

1 HOUSE BILL 489

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Joseph Cervantes

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10 AN ACT

11 RELATING TO CIVIL ACTIONS; PROVIDING FOR ATTORNEY FEES AND  
12 COSTS WHEN THE ATTORNEY GENERAL IS SUCCESSFUL IN AN ACTION  
13 BROUGHT PURSUANT TO THE UNFAIR PRACTICES ACT; ALLOWING  
14 ASSIGNMENT OF FEES AND COSTS.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 57-12-8 NMSA 1978 (being Laws 1967,  
18 Chapter 268, Section 7, as amended) is amended to read:

19 "57-12-8. RESTRAINT OF PROHIBITED ACTS--REMEDIES FOR  
20 VIOLATIONS--ATTORNEY FEES.--

21 A. Whenever the attorney general has reasonable  
22 belief that [~~any~~] a person is using, has used or is about to  
23 use any method, act or practice [~~which~~] that is declared by the  
24 Unfair Practices Act to be unlawful and that proceedings would  
25 be in the public interest, [~~he~~] the attorney general may bring

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1 an action in the name of the state alleging violations of the  
2 Unfair Practices Act. The action may be brought in the  
3 district court of the county in which the person resides or has  
4 ~~[his]~~ the person's principal place of business or in the  
5 district court in ~~[any]~~ a county in which the person is using,  
6 has used or is about to use the practice ~~[which]~~ that has been  
7 alleged to be unlawful under the Unfair Practices Act. The  
8 attorney general acting on behalf of the state ~~[of New Mexico]~~  
9 shall not be required to post bond when seeking a temporary or  
10 permanent injunction in such action.

11 B. In ~~[any]~~ an action filed pursuant to the Unfair  
12 Practices Act, including an action with respect to unimproved  
13 real property, the attorney general may petition the district  
14 court for temporary or permanent injunctive relief and  
15 restitution.

16 C. The court shall award reasonable attorney fees  
17 and costs to the attorney general if the attorney general  
18 prevails in an action concerning an unfair or deceptive trade  
19 practice or an unconscionable trade practice pursuant to the  
20 Unfair Practices Act.

21 D. The attorney general may contract with outside  
22 counsel to pursue enforcement of actions authorized by this  
23 section on behalf of the state and may assign the attorney  
24 general's right to an award of attorney fees and costs to  
25 outside counsel."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011.