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FISCAL IMPACT REPORT

SPONSOR Lujan, B. ORIGINAL DATE 2/15/07
LAST UPDATED _____ HB 1178
SHORT TITLE Mobile Home Park Older Person Housing SB _____
ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
Administrative Office of the Courts (AOC)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 1178 repeals a provision in the Mobile Home Park Act (NMSA Sections 47-10-1 to 47-10-23) authorizing management to designate certain areas of the park as "adults only". It would allow management to designate a mobile home park as "housing for older persons" after six month's notice to residents, as long as it complies with all applicable procedures in state and federal antidiscrimination laws, including the Federal Fair Housing Act.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

SIGNIFICANT ISSUES

This bill amends state law regarding occupancy of mobile home parks to comply with the Federal Fair Housing Act and its amendments regarding discrimination based upon "familial

status”, and grants authority to designate parks as “housing for older persons”. See 42 U.S.C. 3602(k) defining “familial status”; 42 U.S.C. 3607(b) describing “housing for older persons”.

This bill will amend NMSA Section 47-10-11E to eliminate the reference to “adults only” portions of mobile home parks. The Fair Housing Amendments Act of 1989 added families with children to the list of groups protected under the original Fair Housing Act passed in 1968. It is therefore illegal to discriminate based upon “familial status”, bringing the current reference to “adults only” portions of mobile home parks in state law into question.

The 1989 amendments to the Fair Housing Act essentially made "adults-only" communities illegal. However, an exception for "over 55" housing was created. This bill will allow the designation of mobile home parks as “housing for older persons” after six months notice to the residents. Although the bill does not define the term “housing for older persons”, it is presumably intended to refer to 42 U.S.C. 3607(b) of the Fair Housing Act which defines such housing as that provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or intended for, and solely occupied by, persons 62 years of age or older; or intended and operated for occupancy by persons 55 years of age or older with at least 80 percent of the occupied units occupied by at least one person who is 55 years of age or older (along with compliance with policy and verification requirements).

OTHER SUBSTANTIVE ISSUES

Adult only occupancy mobile home parks have been ruled illegal by the courts. Legal decisions and federal law allow mobile home parks to reserve 80% of the park for persons over 55. Or, in some limited situations, all persons must be over 62. This bill conforms to the legal decisions and federal law.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this amendment is not made the State will likely face a lawsuit by Federal Housing and Urban Development that the current statute is contrary and violates 42 U.S.C. 3602 et seq.

POSSIBLE QUESTIONS

CS/mt