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FISCAL IMPACT REPORT

ORIGINAL DATE 2/26/09

SPONSOR King, R. LAST UPDATED _____ HB 859

SHORT TITLE Reduce Lien Time Limit without Court Claim SB _____

ANALYST Sanchez, C.

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 859 amends NMSA Section 48-2-10, relating to enforcement of a mechanics and materialmen's lien, to reduce the time limit during which a lien remains valid, after the claim of lien has been filed, from two years to six months, unless proceedings have been commenced in court or in binding arbitration.

FISCAL IMPLICATIONS

According to the AOC, any fiscal impact on the judiciary would be proportional to the number of proceedings commenced with the courts. Shortening the time limit on the validity of the lien from two years to six months could possibly cause more cases to be filed in order to "commence proceedings," thereby tolling the statute of limitations.

SIGNIFICANT ISSUES

This bill would have the effect of requiring a lien holder of a mechanics and materialmen's lien to bring a court action or commence binding arbitration to enforce that lien within six months of

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filing a claim of lien. Current law allows the lien holder two years from filing a lien claim to bring action to enforce their lien.

State law was changed in 1990 to *increase* the time limit from six months to two years.

PERFORMANCE IMPLICATIONS

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

- Cases disposed of as a percent of cases filed (both types of courts)
- Percent change in case filings by case type (district court only)

RELATIONSHIP

This bill relates to House Bill 300 which amends other provisions in NMSA Chapter 48 Article 2 relating to the contents of a lien claim, and granting the property owner subject to the lien to bring an action to cancel the lien “if no action to foreclose the lien claim has been taken by the lien claimant.” The bills do not appear to conflict.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

CS/mc

