

LFC Requester:

Felix Chavez

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: 5 February 2025

Check all that apply:

Bill Number: HB253

Original x Correction
Amendment Substitute

Sponsor: Rep. Andrea Romero, Rep.
Angelica Rubio, Rep. Kristina
Ortez, Rep. Cristina Parajon

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

Person Writing

Short Title: SEALING OF CERTAIN
COURT RECORDS

Analysis: AAG Jeff Dan Herrera

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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:

House Bill 253 (“HB253” or the “Bill”) creates a new one-section article, Article 8B, of the Property Code, Chapter 47, NMSA 1978. The Bill would establish requirements and procedures for the sealing of court records relating to evictions under the Uniform Owner-Resident Relations Act (“UORRA”), Chapter 47, Article 8 NMSA 1978, and the Mobile Home Park Act, Chapter 47, Article 10 NMSA 1978.

HB253 contains only one section of new material, to be codified at NMSA 1978, Sec. 47-8B-1 with ten discrete subsections.

Subsection A

Subsection A creates definitions for the terms contained within the Bill. Terms defined include, “authorized attorney,” (referring to attorneys authorized to view sealed eviction records pursuant to a policy to be adopted by the Administrative Office of the Courts), “court record,” “eviction,” “owner,” “resident,” and “seal.” The definition of “seal” provides that sealed records may only be viewed by judges, court staff, authorized staff of the judiciary, a party to the case or their attorney, authorized attorneys, and persons with a valid court order or a directive from the judicial technology council.

Subsection B

Subsection B provides that eviction proceedings currently pending before a court are to be sealed.

Subsection C

Subsection C provides that court records may be unsealed no less than 15 days after a court enters an order granting an owner possession of the premises at issue. After such an order, court records may remain sealed if the parties agree to maintain them as sealed, the resident files an appeal (during the pendency of which the records are to remain sealed), or the order is later set aside by the court. Court records concerning evictions are to remain public for three years, at which point the court must re-seal the records.

Subsection D

Subsection D provides that the names of parties in a sealed court record under the Bill may be used for administrative purposes but may not be published online or sold or released as part of a

bulk records transfer to a third party.

Subsection E

Subsection E provides that where a resident is a party to an eviction of which records are sealed, the resident shall not be liable for failing to disclose the eviction in response to an inquiry to a third party.

Subsection F

Subsection F provides that during the period between records being unsealed after an order for an eviction has been entered and the three-year mark after which records are re-sealed, a resident may petition the court to seal the records. Under the Subsection, the Court shall re-seal the records if doing so is in the interest of justice and those interests are not outweighed by the public's interest in access to the records.

Subsection G

Subsection G provides that court records sealed under the Bill may only be unsealed by order of the court upon showing of compelling need. The court must weigh the resident's interest in nondisclosure against the interests of the requesting party. For bulk records requests, the court may only unseal the records upon a directive of the judicial technology council.

Subsection H

Subsection H provides that residents petitioning pursuant to Subsection F are not required to pay a filing fee.

Subsection I

Subsection I provides that sealed records may be provided to authorized attorneys without a showing of compelling need. Such records shall maintain their status as sealed despite the release to the authorized attorney.

Subsection J

Subsection J provides that the provisions of the Bill apply to evictions filed on or after the effective date of the legislation.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

Section 47-8-10, NMSA 1978 provides that district and magistrate courts shall have jurisdiction over any conduct governed by UORRA. Section 47-8-47, NMSA 1978 provides that a party aggrieved by a judgment under UORRA "may appeal as in other civil actions." Rule 12-201(A)(1)(b) NMRA states that notices of appeal must be filed within thirty days after entry of final order or judgment. Subsection C of the bill provides that court records concerning evictions are unsealed within fifteen days of entry of an order, but are to remain sealed during the pendency of any appeal. As drafted, the Bill could create a circumstance in which a court must unseal records at the fifteen-day mark and then re-seal them at the thirty-day mark upon filing of a notice of appeal. Legislators may consider extending the time for unsealing to thirty days to reflect the time for appeal in the Rules of Appellate Procedure.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

RELATED

HB98 creates a new section of UORRA that would require the courts to automatically expunge eviction records after five years. HB253 and HB98 both seem to approach the policy issue of preventing eviction records from creating an ongoing burden for previously evicted residents in perpetuity. While both bills approach the problem in different ways, they are not inherently in conflict. As drafted, HB253 could provide for records being sealed at three years following an eviction order and HB98 could provide for expungement at five years.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. Court dockets and records for eviction proceedings will remain public record.

AMENDMENTS

None.