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FISCAL IMPACT REPORT

SPONSOR <u>Chávez, E.</u>	LAST UPDATED <u>02/24/2025</u>	ORIGINAL DATE <u>1/29/25</u>
SHORT TITLE <u>Ban Discriminatory Restrictive Covenants</u>	BILL NUMBER <u>House Bill 114a/HGEIC</u>	ANALYST <u>Gygi</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Counties	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	County General Funds
AOC	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From

New Mexico Attorney General (NMAG)
 New Mexico Mortgage Finance Authority (NMMFA)
 Regulation and Licensing Department (RLD)
 Administrative Office of the Courts (AOC)

Agency Analysis was Solicited but Not Received From

New Mexico Association of Counties

SUMMARY

Synopsis of HGEIC Amendment to House Bill 114

The House Government, Elections and Indian Affairs Committee (HGEIC) amendment to House Bill 114 removes all references to prohibiting gender-specific language in deeds and other instruments of writing related to real property. The amendment also modifies the original bill language: such that the bill: 1) no longer requires document preparers to remove discriminatory covenants or language in documents; 2) strikes language which allows property owners to re-record deeds to conform with the new prohibitions; but 3) still allows a disclaimer statement about discriminatory covenants being void as against public policy.

Synopsis of House Bill 114

House Bill 114 (HB114) would prohibit the recording of deeds containing discriminatory restrictive covenants and gender-specific language and nullify existing deeds with such covenants. The bill does so by amending the definition of “unlawful and discriminatory practice” in the New Mexico Human Rights Act (HRA), Section 28-1-7 NMSA 1978, and adding a new

section to the Act which would void any discriminatory restrictive covenants based on “race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability or military status.”

If enacted, HB114 will amend existing law governing real property to:

- Declare such restrictive covenants void as against public policy;
- Prohibit the filing of a deed or other instruments relating to real property;
- Permit a county clerk to reject such a deed or other instrument relating to real property; and
- Allow deeds to provide the specified disclaimer:

It is the policy of the state of New Mexico that there be no discrimination in the ownership, residency or use of real property. Any covenants that would restrict such ownership in violation of state or federal law is [sic] hereby void as against public policy.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The New Mexico Attorney General (NMAG) states that because these covenants are already illegal under existing law, this bill would not impact enforcement.

Counties may experience minimal additional administrative costs.

The New Mexico Mortgage Finance Authority and the Regulation and Licensing Department do not anticipate any direct fiscal impact if HB114 is enacted.

AOC notes:

There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and any petitions, hearings, trials, and appeals in the courts, pursuant to the Human Rights Act, as well as challenges to this law. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

NMAG notes that racially restricted covenants were deemed illegal nationwide by the passage of the Fair Housing Act in 1968 by Congress. Although discriminatory covenants are unenforceable by courts, there are deeds predating this act that still contain discriminatory language. This bill would remove the covenants through the re-recording process, either when the property is sold or when the owner seeks to remove the covenants by re-recording the deed. (The latter re-recording option is eliminated by the HGEIC amendment to HB114).

NMAG also states there may be occasions when a buyer unknowingly purchases property whose deed contains a restrictive covenant and thus incurs costs associated with re-recording the deed. This may be avoided if the seller of the property is responsible for the removal of covenants and any associated fees.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB114 is similar to SB286 introduced in the 2023 legislative session.

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