

LFC HEARING



November 22, 2013



Attorney General of New Mexico

GARY K. KING
Attorney General

ALBERT J. LAMA
Chief Deputy Attorney General

November 22, 2013

The Honorable Luciano "Lucky" Varela, Chairman
and Honorable Members of the Legislative Finance Committee
325 Don Gaspar Ave. Suite 101
Santa Fe, NM 87501

Re: Fiscal Year 2015 Budget Request for Attorney General Gary King

Dear Chairman Varela and Members of the Legislative Finance Committee:

We are asking for your assistance and support for our FY15 Budget Request. Although my administration will last only through the first half of the fiscal year, we have made our request keeping in mind that a new Attorney General will also need important financial resources to continue the many work activities and important programs of the Attorney General's Office. This funding request summarizes the resources that are necessary to sustain the agency's level of service and ultimately provide the best service to the citizens of New Mexico.

You will find that there is a substantial increase to our requested contribution from the General Fund. As we have indicated in the last few years, we knew that the balances in our Consumer Settlement Fund would diminish and that eventually we would not be able to provide a large share of our budget from this fund. That day has come. In the past three fiscal years we have provided close to half of our funding from consumer settlement funds. We currently do not have enough balance to do that again. It is very difficult for us to project what future years will bring in settlements. Additionally, for us, there is potentially an ethical question in pursuing litigation weighted by the need to provide funding for the agency.

The actual increase to our FY15 request is 6.7% higher than FY 14 for the legal services program and 3.5% higher for our Medicaid Fraud and Elder Abuse Program. In the Medicaid Fraud Program, the increase represents only \$16,800 to the State as the program is 75% federally funded. Much of the increase in the Legal Services Program is due to changes in cost of services such as GSD charges. We have proposed a 2% vacancy rate due to our need to keep staffing at a level to support our work.

We have also proposed a small expansion for an additional attorney and paralegal to handle our increased volume of sex offender parole hearings. Additionally, are asking for the following special appropriations and language which have been included in the presentation package with more detail:

- Authority to expend from fund balance \$4,061,000 to continue Keep Your Home New Mexico Program through FY15
- Authority to carry over in FY 15 remaining balances from transfers from the State Engineer necessary to continue with water litigation in Texas vs. New Mexico and other related pending litigation for the Rio Grande and Colorado Rivers
- A special appropriation to allow the Attorney General to grant a 3% overall salary increase for the agency's employees.
- A Special appropriation of \$100,000 to conduct a comprehensive salary and classification study for attorneys and related staff. Request is to spend this appropriation in either FY14 or FY15.

As always my staff and I are most willing to meet with you to discuss in detail our Fiscal Year 2015 Budget Request. Our efforts to continually improve the effectiveness and services of the Attorney General's Office are dependent on the support of our proposed requests for Fiscal Year 2015. I very much appreciate the opportunity to explain the needs of the Attorney General's Office and look forward to working with you to develop your recommended appropriation for our agency.

Sincerely,



GARY K. KING
ATTORNEY GENERAL

cc: David Abbey, Director LFC
Randall Souderquist, Principal Analyst

Tom Clifford, Cabinet Secretary, DFA
Michael Marcelli, Director DFA Budget Division
Cyndi Montoya, Executive Budget Analyst

Chief Deputy Attorney General
Albert Lama

Deputy Attorney General
Elizabeth Glenn

ASD	BORDER VIOLENCE	INVESTIGATIONS	CRIMINAL APPEALS	GOVT ACCOUNTABILITY	MEDICAID FRAUD	FRONT OFFICE	LITIGATION	CIVIL	CONSUMER
Director E. Tinajero	Director M. Sanchez-G	Director E. Holmes	Director M. McLean	Director C. Lackman	Director J. Curran	Gen Couns S. Bluetstone	Director S. Fuqua	Director M. Reynolds	Director K. Meyers
Fin Aud Supv V. Borrego	Asst AG 3 C. Gutierrez	Spec Agent J. Ratliff	Asst AG 2 VACANT	Asst AG 3 L. Maxwell	Asst AG 2 T. Long	Spc Prj Crd 2 P. Baca	Asst AG 3 D. Dayag-Black	Depty Director VACANT	Deputy Dir R. Branch
Fin Auditor 1 M. Estrada	Asst AG 3 S. Pino	Spec Agnt O. Pena	Asst AG 1 S. Mullis	Asst AG 2 J. Hughes	Asst AG 3 A. Landau	Gen Couns D. Pederson	Asst AG 2 N. Sydow	Asst AG 1 A. Wear	Asst AG 3 J. Cruz-Esparza
Fin Auditor 1 M. Sandoval	Asst AG 1 M. Bouillon	Spec Agnt C. Gibson	Asst AG 3 R. Trujillo	Spec Agnt Supv C. Stover	Asst AG 3 P. Padrino-T	Chief of Staff VACANT	Asst AG 1 VACANT	Asst AG 1 T. Maestas	Asst AG 3 T. Herring
Fin Auditor 1 J. Barros	Spec Agent Supv J. Wilson	Spec Agnt Supv J. Ortega	Spec Agnt S. Gloria	Spec Agnt S. Gloria	Asst AG 2 J. Obrey-Esp	Spc Prj Crd 2 D. Jackson	Asst AG 3 G. Lucero	Asst AG 1 M. Valicenti	Asst AG 1 J. Reischl
Fin Auditor 1 N. Eckert	Special Agent F. Ortiz III	Spec Agnt J. Whitsitt	Spec Agnt J. Medina	Spec Agnt D. Jochem	Sp Agnt Spv VACANT	Adm Asst 2 C. Medina	Asst AG 1 R. Parish	Asst AG 1 L. Carrasco	Asst AG 2 I. Camacho
Spec Proj Crd T. Herrera	Spec Agent B. Baker	Spec Agnt Supv A. Maez	Asst AG 3 M. Wilson	Spec Agnt M. Sandoval	Spec Agnt M. Bard	Dir of Comm P. Sisneros	Asst AG 2 A. Biernoff	Asst AG 2 M. Smith	Asst AG 2 L. Otero
HR Manager D. Martinez	Spec Agent R. Chesney	Spec Agnt E. Griego	Asst AG 3 A. Harvey	Fin Auditor 2 L. Santini	Spec Agnt A. Flores	Adm Asst 1 P. Noskin	Asst AG 3 J. Jacobsen	Deputy Dir L. Chavez	Adm Asst 2 H. Sandoval
HR Admin 2 R. Lujan	Admin Asst 1 D. Segovia	Spec Agnt L. Huegler	Asst AG 3 J. Bernstein	Fin Auditor 2 H. Thomson	Med Car Inv Y. Herrera	PIO 1 L. Southard	Asst AG 2 W. Hart	Spec Proj Crd 3 S. Cohen	Legal Asst 2 J. Maldonado
