

HOUSE BILL 263

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO REAL PROPERTY; ESTABLISHING A CAUSE OF ACTION FOR  
THE FILING AND RECORDING OF FALSE DOCUMENTS OF TITLE AFFECTING  
REAL PROPERTY; PROVIDING FOR REMEDIES; DECLARING AN EMERGENCY.

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

**SECTION 1. FALSE DOCUMENTS--LIABILITY--SPECIAL ACTION--  
DAMAGES--VIOLATION--CLASSIFICATION.--**

A. A person who purports to claim an interest in,  
or a lien or encumbrance against, real property and who causes  
a document asserting such claim to be recorded in the office of  
the county clerk, knowing or having reason to know that the  
document is forged, groundless, contains a material  
misstatement or false claim or is otherwise invalid, is liable  
to the owner or beneficial title holder of the real property  
for the sum of not less than five thousand dollars (\$5,000), or

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1 for treble the actual damages caused by the recording,  
2 whichever is greater, and reasonable attorney fees and costs of  
3 the action. Such action shall be given priority scheduling on  
4 the civil docket.

5 B. The owner or beneficial title holder of the real  
6 property may bring a civil action pursuant to this section in  
7 the district court in the county in which the real property is  
8 located for such relief as is required to immediately clear  
9 title to the real property as provided for in the rules of  
10 procedure for special actions. The action may be brought based  
11 on the ground that the lien is forged, groundless, contains a  
12 material misstatement or false claim or is otherwise invalid.  
13 The owner or beneficial title holder may bring a separate  
14 action to quiet title to the real property or join such action  
15 with an action for damages as described in this section. In  
16 either case, the owner or beneficial title holder may recover  
17 reasonable attorney fees and costs of the action.

18 C. A person who is named in a recorded document  
19 that purports to create an interest in, or a lien or  
20 encumbrance against, real property and who knows that the  
21 document is forged, groundless, contains a material  
22 misstatement or false claim or is otherwise invalid is liable  
23 to the owner or title holder for the sum of not less than one  
24 thousand dollars (\$1,000), or for treble actual damages,  
25 whichever is greater. If the person who is named in the

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1 recorded document willfully refuses to release or correct such  
2 document of record within twenty days from the date of a  
3 written request from the owner or beneficial title holder of  
4 the real property, that person is liable for reasonable  
5 attorney fees and costs as provided in this section.

6 D. A document that purports to create an interest  
7 in, or a lien or encumbrance against, real property that is not  
8 authorized by statute, judgment or other specific legal  
9 authority is presumed to be groundless and invalid.

10 E. A person who purports to claim an interest in,  
11 or a lien or encumbrance against, real property and who causes  
12 a document asserting such claim to be recorded in the office of  
13 the county clerk, knowing or having reason to know that the  
14 document is forged, groundless, contains a material  
15 misstatement or false claim or is otherwise invalid, is guilty  
16 of a misdemeanor.

17 SECTION 2. EMERGENCY.--It is necessary for the public  
18 peace, health and safety that this act take effect immediately.