

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

## FISCAL IMPACT REPORT

SPONSOR Stewart LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 2/3/2025  
BILL  
SHORT TITLE Homeowner Assoc. Lot Owner Remedy NUMBER Senate Bill 239  
ANALYST Ortega

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMAG	No fiscal impact	\$70.0 to \$100.0	\$70.0 to \$100.0	\$140.0 to \$200.0	Recurring	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 (MFA)

## SUMMARY

### Synopsis of Senate Bill 239

Senate Bill 239 (SB239) amends the Homeowner Association Act to allow lot owners to file complaints with the New Mexico Attorney General (NMAG) regarding violations of association bylaws, rules, or community covenants. It authorizes NMAG to initiate civil action on behalf of a lot owner to enforce compliance. SB239 also clarifies procedures for enforcement of community documents, requiring associations to provide written notice and an opportunity for dispute resolution before imposing fines or suspending access to common areas, except in cases posing an imminent threat to public health or safety. Additionally, the bill specifies that both lot owners and associations may use alternative dispute resolution methods, such as mediation and arbitration, to resolve conflicts.

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

Senate Bill 239 does not include an appropriation for its implementation but may have a fiscal impact on NMAG. NMAG may experience increased workload and administrative costs related to investigating complaints from lot owners and initiating civil actions to enforce homeowner association bylaws, rules, and community covenants. The overall fiscal impact is indeterminate;

however, the fiscal impact to NMAG could increase if enforcement actions and litigation increase substantially.

NMAG reports that SB239 would create new responsibilities for the agency without additional funding. While the NMAG's authority to litigate on behalf of lot owners is discretionary, NMAG would still need to establish intake procedures for complaints, which would require staff time and resources. If the NMAG chooses to pursue legal action, costs could be significant due to the need for investigations and litigation across the state. The exact number of additional full-time staff that may be required to manage complaints, conduct investigations, and litigate cases remains uncertain. NMAG may require at least one additional full-time attorney or investigator. Based on average salary and benefits for a full-time assistant attorney general or investigator, the estimated cost for one FTE is approximately \$70,000 to \$100,000 annually. If case volume increases beyond expectations, additional staffing may be necessary.

## **SIGNIFICANT ISSUES**

According to NMAG, SB239 would grant the department authority to enforce homeowner association (HOA) bylaws, rules, and covenants on behalf of individual lot owners, marking a shift from the current framework, which only allows for private remedies or administrative proceedings before the HOA board. However, the bill does not specify the remedies NMAG may seek in such enforcement actions, creating uncertainty about whether the agency could obtain injunctive relief, monetary damages, or recover costs and attorney fees.

Additionally, the New Mexico Mortgage Finance Authority notes that SB239 strengthens enforcement mechanisms within the Homeowner Association Act by providing an additional avenue for lot owners to resolve disputes. By introducing state-level enforcement, the bill could improve compliance with HOA rules and offer lot owners a more structured process for addressing grievances. However, the potential for increased litigation and the absence of clear statutory remedies could create challenges in execution.

AO/hj/SL2