Adm Asst 1 M. Bustos	Investigator J. Chavez	Spec Agnt L. Falls	Asst AG 2 J. Jacobsen	Legal Asst 2 A. Henz	Med Car Inv J. Gilewski	Adm Asst 1 Z. Freeman	Asst AG 3 S. Galanter	Asst AG 3 E. Korsmo	Asst AG 2 D. Kramer
Adm Asst 1 F. Arellano	Legal Asst 2 VACANT	Spec Agnt L. Kinch	Asst AG 1 C. Laszlo-Henry	PROSECUTIONS	Med Car Inv VACANT	PIO 1 D. Budris	Asst AG 1 P. C. Khoury	Asst AG 1 G. Idah	Asst AG 1 K. Owens
Adm Asst 2 E. Mora	Vic Adv Ombud E. Martinez	Adm Asst 2 J. Sierra	Asst AG 3 N. Beder	Director M.H. Baber-Wickert	Fin Auditor 1 VACANT	Adm Asst 2 R. Russell	Spec Prj Crd P. Bachicha	Adm Asst 2 C. Marquez	Legal Asst 2 D. Ortega
Admin 2 V. Bransford	Legal Asst 2 VACANT	Asst AG 2 M. Lovato	Asst AG 2 M.A. Kelly	Asst AG 3 D. Bevacqua-Young	Fin Auditor 1 V. Levshin	Adm Asst 3 T. Howard	Adm Asst 2 R. Leal	Adm Asst 2 M. Pate	ENVIRONMENT
IT Manager P. Ormoeng	Admin Asst 2 R Rodriguez	Evidence Tech J. Rodarte	Asst AG 3 J. Grayson	Asst AG 2 S. Murdock	Fin Auditor 1 S. Lester	Adm Asst 1 B. Hise	Legal Asst 2 M. Maestas	Adm Asst 2 L. Vigil	Director S. Farris
Info Sys Adm 1 R. Rockman	Info Sys Adm 1 D. Garcia	Adm Asst 2 T. Davila	Asst AG 1 P. Upadrashta	Asst AG 2 K. Graham	Legal Asst 2 A. Serrato		Legal Asst 2 C.A., Ortiz	Adm Asst 2 C. Carr	Asst AG 3 S. Bond
Info Sys Adm 1 D. Rodarte	Info Sys Adm 1 D. Rodarte	Asst AG 1 R. Salwin	Vic Adv Ombud VACANT	Asst AG 3 M. Sanchez	Legal Asst 2 E. Enright		Adm Asst 2 P. Cordova	Adm Asst 2 P. Cordova	Asst AG 3 J. Taylor
Info Sys Adm 1 J. Chavez	Adm Asst 2 D. Romero	Adm Asst 2 D. Romero	Legal Asst 2 M. Gorman	Vic Adv Ombud VACANT	Grant Mgr VACANT		Adm Asst 2 A. Abeyta	Adm Asst 2 A. Abeyta	Asst AG 2 B. Harris
			Admin Asst 2 F. Olvera	Legal Asst 2 M. Gorman	Adm Asst 2 C. Romero		Adm Asst 2 P. Salazar	Adm Asst 2 A. Walker	Asst AG 3 J. Moore
			Spec Prj Crd K. Meredith	Admin Asst 2 M. Gorman	Sys Sftwr Eng VACANT		Legal Asst 2 E. Heitman	Adm Asst 2 M. Cotner	Asst AG 3 T. Fox
			Vic Adv Ombud E. Peterson	Spec Prj Crd K. Meredith	Info Sys Spec S. Baca		Legal Asst 2 B. Aragon-Fue	Spec Agnt M. Valdez	Adm Asst 2 L. Martinez
				Info Sys Spec M. Workman					

