

LFC Requester:	Emily Hilla
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to 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: 2/19/25 *Check all that apply:*
Bill Number: HB440 Original Correction
 Amendment Substitute

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$0		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0		

(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:

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 440 (HB440) proposes amendments to the state laws governing homeowner's

association (HOA) to limit their ability to initiate a foreclosure. Specifically, this proposal would curtail the ability to initiate a foreclosure for an assessment or fine that is less than 12 months old. Further, it prohibits foreclosure for assessments that are less than \$5000, or those that consist solely of fines.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

There are approximately 1300 condo, HOA, and co-ops in the state of New Mexico. By law, HOA's can collect dues (which pay for common expenses for the development) and assess fines (typically violations of community rules) in accordance with their internal written governance documents. HOA's also have the ability to file for collections and foreclosure to recover unpaid dues and fines assessed on property owners within the association. There are currently no restrictions on what types of fines or assessments can be used to initiate a foreclosure.

While rare, there are examples of HOA's abusing this power in predatory ways and aggressively seeking foreclosure, even when members are working in good faith to pay outstanding balances. HOA Foreclosure processes are completely separate from bank foreclosure and homeowners can be foreclosed on by HOA's even when they are current on their mortgage.

This proposal would provide 12 months for residents to catch up with outstanding fines and dues and protect residents from facing foreclosure solely on the basis of outstanding fines. HOA fines vary by community but are often assessed for things like improper parking, trash cans left in view, noise violations, off-season holiday decorations and the like. Currently, a HOA can foreclosure on a homeowner for outstanding fines, even if they are current on their association dues and mortgage.

Foreclosure can have a major negative impact on both housing stability and a family's long-term financial situation. Foreclosure results in the forced displacement of homeowners, loss of home equity, and significantly damages a person's credit rating, limiting access to debt and hindering qualification for future housing.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

An additional issue which is not contemplated in this bill is that HOA's often charge their attorney's fees for foreclosure directly to the impacted homeowner, which compounds the amount of money owed to the HOA for the homeowner to become current and avoid foreclosure. It also creates no financial disincentive for HOA's to initiate a foreclosure. Placing limitations on charging attorney's fees to the homeowner could provide additional protections and limit escalating debt that can occur when someone becomes behind on their dues and fines.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS