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FISCAL IMPACT REPORT

SPONSOR Begaye DATE TYPED 2/2/05 HB 413

SHORT TITLE Expedited Eviction Hearings for Some Property SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 413 provides for an expedited hearing for eviction proceedings based in whole or in part on Paragraph (4) of Subsection A of Section 47-8-40 NMSA 1978, which allows a landlord to begin eviction proceedings if "a resident knowingly commits or consents to any other person in the dwelling unit or on the premises knowingly committing a substantial violation [of the applicable minimum building or housing code]."

The bill reduces the time within which the court must hold a hearing from a period of seven to ten days to a period of three to five days. Landlords petitioning for eviction of a resident for other reasons would still be entitled to a hearing within seven to ten days.

The bill further provides that if the court's judgment for restitution is based in whole or in part upon this section, the judgment shall direct that the sheriff shall restore possession of the premises within twenty-four hours after judgment, instead of the present three to seven days after judgment.

Significant Issues

This bill will reduce the time for trial and eviction of a tenant who has committed, or has consented to the commission of a major crime or damage on or near the rented residential property and has refused to relinquish possession after proper notice. Actions for eviction based upon other grounds remain subject to longer time limits.

An action by a landlord to regain possession of his/her property is commenced by filing a “petition for restitution” of the property. Presumably this occurs when the tenant fails to surrender the property after proper notice to vacate is given by the landlord. A summons is then issued and served. This bill reduces the time limits for trial and restoration of the property to the landlord by the sheriff in cases involving “substantial violations”.

FISCAL IMPLICATIONS

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 administrative burden on court dockets. 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.

ADMINISTRATIVE IMPLICATIONS

The AOC states that this bill has the potential to add an administrative burden to already busy courts, as the courts would be required to hold hearings in these cases even more quickly than they presently do. The proposed change would also speed up the time within which a resident must answer an action for possession and potentially raise questions about the adequacy of notice to the resident.

DW/lg