Legal Services - 160 Appropriated FTE
 Medicaid Fraud - 21 Appropriated FTE
 Agency Total - 181 Appropriated FTE
 Temp Positions = 12
 Vacant Appropriated FTE (GF=6, MF = 5; Grant=2)
 Grant Funded positions (14 Term Positions)

FY15 BUDGET REQUEST

P625 Legal Services \$19,373,100

- \$15,373,100 General Fund
- \$2,000,000 Consumer Protection Fund Balance
- Currently 160 Perm FTE and 1 Term FTE
- A 2% vacancy rate is applied to Personal Services and Employee Benefits, equivalent to 3.2 vacant positions
- Expansion Request includes a request from the General Fund for \$149,800 for 2 FTE
 - 2 FTE Sex Offender Parole Hearing Attorney and Legal Assistant

P626 Medicaid Fraud \$2,116,700

- \$528,400 General Fund
- \$1,585,300 Federal Revenues
- \$1,000 Other Transfers
- \$2,000 Fund Balance
- No Expansion Requests
- Seventy-five Percent of Medicaid Fraud is Federally Funded
- A 5% vacancy rate is applied to Personal Services and Employee Benefits, equivalent to 1 vacant position
- Currently 21 FTE

Total AGO Request \$21,489,800

- \$15,901,500 General Fund
- \$2,001,000 Other
- \$1,585,300 Federal Revenues
- \$2,002,000 Fund Balance

Additional FY15 Budget Adjustment Authority

Language: The legal services program of the Attorney General may request budget increases up to five hundred thousand (\$500,000) from other state funds to provide for the joint powers agreement with the 2nd Judicial District Attorney's Office; to provide additional funding to ensure the diligent enforcement of and protect the continuing receipt of funds to the state from the nationwide tobacco master settlement agreement (MSA); and to provide for expert witness fees, court reporting and cost share fees to support Qui Tam cases the office is pursuing on behalf of the state of New Mexico

FY15 Special Appropriation Requests

The Attorney General may expend from fund balance \$4,061,000 to continue Keep Your Home New Mexico Program through FY15.

Justification: This request continues Keep Your Home New Mexico program for its intended use over a 3.5 year period. The funding for this activity came from a Mortgage Settlement awarded to the Attorney General's Office to provide services for homeowners in New Mexico who need help in keeping their homes out of foreclosure. The legislature awarded the whole amount to be used in FY14 which is not feasible according to the design of the program.

The Attorney General may carry over any remaining balance from transfers from the State Engineer to continue with the water litigation Texas vs. New Mexico and other related litigation pending for the Rio Grande and Colorado rivers through FY15.

Justification: The request allows the Attorney General's Office to continue the work for Water Litigation. This is a project that has arisen since 2013 but will continue through FY15. The need for outside experts and litigators requires having this money and given the movement of the cases it will go beyond 2014.

The Attorney General is granted a special appropriation of \$469,980 for the purpose of granting 3% salary increases to employees of the Attorney General's Office.

Justification: Employees of the Attorney General have not had any significant increases since 2008. In an effort to keep the morals and the competitiveness necessary to retain and attract well qualified personnel it is necessary to make this one-time adjustment.

The Attorney General is granted \$100,000 to conduct a comprehensive salary and classification study for attorneys and related staff. The funds may be used for FY14 and FY15.

Justification: The Attorney General faces many outside pressures to develop a specific and specialized salary system tailored to the unique activities of the AGO. A third party study is necessary to properly align categories and salary structure more distinctly from the Governor's Exempt System. We are forced into that system although it does not properly capture positions in the AGO. The AGO would contract this study to a recognized outside Management Consulting Firm. Once the study is completed it can be implemented and maintained by internal staff.

Additional Funding from Grants and Awards (FY 14)

The NM Attorney General has 3 active multi-year grant and awards. Grants are not included in the budget request and are budgeted through budget adjustment requests.

- **Internet Crimes Against Children (ICAC)**
 - Award: \$298,183
 - FTE: 1
 - Purpose: To investigate and prosecute Internet Crimes against children and to provide specialized training for law enforcement personnel throughout the state.
 - Grant Period: 10/01/2013 through 9/3/2013

- **Southwest Border Anti-Money Laundering Alliance (SWBAMLA)**
 - Award: \$4,189,780
 - FTE: 10
 - Purpose: To establish specialized anti-money laundering teams for investigative and prosecution purposes.
 - Grant Period: 03/01/2011 through 6/30/2015

- **Keep Your Home New Mexico**
 - Award: \$4,505,000
 - FTE: 3
 - Purpose: An unprecedented effort in NM to assist homeowners who face mortgage delinquency or foreclosure.
 - Grant Award: 7/01/2013 through 06/30/2015

Recent Accomplishments

CONSUMER PROTECTION DIVISION

The Consumer Protection Division (CPD) acts on behalf of the public to enforce consumer protection laws and prevent and deter unfair, deceptive, and unlawful practices that injure consumers and harm businesses that operate lawfully in the competitive market place. Division staff promote and improve consumer protection through:

- Community education and outreach;
- Voluntary dispute resolution services to resolve consumer complaints;
- Monitoring and investigations of suspicious business practices when business activities may violate consumer protection laws;
- Regulatory enactment and legislative proposals to address evolving issues;
- Promulgation of regulations and legislative initiatives; and
- Legal actions to enforce consumer protection laws where violations have occurred.

