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FISCAL IMPACT REPORT

SPONSOR Aragon DATE TYPED 01/30/04 HB _____

SHORT TITLE Home Loan Protection Act Loans SB 228

ANALYST Kehoe

APPROPRIATION

| Appropriation Contained | | Estimated Additional Impact | | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|------|----------------------|---------------|
| FY04 | FY05 | FY04 | FY05 | | |
| NFI | | | | | NFI |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
New Mexico Mortgage Finance Authority (MFA)

SUMMARY

Synopsis of Bill

Senate Bill 228 repeals a section of the Home Loan Protection Act concerning claims against certain persons.

Significant Issues

Senate Bill 228 proposes to repeal a section of the Home Loan Protection Act which took effect January 1, 2004, that states if the borrower of a manufactured home loan or home improvement loan determines he or she has fallen victim to abusive lending practices, he or she may file damages against the originator of the loan as well as any subsequent purchaser, servicer, or other assignee. Damages are limited to “amounts required to extinguish the borrower’s liability under the home loan, plus the total amount paid by the borrower in connection with the transaction, plus amounts required to recover costs, including reasonable attorney fees.”

According to MFA, financial institutions that originate, purchase, service, or otherwise play a role in manufactured housing lending and/or home improvement loans are unwilling to participate in these kinds of transactions because they cannot justify the potential liability associated with them. While it is true that many state- and federally-chartered institutions benefit from certain preemptions granted by the Office of Thrift Supervision and Financial Institutions Division, these institutions state that the preemptions typically do not extend to loans they purchase, service, or receive as an assignee. Repeal of Section 7 would significantly limit the assignee liabil-

ity associated with these types of loans and may restore markets for these loans.

PERFORMANCE IMPLICATIONS

One of MFA's master servicers, Charter Bank, suspended purchases of MFA loans secured by manufactured homes as a result of the existing Section 7. Repeal of Section 7 would likely allow Charter Bank to resume manufactured home loan purchases under MFA's first-time homebuyer programs. Although manufactured home loans do not comprise a significant portion of MFA's single family mortgage loan portfolio, they do represent an affordable housing alternative for many New Mexico families.

LMK/yr