

<b>LFC Requester:</b>	<b>Chavez, Felix</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

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

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**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 2/10/25 *Check all that apply:*  
**Bill Number:** HB 332 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Catherine J. Cullen **Agency Name and Code** AOC  
**Short Title:** Unlawful Squatting **Number:** 218  
**Person Writing** Kathleen Sabo  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(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>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: HB 332 creates the fourth degree felony crime of “Unlawful Squatting”, consisting of a person entering upon the real property of another and residing on such real property for any time without the knowledge or consent of the property owner, rightful occupant or authorized representative of the property owner.

HB 332 amends Section 30-14-1.1 NMSA 1978, within the Criminal Code, to provide that a person who commits the offense of unlawful squatting and injures, damages or destroys any part of the realty or its improvements, shall be liable to the property owner, rightful occupant or authorized representative of the property owner for damages in an amount equal to two times the amount of the appraised value of the damage of the property injured or destroyed.

HB 332, Section 3 enacts a new statutory section within Chapter 31 NMSA 1978, governing criminal procedure, to require a person accused of committing the offense of unlawful squatting receive a citation advising that the person may present documentation authorizing entry on such land or premises to the head of the issuing law enforcement agency or designee within 3 business days of receiving a citation for unlawful squatting. The law provides that a person unable to provide such documentation is subject to arrest for unlawful squatting. HB 332 provides that nothing in Section 3 of the Act shall be construed to prohibit a property owner, rightful occupant or authorized representative of the owner from shutting off utilities.

HB 332, Section 4 enacts a new statutory section within Chapter 42 NMSA 1978, governing actions and proceedings relating to property, to provide for the presentation of an affidavit claiming the right of possession to real property and that such real property is in the hands of a squatter. The law requires law enforcement to present the affidavit to the alleged squatter at least 3 days prior to turning that person out of possession, unless the person in possession tenders to the law enforcement officer a counter affidavit stating a claim of a legal right to possession of the real property. HB 332 requires the law enforcement officer to turn the alleged squatter out of possession once 3 days have elapsed from the day the affidavit was exhibited. HB 332, Section 4(B), however, prohibits a law enforcement officer from turning a person out of possession of the real property if the person in possession submits a counter affidavit pursuant to Subsection A, and to return both affidavits to the clerk of the district court in which the real property at issue is located for a nonjury trial. Subsection C provides that if the party in possession submits a counter affidavit or other documentation at trial, upon the determination of the district court that the affidavit is not meritorious based on the preponderance of the evidence, a law enforcement officer is required to turn the person out of possession as soon as practicable pursuant to a writ of possession.

HB 332, Section 4(D) permits the court to award the plaintiff the fair market value of rent for the duration of the squatter’s occupancy and other monetary relief the court finds appropriate. The law provides a party the right to appeal the decision of the court and provides that such a decision shall be directly appealable but shall not be subject to de novo review by the New Mexico Supreme Court. The law requires, if the court finds a verdict for the plaintiff, the

clerk of the court to issue a writ of possession pursuant to Section 42-4-12 NMSA 1978 and to award costs and any other monetary relief awarded by the court. The plaintiff and the court are authorized to present the final order to law enforcement for investigation or prosecution.

### **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 enforcement of this law and commenced prosecutions, and appeals from convictions, as well as the commencement of nonjury trials within the district court and appeals of trial court decisions. 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.

### **SIGNIFICANT ISSUES**

- 1) A trial de novo differs from a traditional appeal in that new evidence may be introduced at the new trial and all aspects of a case are reheard. In contrast, in an appeal, the court reviews a lower court's decision without a full retrial of the facts and is limited to considering only the evidence presented at the first trial.
- 2) Section 37-1-22 NMSA 1978 governs adverse possession, wherein those seeking to acquire land through adverse possession are required to prove adverse possession of the land continuously and in good faith for a period of 10 years, under color of title, and the payment of taxes on the property during these years. *Richardson v. Duggar*, 1974-NMSC-066, 86 N.M. 494, 525 P.2d 854.

HB 332 does not specifically address how the Act's provisions might affect a claim of adverse possession of real property.

### **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

### **ADMINISTRATIVE IMPLICATIONS**

See "Fiscal Implications," above.

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

None.

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

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

### **AMENDMENTS**