

LFC Requester:

Emily Hilla

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/3/2025

Check all that apply:

Bill Number: SB 239

Original x Correction
Amendment Substitute

Sponsor: Sen. Mimi Stewart

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Homeowner Assoc. Lot Owner Remedy

Analysis: AAG Erica Schiff

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

SB 293 would amend the Homeowner Association Act (“HOA”) to let lot owners file a complaint against another lot owner with the New Mexico Department of Justice (“NMDOJ”). The Attorney General could then commence a civil action on behalf of the complaining lot owner to enforce a homeowner association’s (“association”) bylaws or rules.

FISCAL IMPLICATIONS

SB 239 would create new obligations for the NMDOJ without a corresponding appropriation. Although SB 239’s grant of power to the NMDOJ is discretionary, the NMDOJ will necessarily have to develop intake procedures for complaints by lot owners. If the Attorney General does see fit to litigate on behalf of lot owners, costs will be significant. It is unclear how many, if any, additional Full-Time Equivalent positions may be necessary to monitor complaints, conduct investigations across the state, and litigate civil actions.

SIGNIFICANT ISSUES

SB 239 would authorize the NMDOJ to enforce the HOA on behalf of individual lot owners. In its present form, the HOA only provides for private remedies or administrative proceedings before the board. Although the NMDOJ would bring such an action to “enforce” certain bylaws, rules, or conditions, SB 239 does not describe the remedies that the NMDOJ may receive. Accordingly, it is unclear whether the NMDOJ could obtain injunctive relief, monetary damages, costs, or fees.

PERFORMANCE IMPLICATIONS

As discussed in fiscal implications above, the addition of new duties without the allocation of additional resources would likely adversely impact the performance of the NMDOJ.

ADMINISTRATIVE IMPLICATIONS

See Fiscal and Performance Implications above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.