

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 02/6/2025 *Check all that apply:*  
**Bill Number:** HB309 Original  Correction   
 Amendment  Substitute

**Sponsor:** Charlotte Little **Agency Name and Code Number:** 770-NMCD  
**Short Title:** Removing Unlawful Occupants from Property **Person Writing:** Anisa Griego-Quintana  
**Phone:** 505-479-2296 **Email:** anisa.griego-quinta@cd.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	0	0	0	0	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: House Bill 309 would provide a process for a property owner to remove persons who are unlawfully occupying the owner's real property. "Unlawfully occupying" is a crime constituting trespassing.

#### **REQUEST FOR REMOVAL.**

A property owner or agent may request at a police station or sheriff's office the immediate removal of a person or persons unlawfully occupying real property owned by the property owner. Dictates form of complaint to be submitted. Requires that:

- The requester is the property owner or authorized agent
- The real property includes a residential dwelling
- The occupant(s) entered without permission from the owner and continuously reside on the property
- The property was not open to the public at the time the occupants entered
- The owner has directed the occupant(s) to leave the property
- The occupant(s) are not current or former residents of the property pursuant to a rental agreement under the Uniform Owner-Resident Relations Act
- The occupants are not immediate family members of the owner
- There is no pending litigation related to the real property between the owner and any known unlawful occupant(s).

#### **LAW ENFORCEMENT PROCEDURES.**

Upon receipt of a complaint, a peace officer of the county shall verify that the complainant is the record owner of the real property or the authorized agent and appears entitled to relief. If so, the peace officer shall serve notice to immediately vacate on all unlawful occupants. The officer shall attempt to verify the identities of all unlawful occupants, and if appropriate may arrest any person found on the property for trespass, outstanding warrants, or other legal cause. Service may be accomplished by hand delivery of notice to the occupant(s) or by posting the notice on the entrance of the property.

After service of notice, the owner may request that the officer stand by while the owner changes the locks and removes the personal property of the unlawful occupant(s). The officer may charge the owner a reasonable fee for standing by. The owner or agent is not liable for the loss, destruction, or damage to personal property unless the removal was wrongful.

**CRIMINAL DAMAGE TO PROPERTY.** If damage to a property amounts to more than \$1,000, the person is guilty of a second degree felony (currently a fourth degree felony).

**ACTION FOR UNLAWFUL REMOVAL.** A person removed from property may bring a civil cause of action for ejectment to restore possession of real property and may recover actual costs and damages and statutory damages.

## **FISCAL IMPLICATIONS**

While the extent of “unlawful occupying” is unknown, the bill introduces a substantial increase in potential penalties, with a maximum sentence of nine years in prison, compared to the current 18-month maximum for property damage exceeding \$1,000. Individuals convicted under the new law may serve time in prison or face longer periods of probation supervision.

## **SIGNIFICANT ISSUES**

None for the Corrections Department.

## **PERFORMANCE IMPLICATIONS**

None for the Corrections Department.

## **ADMINISTRATIVE IMPLICATIONS**

None for the Corrections Department.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None for the Corrections Department.

## **TECHNICAL ISSUES**

None for the Corrections Department.

## **OTHER SUBSTANTIVE ISSUES**

None for the Corrections Department.

## **ALTERNATIVES**

None for the Corrections Department.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

None proposed by the Corrections Department.