

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>Nibert</u>	LAST UPDATED <u>3/1/23</u>	ORIGINAL DATE <u>2/8/23</u>
SHORT TITLE <u>Corrections Of Real Property Recordings</u>	BILL NUMBER <u>House Bill 250/aHJC</u>	ANALYST <u>Graeser</u>

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	Local Governments

Parenthesis () indicate revenue decreases.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Minimal	Minimal	Minimal	Recurring	County Clerk's Offices

Parenthesis () indicate expenditure decreases.

Sources of Information

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

No Response Received

New Mexico Counties

Administrative Office of the Courts (AOC)

Department of Finance/Local Government Division (DFA/LGD)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HJC Amendment to House Bill 250

The House Judiciary Committee amendment to House Bill 250 is technical. Conforms the provisions of the section to the commitment of the Legislature to make our statutes gender neutral. This is done by deleting references to “landman” in favor of “a land professional who is certified or registered by a nationally recognized land professional organization.”

Synopsis of Original Bill

House Bill 250 amends portions of New Mexico real property law, specifically regarding the use of scrivener’s error affidavits, Section 47-1-57 NMSA 1978 (2016). HB250 adds “landman” to the definitions of the section, clarifies that scrivener’s error affidavits may only correct “minor” drafting or clerical errors; allows errors of omission to be corrected by an affidavit; removes the requirement that the metes and bounds descriptions “[do] not add or remove land to the land being described” but adds in replacement the requirement, “or sectionalized legal description; provided that the description shall reference a recorded instrument reflecting the correct description, if available”; and adds grantor’s address, marital status, and missing exhibit or addendum to the list of possible uses for an affidavit.

HB250 removes several parties who are eligible to execute an affidavit including: attorneys who represent the mortgagee or beneficiary; a current employee of the mortgagee or beneficiary; and an attorney representing a party to the original instrument or who prepared the original instrument. However, HB250 allows landman or an attorney who has discovered a “reasonably apparent” discrepancy in a chain of title to execute an affidavit. HB250 clarifies that the new compliant affidavits will be back-dated to the effective date of the original instrument.

HB250 does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

No fiscal or administrative impacts on any state agency and minimal impact on County Clerks’ offices.

SIGNIFICANT ISSUES

RLD notes: “... HB250 materially changes the longstanding prohibitions of metes and bounds descriptions for real property which could change the property description of the original instrument. It is unclear what impact this change might have on the underlying collateral on loans for lenders and/or require changes to the property’s insurance coverage. Consideration may be warranted to requiring notice be afforded to lienholders and property owners should the Affidavit add or remove land over a given monetary value threshold.”

LG/al/ne