

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>Senate Judiciary Committee</u>	LAST UPDATED <u>03/09/2025</u>
	ORIGINAL DATE <u>02/12/2025</u>
SHORT TITLE <u>Housing Application Fees</u>	BILL NUMBER <u>CS/Senate Bill 267/SJCS</u>
	ANALYST <u>Gygi</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parenttheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to House Bill 98, House Bill 253, and Senate Bill 339

Sources of Information

LFC Files

Agency Analysis Received From
 New Mexico Attorney General (NMAG)
 Governor’s Office on Housing
 New Mexico Mortgage Finance Authority (NMMFA)

Agency Analysis was Solicited but Not Received From
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of SJCS Substitute for Senate Bill 267

The Senate Judiciary Committee substitute for Senate Bill 267 (CS/SB267) would amend the Uniform Owner-Resident Relations Act (UORRA, Sections 47-8-1 *et seq.* NMSA 1978) to add new protections for residential renters and applicants for residential rentals, including capping application and late fees and requiring more notice for increasing fees. Specifically, new sections in the act would:

- Require rental property owners to disclose “in plain language” all terms of the rental agreement in the listing of a unit, including the base rent and all fees;
- Limit the owner’s liability for a third-party website's failure to represent all costs provided by the owner;
- Cap screening fees at \$50 and require the owner to provide written or digital notice of the fees;
- Prohibit the owner from charging fees on units that are unavailable;
- Require owners to provide a written or digital receipt, screen and accept or decline

applicants as they apply, and not charge other fees at the time of application;

- Require owners to return the fee under certain circumstances and specify how the fee is to be returned;
- Allow owners to require a background check prior to the execution of a lease but prohibit owners from charging for more than one screening fee for applications to other properties under the same ownership if the initial screening was completed within 90 days and require the owner to provide the applicant with copies of any reports.
- Reduce the maximum late fee from 10 to 5 percent and the fee “shall be calculated only based on rent ... and shall not include deposits, additional fees or utilities.”
- Require rental property owners to provide notice of fee increases to their tenants at least 60 days prior to the renewal period.

The bill defines "screening fee" as:

A one-time charge that is charged to an applicant by an owner to recoup the owner's cost of purchasing a consumer credit report or reference check or the assistance of a screening service to validate, review or otherwise process an application for renting a dwelling unit.

CS/SB267 will also expand remedies for tenants by creating a right to sue if applicant fees are improperly charged and adding a section that allows the Attorney General to bring action against landlord and owners under the Unfair Practices Act (UPA, Section 57-12-1 *et seq.*). The bill would amend the UPA to declare two new unfair or deceptive trade practices when an owner violates UORRA (per proposed changes): charging unauthorized screening fees and improper listings and charging fees not included in the rental agreement. The penalty for unauthorized screening fees is \$250; owners or residents who violate the provisions of the UORRA are liable for two times the monthly rent.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

There is no fiscal impact to the Governor’s Office on Housing or the Mortgage Finance Authority (MFA). The New Mexico Attorney General (NMAG) does not report any fiscal impact associated with actions for newly established violations of the Unfair Practices Act.

SIGNIFICANT ISSUES

The Governor’s Office on Housing and MFA both contend CS/Senate Bill 267 is a consumer protection bill that would create a more fair and transparent rental market and address New Mexico’s current housing affordability crisis. New Mexico landlords are not required to disclose mandatory fees up front. As a result, renters may not know the true amount they owe until they begin the lease signing process. Hidden fees can be significant, making it difficult for families who are cost-burdened¹ to achieve housing stability.

¹ Households who pay more than 30 percent of their income on housing costs are considered cost-burdened, severely cost-burdened when they spend more than 50 percent, according to the U.S. Department of Housing and Urban Development.

In 2024 New Mexico families moving into a modest two-bedroom rental paid on average \$3,800 to \$4,900 in move-in costs.² These often hidden fees are on top of an average monthly rent of \$1,134—making affordable housing inaccessible for nearly 800 thousand New Mexican renters. According to Albuquerque Healthcare for the Homeless:

Excessive application and rental fees prolong homelessness, create barriers to stability, and exacerbate the housing affordability crisis.... Arbitrary fees disproportionately harm low-income families and individuals, deepening cycles of poverty and housing insecurity. Junk fees are unnecessary barriers for renters and can severely impede movement in the rental market or exiting homelessness. Eliminating these fees creates a fairer rental market so everyone in New Mexico thrives.

The U.S. Department of Housing and Urban Development³ has determined screening tenants based on criminal, credit, and eviction history is “*particularly likely*” to lead to housing discrimination because these records reflect disparities based on race, ethnicity, disability, familial status, gender, and other protected classes. The National Consumer Law Center (NCLC)⁴ further reports renters of color are most likely to experience the burdens created by junk fees. Compared to white renters, they are more likely to pay application fees, pay a higher median application fee, and more likely to submit five or more rental applications.

#

The Governor’s Office on Housing comments that:

Fees are increasingly becoming a profit center for rental property owners and without regulation they can be applied without notifying the tenant and providing an opportunity to refuse or negotiate. A number of states have acted to address excessive or unfair fees. This bill is largely consistent with recommendations from the National Consumer Law Center.

The office recommends the late fee requirement in CS/SB267 apply only to the outstanding balance of rent in an applicable time period:

Recommendations from NCLC around late fees specify that the fee should only apply to the portion of rent that is unpaid. As it stands, this bill would allow the full 5 percent to be levied which could surpass the portion of the rent that is overdue.

There is no single state agency that would oversee enforcement of this bill. However, CS/SB267 establishes rights of action and penalties for private enforcement and allows NMAG to bring actions for violations of the bill’s provisions under the Unfair Practices Act. The Governor’s Office on Housing could play a role in educating landlords and property owners about best practices and unfair practices related to rental properties and interactions with residents.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

CS/SB267 relates to House Bill 98 and House Bill 253, which seek to expunge and seal eviction records, respectively. It also relates to Senate Bill 339, which would amend the New Mexico

² See National Low Income Housing Coalition (NLIHC) at <https://nlihc.org/oor/state/nm>

³https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO_Guidance_on_Screening_of_Applicants_for_Rental_Housing.pdf

⁴ https://www.nclc.org/wp-content/uploads/2024/09/202409_Report_What-the-Heck-Dude.pdf

Human Rights Act to clarify protections for renters and other parties in housing agreements and provide remedies for discriminatory practices in housing and related services.

KG/sgs/hg/sgs/hg/rl