to \$150.00.

JLL/jo/al