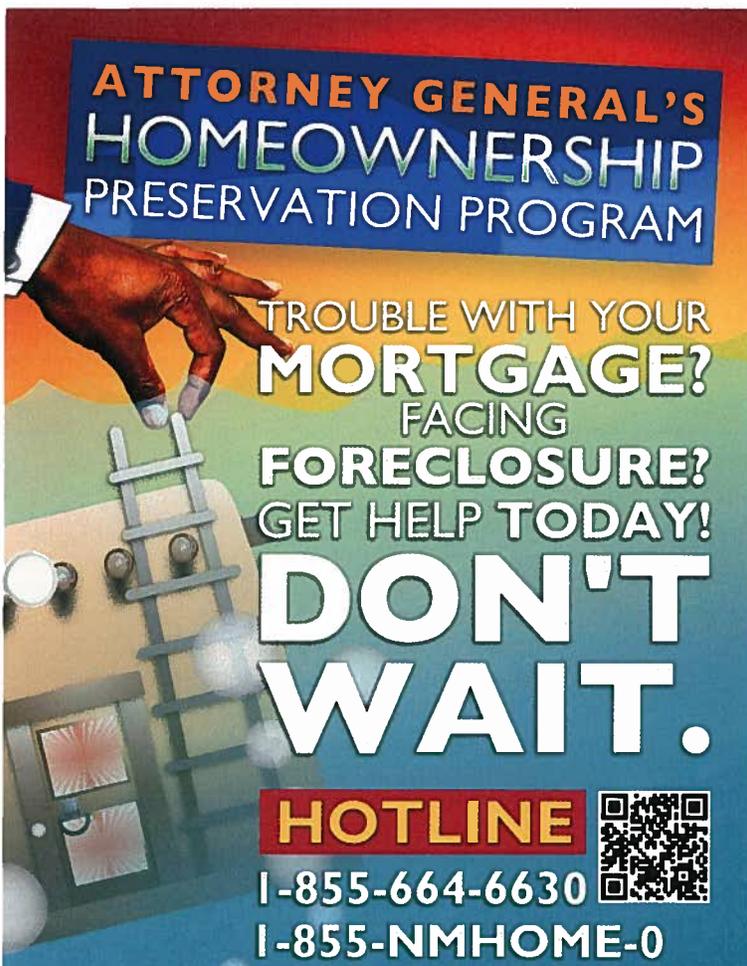
CPD also includes Charitable Organizations Unit. The unit acts on behalf of the public to protect the interest of donors to charitable organizations, the beneficiaries of those donations, and to ensure that each charity meets the obligations it has assumed under the public trust. In furtherance, the unit enforces the provision of the Charitable Solicitations Act, including registration and reporting, investigation of complaints, and guidance to the general public to assure compliance with the law and to assist donors to making informed decisions.

Dispute Resolution and Outreach for Consumer Complaints:

Recovered \$2,327,183 for consumers through dispute resolution	
Number of new written complaints filed	2,417
Number of Complaints closed	2,655
Community Outreach and education events to New Mexicans throughout the state on consumer protection issues	39

Top Consumer Complaints

- ❖ Used car sales
- ❖ Debt collection
- ❖ Mechanical Repairs
- ❖ Consumer Sales
- ❖ Counterfeit Checks
- ❖ Sweepstakes
- ❖ Mortgage Load Modification
- ❖ Cable/Satellite
- ❖ TV/Radio
- ❖ New car sales
- ❖ Furniture Sales
- ❖ Timeshares



**ATTORNEY GENERAL'S
HOMEOWNERSHIP
PRESERVATION PROGRAM**

TROUBLE WITH YOUR
MORTGAGE?
FACING
FORECLOSURE?
GET HELP TODAY!

