

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 272 enacts a new section of the Criminal Code to create the crime of deed theft. It defines “deed theft” as:

- “(1) Intentionally altering, falsifying, forging or misrepresenting property documents, such as residential or commercial deeds or titles, with the intent to deceive, defraud or unlawfully transfer or encumber the ownership rights of a residential or commercial real property;
- (2) providing, with the intent to defraud, misrepresentations as to the ownership or the authorized representative of residential or commercial real property to induce others to rely on the false information in order for the person providing the misrepresentations to obtain ownership or possession of the real property; or
- (3) with the intent to defraud, taking, obtaining, stealing or transferring ownership of real property by fraud, forgery, larceny or any fraudulent or deceptive practice.”

Deed theft is a third degree felony when it involves one commercial real property. It is a second degree felony when it involves one residential real property, one mixed-use property with at least one residential unit, or two or more commercial real properties. It is a first degree felony when it involves a residential real property that is occupied as a home, or when it involves a home that is owned or occupied by a person 60 or older, an incompetent person, an incapacitated person, or a person with a physical disability.

HB 272 also creates the offense of aggravated deed theft, which is committed when a person commits deed theft of two or more residential real properties. Aggravated deed theft is a first degree felony.

The bill also provides definitions of “commercial real property”, “incapacitated person”, “incompetent”, “mixed-use property”, and “residential real property”.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

HB 272 creates a new third degree felony, a new second degree felony, and two new first degree felonies. Based on the length of stay for individuals released from NM prisons in FY 2024, the median length of stay is 1.58 years for a third degree felony, 3.47 years for a second degree felony, and 13.29 years for a first degree felony.

The offenses described in HB 272 would likely be prosecuted as fraud pursuant to Section 30-

16-6 NMSA 1978 and punishable by a second degree felony if the value of the real property is more than \$20,000 (lower penalties would apply for lower values). This means that deed fraud involving one commercial property may be charged at a lower felony level under the proposed bill than it would be currently as fraud. Other deed fraud crimes would be charged at the same or a higher level of felony than they would be charged as fraud.

While it is difficult to determine what the effect of passing HB 272 would be on the state's prison population, it is possible that the new first degree felonies in particular would likely lead to more people being incarcerated by the Corrections Department, as fraud charges under Section 30-16-6 do not include a first degree felony. The average per day cost to incarcerate someone in the state's prison system is \$153.08/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS