

LFC Requester:	Emily Hilla
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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: 2025/1/22

Check all that apply:

Bill Number: HB114

Original Correction
 Amendment Substitute

Sponsor: Eleanor Chávez

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

Short Title: BAN DISCRIMINATORY RESTRICTIVE COVENANTS

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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:

This bill would prohibit the recording of deeds containing discriminatory restrictive covenants and declare void any remaining attached to property. The bill does so by amending the definition of “unlawful and discriminatory practice” in Section 7 of the New Mexico Human Rights Act, Section 28-1-7 NMSA 1978 (“HRA”) and adding a new section of Chapter 47, Article 1 NMSA 1978 to void any discriminatory restrictive covenants of record. The new language allows a County Clerk to reject deeds submitted with discriminatory covenants and requires newly recorded documents not to use gender-specific language.

FISCAL IMPLICATIONS

No fiscal implications for this office.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Discriminatory covenants are unenforceable by courts and therefore this would act to remove those existing-but-unenforceable covenants through the re-recording process. The bill amends the definition of unlawful discriminatory practice to include submitting “a deed or other instrument...for recording with an attached restrictive covenant, the intent of which is to restrict ownership, residency or use of real property because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, pregnancy, childbirth or condition relation to pregnancy or childbirth, spousal affiliation, physical or mental disability or military status.” The bill borrows pre-existing language in the HRA and extends it to the act of submitting a deed to be recorded.

Additionally, the bill adds language to Chapter 47, Article 1, that declares “any covenant attached to real property that contains language with the intent or effect to restrict ownership, residency or use or real property because of...any class that is protected by the Human Rights Act

is void as against public policy.” Because these covenants are illegal under existing law, this would not impact enforcement.

The bill provides curative language allowing any person with an official ownership or financial interest in real the real property may re-record the deed to such property so that it conforms with the requirements of this section.

PERFORMANCE IMPLICATIONS

There is no language regarding performance implications for the NMDOJ.

ADMINISTRATIVE IMPLICATIONS

There are no administrative implications for the NMDOJ. This bill empowers county clerks to reject written instruments if they contain restricted covenants or that use gender-specific language when referring to grantors or grantees. Any instrument rejected may be corrected and resubmitted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The language in this bill is internally consistent with the sections it amends. I found no conflict.

TECHNICAL ISSUES

No technical issues.

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

There may occur circumstances in which a consumer unknowingly purchases property whose deed contains a restrictive covenant. In the instance that consumer attempts to record the deed, it will be rejected by the county clerk and the consumer will incur a fee in hiring a professional to identify and remove the covenant before recording. This may be avoided if the seller of property is responsible for removal of covenants and any associated fees.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

None