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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 01/19/16

**SPONSOR** Ingle **LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Affordable Housing Act Oversight Duties **SB** 73

**ANALYST** Daly

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
	\$250.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Mortgage Finance Authority (MFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 73, endorsed by the Mortgage Finance Authority Act Oversight Committee appropriates \$250 thousand from the general fund to the Department of Finance and Administration (DFA) for expenditure by MFA in fiscal year 2017 and subsequent fiscal years for the purpose of funding oversight of the Affordable Housing Act.

### FISCAL IMPLICATIONS

The appropriation of \$250 thousand contained in this bill is a recurring expense to the general fund. Unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

LFC staff deems this appropriation to be recurring as the oversight function being funded is a continuing year-over-year expense, and recommends this bill be amended to reflect a one-year appropriation that is renewed annually. Unspent funds should revert at the end of the fiscal year. Further, the LFC FY17 appropriation recommendation includes in Section 5 a special appropriation of \$150 thousand to fund oversight of both the Affordable Housing Act and regional housing authorities. See page 172.

The MFA reports the Affordable Housing Act of 2004 (AHA) assigns MFA rulemaking and oversight authority for the Act. MFA states because it is an instrumentality of the state of New Mexico, it does not currently receive operating funds from the state to fund its oversight responsibilities under the AHA. The authority states this appropriation will cover its annual costs for such oversight, as well as its costs to provide technical assistance for local governments' activities under the AHA to make contributions for affordable housing.

### **SIGNIFICANT ISSUES**

In FY 16, Department of Finance and Administration (DFA) received \$250 thousand to fund MFA's oversight under the AHA. MFA notes the AHA is an important tool for the state and local governments to create and preserve affordable housing. It is enabling legislation for the affordable housing exception to the anti-donation clause of the New Mexico Constitution, permitting state and local governments to contribute public funds, buildings or other resources to create or preserve affordable housing. In exchange for these contributions, MFA points out, the act imposes a long-term affordability requirement on publicly-subsidized properties. It also reports that to date, local governments have contributed nearly \$43 million in land and funding for affordable housing under the AHA.

MFA advises it has adopted and overseen rules for the AHA since its inception. In addition to its oversight responsibility, MFA provides technical assistance to local governments as they create affordable housing plans and ordinances required by the AHA. To date, MFA has assisted 40 local governments with affordable housing plans and ordinances. MFA assistance includes review and approval of plans, provision of affordable housing data, legal review of ordinances, and presentations to local government bodies. MFA also provides grant funding to assist local governments with the costs of plan development and implementation.

### **ALTERNATIVES**

MFA suggests oversight under the AHA could be transferred to DFA, a state agency which receives annual operating funds from the state.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

MFA believes lack of oversight under the AHA could lead to its potential abuse. Further, lack of technical assistance to local governments could reduce contributions for affordable housing and could result in less affordable housing development overall.

MD/jle/jo/jle