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FISCAL IMPACT REPORT

SPONSOR	Reps. Serrato, Dixon and Garratt/Sen. Padilla	LAST UPDATED	
		ORIGINAL DATE	1/30/24
SHORT TITLE	Housing Fund and Changes	BILL NUMBER	House Bill 195
		ANALYST	Torres, J.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$50.0	\$100.0		At least \$150.0	Recurring	Other state funds

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to an appropriation in the General Appropriation Act

Sources of Information

LFC Files

Agency Analysis Received From
 Economic Development Department (EDD)
 New Mexico Mortgage Finance Authority (MFA)
 New Mexico Finance Authority (NMFA)

Agency Analysis was Solicited but Not Received From
 New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of House Bill 195

House Bill 195 (HB195) changes the existing name of the “Opportunity Enterprise Act” to the “Opportunity Enterprise and Housing Development Act.” Definitions of: “affordable housing;” “housing development assistance;” “housing development project;” and “workforce development housing” are added. The “enterprise development” definition is expanded. Other proposed amendments primarily pertain to housing development. The Opportunity Enterprise Review Board (Board) is increased from 12 to 14 members. New Mexico Finance Authority’s duties are expanded to include loans to housing development partners. The Board’s duties are clarified. A housing development revolving fund is created.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

FISCAL IMPLICATIONS

HB195 does not appropriate funding to the opportunity enterprise revolving fund or the housing development revolving fund, however the current version of the General Appropriation Act contains a special appropriation of \$100 million for commercial enterprise development projects and \$75 million for housing development projects. The \$175 million special appropriation is contingent on enactment of this bill or similar legislation expanding the permissible uses of the opportunity enterprise revolving fund.

The current version of the General Appropriation Act also contains a \$44.5 million transfer to NMFA to carry provisions of the Affordable Housing Act “To acquire, build and rehabilitate affordable housing for people statewide, including those with behavioral health needs and victims of domestic violence.”

New Mexico Finance Authority (NMFA) notes HB195 does not contain an appropriation, though estimates the first year of the program implementation will cost \$150 thousand which would cover staffing for board administration, application system development, and rule and policy development. NMFA says, “Operating costs will be based upon the amount of the appropriation, if any, and the size, type and terms of loans to be recommended by the Board for the NMFA to underwrite, originate and service.”

New Mexico Mortgage Finance Authority (MFA) says, “Appropriation to the fund would not impact the state operating budget because NMFA and MFA, as self-supporting quasi-governmental entities, do not rely on the state for operational funding.”

SIGNIFICANT ISSUES

House Bill 195 expands the permissible uses of the opportunity enterprise revolving fund to include financing for residential and workforce development housing and new housing related parameters for rules governing project approval.

MFA states:

Increasing resources available for affordable housing is a key solution to addressing the challenges of New Mexico’s housing opportunity landscape. The high cost of infrastructure is among the barriers to more housing development.

The Economic Development Department (EDD) states:

Housing has not historically been an area of EDD’s focus but as the State has experienced a dramatic rise in housing and rental costs, the lack of reasonably priced housing has become an impediment to the recruitment of new businesses and the retention and expansion of existing businesses. Middle class workforce housing, not just traditional “affordable” housing, is in dire need. Here, the EDD will be especially well positioned to coordinate investment in the state’s economy with workforce development and housing.

HB195 also replaces the State Auditor on the Opportunity Enterprise Review Board with the executive director of MFA.

NMFA states:

The State Auditor has been unable to actively participate on the Board due to potential conflicts of interest. Replacing this seat with the Executive Director of MFA, as recommended by the Board, removes the potential conflict while at the same time adding a member that can help guide housing assistance provided under the act to complement MFA programs. The Board also recommended adding housing expertise to its membership. The two new members proposed under Section 4(B)(6) would add such expertise.

A 2023 Policy Spotlight on *Homelessness Supports and Affordable Housing* by LFC’s Program Evaluation Unit noted the need for policies protecting public investments in affordable housing and ensuring that publicly subsidized housing remains affordable when sold. Examples from other states include: “right of first refusal” and tenants’ “right to purchase.” At least seven states, including Illinois, California, and Florida, have such policies. See <https://www.nmlegis.gov/handouts/ALFC%20052323%20Item%201%20Policy%20Spotlight%20-%20Homlessness%20and%20Affordable%20Housing%20Supports.pdf>.

PERFORMANCE IMPLICATIONS

NMFA states:

At its January 2024 meeting, the Board endorsed several statutory amendments to improve the ability of the Board to meet the Act’s objectives, including the inclusion of two new project types to address a lack of financing available for private developers of affordable housing infrastructure projects and workforce development housing projects that fall outside the scope of programs administered by the Mortgage Finance Authority (MFA). HB 195 requires the Board to promulgate rules for the housing development fund. Such rules would include clarifying definitions of “middle income,” “below market,” and “employment centers” as well as other definitional changes included in the bill to distinguish (i) projects eligible for assistance from the housing development revolving fund from (ii) projects eligible for financing from existing MFA programs.

ADMINISTRATIVE IMPLICATIONS

EDD is concerned that multiple state agencies are tasked with affordable housing responsibilities. These include NMMFA, NMFA and DFA. According to EDD, this duplication could create coordination challenges, potential inefficiencies and competition between similar funding mechanisms.

Additionally, EDD notes:

The inclusion of housing financing may create competition between traditional opportunity enterprise projects and affordable housing projects, especially if the fund balance from which the projects are financed is not increased. Also, this new authority to finance affordable housing could have administrative impacts and require staff experienced to handle the review, processing, and approval of affordable housing initiatives.

MFA notes, “As the entity responsible for overseeing compliance with the Affordable Housing

Act (AHA), MFA will be required to ensure that donations made through the Opportunity Enterprise Act satisfy the AHA.”

NMFA states:

The requirements under newly proposed Section 12 are similar to the application requirements for enterprise assistance under Section 8. NMFA can build on the application process developed for opportunity enterprise assistance to develop the application system for housing development assistance. Section 14 creates the housing development revolving fund in the NMFA and provides parameters that are consistent with standard NMFA program operating funds. Section 15 changes the annual reporting date to December 1 from October 1, to provide consistency with NMFA’s reporting cycles, to allow an additional quarter for program activity following legislative sessions and includes metrics relevant for housing development assistance that NMFA will be required, at a minimum, to collect on program impact.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The current version of the General Appropriation Act contains a special appropriation of \$100 million for commercial enterprise development projects and \$75 million for housing development projects contingent on passage of this bill or similar legislation.

OTHER SUBSTANTIVE ISSUES

MFA states:

MFA currently administers significant funding supporting affordable housing and workforce development projects. The amendments to the Opportunity Enterprise Act support and augment funding provided by MFA but do not duplicate MFA’s funding.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

MFA states if HB195 is not enacted, “Affordable housing infrastructure and workforce development housing projects may otherwise be unable to proceed due to prohibitive financing costs.”

JT/ne/al