

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/13

SPONSOR Gonzales LAST UPDATED _____ HB 263

SHORT TITLE False Property Title Claims SB _____

ANALYST Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 263 establishes a cause of action for the filing and recording of false documents of title affecting real property, as follows:

1. a person who purports to claim an interest in, or a lien or encumbrance against, real property and who causes a document asserting such claim to be recorded, knowing or having reason to know that the document is forged, groundless, contains a material misstatement or false claim or is otherwise invalid, is liable to the beneficial title holder of the real property, for \$5,000 or more or for treble the actual damages caused by the recording, whichever is greater, and reasonable attorney fees and costs. Such action is to be given priority scheduling on the civil docket;

2. the owner or beneficial title holder of the real property may bring a civil action in district court in the county where the property is located for such relief as is required to immediately clear title to the real property. The action may be brought based on the ground that the lien is forged, groundless, contains a material misstatement or false claim or is otherwise invalid. Whether a separate action is brought to quiet title or such action is joined with an action for damages, the owner or beneficial title holder may recover reasonable attorney fees and costs;

3. a person named in a recorded document who knows that the document is false or invalid, is liable to the owner or title holder for \$1,000 or more or for treble the actual damages, whichever is greater. If the person named in the document willfully refuses to release or correct such document of record within 20 days from the date of a written request from the owner or beneficial title holder, that person is liable for reasonable attorney fees and costs;
4. a document that purports to create an interest in, or a lien or encumbrance against, real property, not authorized by statute, judgment or other specific legal authority is presumed to be groundless and invalid; and
5. a person who purports to claim an interest, lien or encumbrance and who causes a document asserting such claim to be recorded, knowing or having reason to know that the document is false, is guilty of a misdemeanor.
6. The Act contains an emergency clause.

FISCAL IMPLICATIONS

No fiscal issues identified.

SIGNIFICANT ISSUES

The AOC speculates that this bill appears to codify the common law cause of action for slander of title (when a party is adversely affected by a false claim against that party's interest in real property).

MW/blm