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FISCAL IMPACT REPORT

SPONSOR:	Aragon		DATE TYPED:	03/08/03	HB	
SHORT TITL	E:	Increase Homestead	Exemption Value		SB	684
				ANALYST:		Kehoe

APPROPRIATION

Appropriatio	on Contained	Estimated Add	ditional Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 363 and Senate Bill 83.

SOURCES OF INFORMATION

New Mexico Mortgage Finance Authority (MFA) Local Government Division (LGD)

SUMMARY

Synopsis of Bill

Senate Bill 684 amends the value of a homestead exemption.

Significant Issues

Senate Bill 684 amends the value of the exemption from attachment, execution or foreclosure by a judgment creditor or others in insolvency proceedings and from probate from \$30,000 to the following criteria: 1) if located outside a municipality, 160 acres of contiguous land and improvements on the land; and 2) if located within a municipality, one-half acre of contiguous land, upon which the exemption shall be limited to the residence (i.e. no other improvements).

OTHER SUBSTANTIVE ISSUES

According to MFA, Senate Bill 684 could have the effect of potentially increasing the value of a homestead exemption from insolvency proceedings, as it does not place a monetary value on the homestead. Rather it limits the homestead to the size of land (including the residence) and, in rural areas, other significant improvements on the land.

MFA's interpretation of this amendment is that it only affects the equity in a homestead and not any outstanding mortgage that had been previously placed on the property. For example, if a person declares bankruptcy, but continued to maintain his/her mortgage payments, the insolvency proceedings could not force the homeowner to liquidate that equity as part of those proceedings to the extent the amendment would allow. However, if the homeowner failed to continue to make his/her mortgage payments, foreclosure proceedings could result as part of the normal process of the lending institution, regardless of bankruptcy proceedings.

There is the possibility that delinquency rates on homestead mortgages in bankruptcy would decline as a result of this bill. If a person filing bankruptcy is aware that his homestead was exempt to this extent, he may continue to keep his mortgage in good standing throughout those proceedings.

RELATIONSHIP

HB 363 and SB 83 relate to Senate Bill 684. Both bills are identical and create The Homestead Bankruptcy Exception Act. The proposed statute defines a homestead as the primary residence of a debtor. The measure states that for purposes of bankruptcy proceedings, a debtor's homestead is exempt from processes of bankruptcy courts, and no judgment, decree or execution may be a lien against it in bankruptcy court, except for payment of taxes, tax assessments or obligations contracted for the purchase. The bill further protects the rights of the home improvement providers to secure a means for recovery of their costs through the lien process.

LMK/sb/njw