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FISCAL IMPACT REPORT

ORIGINAL DATE 2/07/07
 LAST UPDATED 3/12/07 HB _____

SPONSOR Griego

SHORT TITLE Manufactured Housing Division Powers & Duties SB 497/aHJC

ANALYST Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$100.0	\$100.0+	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	\$0.1	\$0.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Regulation & Licensing (RLD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment states that a consumer complaint can only be filed against an applicant and not against the Manufactured Housing Division.

The amendment also clarifies if any unlicensed person who has performed unlicensed work settles the claims against that unlicensed person without becoming licensed, the claims are considered to be administrative.

Synopsis of Original Bill

Senate Bill 497 amends Section 60-14-4 NMSA 1978 pertaining to the Manufacturing Housing Act (MHA), to allow the Superintendent of RLD to employ personnel necessary to investigate

and institute legal action against licensees and individuals who are unlicensed manufactured housing contractors and are violating the act.

Currently, the MHA requires administrative actions shall be instituted by the Office of the Attorney General against manufactured housing licensees who may be dealers, brokers, salespersons, repairmen, installers, and manufacturers.

SB 497 also amends the MHA to provide an internal process through which an unlicensed manufactured housing contractor may administratively resolve criminal misdemeanor charges against him or her and become licensed—therefore allowing a person to avoid a criminal action in a court of competent jurisdiction.

Before being allowed to pursue such an administrative settlement of unlicensed charges and licensure, the following must be achieved:

The Director of the Manufactured Housing Division (MHD) must be satisfied no incident of unlicensed work caused monetary damage to a consumer, or otherwise resulted in an unresolved consumer complaint filed with the Manufactured Housing Division, and

The unlicensed contractor must pay an administrative penalty as follows:

- In an amount up to 10% of the contract price or the value of the unlicensed work (as determined appropriate according to the discretion of the Manufactured Housing Committee). Or
- In an amount between 1% and 5% of the total bid amount- if the work was bid for by the unlicensed contractor, but not awarded to and performed by the unlicensed contractor.

SB 497 states that an unlicensed contractor may, on a first offense only, resolve criminal misdemeanor charges for unlicensed work without becoming licensed. However, to do this, the administrative penalty outlined above must be paid before the issuance of a license.

Finally, this bill provides for the assessment of an additional administrative fee in the amount of 10%, to address compliance activity costs incurred by the MHD staff.

FISCAL IMPLICATIONS

RLD is currently planning to absorb the additional staff and resource costs associated with implementing this new MHD administrative process will be handled by RLD's existing staff and budget resources.

It is expected that the administrative penalties collected through this new MHD process will result in income to the general fund. It is difficult to predict the amount of income to the general fund because it is likely that increased compliance enforcement efforts on the part of RLD will increase over the course of the next several years. For the first year RLD expects at least \$100,000 in revenue.

As cases are pursued and resolved, an increase over the next several years, it is expected that the

MHD will require additional staff and budget resources. RLD may be capable of absorbing the initial phases of implementation of this administrative process in its existing staff and budget resources. However, if the program continues to grow with successful enforcements, additional resources will be necessary.

SIGNIFICANT ISSUES

This bill is modeled after the administrative process available to the Construction Industries Division (CID) of the RLD. The process has proven to be an effective and expeditious manner of resolution of unlicensed contracting matters for the CID.

The Office of the Attorney General, the local District Attorneys, and the courts do not make unlicensed contracting a criminal misdemeanor charge a priority for prosecution. This means many actions fall through the cracks. This process will allow the MHD to address these matters without having to go through these other judicial agencies, all of which already experience stressed staff and lack of resources.

Consumer's benefit from provisions in this bill because the MHD can negotiate restitution to the consumer as part of the resolution of the complaint.

ADMINISTRATIVE IMPLICATIONS

RLD will absorb the costs for the first year, but expects to come back to the legislature for an appropriation to expand this program.

DW/mt