**DON'T
WAIT.**

HOTLINE



1-855-664-6630

1-855-NMHOME-0

www.keepyourhomenewmexico.org

In partnership with:

United South Broadway Corporation
New Mexico Legal Aid
Senior Citizens' Law Office
DNA People's Legal Services

Independent Living Resource Center
Tierra del Sol Housing Corporation
Comunidades en Acción y de Fe (CAFe)
New Mexico Mortgage Finance Authority
Springboard Nonprofit Consumer Credit Management Inc.



**DE LA PROCURADURÍA GENERAL
PROGRAMA DE RETENCIÓN
DE HOGARES**

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LA POSIBILIDAD DE
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DNA People's Legal Services

Independent Living Resource Center
Tierra del Sol Housing Corporation
Comunidades en Acción y de Fe (CAFe)
New Mexico Mortgage Finance Authority
Springboard Nonprofit Consumer Credit Management Inc.

Court Foreclosure Facilitation Pilot

Project--The Homeownership Preservation Program is working with the Administrative Office of the Courts to design and implement a Foreclosure Settlement Facilitation Pilot Project which will provide the opportunity for banks and homeowners to explore viable alternatives to foreclosure while lessening the burden on the courts.

Pursuing foreclosure rescue scams--The Attorney General's Consumer Protection Division is aggressively pursuing individuals and companies that prey on vulnerable homeowners through loan modification and real estate scams.



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1-855-NMHOME-0
(1-855-664-6630)

The National Mortgage Settlement

New Mexico Attorney General Gary King, along with 48 other Attorneys General, Department of Justice, and Department of Housing Urban Development (HUD), brought a lawsuit against five the nation's largest mortgage lenders. It addresses egregious violations of the law in how these servicers handled foreclosure proceedings and includes Bank of America, Chase, Citi, GMAC/ Ally, and Wells Fargo. The result is a \$25 billion national settlement that requires significant changes in how these banks service mortgage loans; provides some financial relief for homeowners who already lost their home; and new loan modification and refinance opportunities for those who are still in their home.

Low servicing standards to protect the homeowner

The settlement addresses more than 300 specific servicing standards and works to ensure that those homeowners who have the ability to stay in their home through a modification are allowed to do so. One of the most significant changes concerns the banks' practice of "dual-tracking"-- where one arm of the bank is telling the homeowner that they are willing to work with them through a modification while another arm of the bank is working to foreclose on the home. Under the settlement, there are restrictions on when participating banks are can move forward on a foreclosure if they are in the process of negotiating a loan modification with the homeowner. These standards apply only to the five servicers named in the settlement.

Monetary relief for homeowners

More than \$80 million is potentially available for eligible New Mexico homeowners through direct payments to those who lost their home to foreclosure, refinance, loan modifications, and forgiveness of some loan principal for "underwater" borrowers. Homeowners who believe that they may be eligible can contact the Attorney General's Homeownership Preservation Hotline at 1-800-664-6630 or find more information on the www.keepyourhomenewmexico.org website.

A statewide network for homeowner assistance

Attorney General King's Homeownership Preservation Program is an unprecedented effort in New Mexico to assist homeowners who face mortgage delinquency or foreclosure. The NM Attorney General's Office will utilize approximately \$11.1 million over three years to coordinate and fund a statewide collaboration between the NMAFO, the New Mexico Mortgage Finance Authority, and eight non-profit organizations to provide a comprehensive housing safety net for New Mexico homeowners. This coordinated effort provides a single toll-free telephone number entry point for homeowners who will be screened and directed to the proper housing counseling or foreclosure legal help. There has never been such a coordinated effort in New Mexico to address housing and foreclosure issues.

Homeownership Preservation Program Partner Agencies

Housing Counseling services--United South Broadway Corporation, Tierra del Sol, and Independent Living Resources have increased the number of foreclosure certified housing counselors who are available to assist New Mexico homeowner statewide.

Legal Defense for Foreclosure cases--United South Broadway Corporation, New Mexico Legal Aid, Senior Citizen Law Office, and DNA People's Legal Services have increased the availability of legal services attorneys to answer foreclosure related questions and provide direct legal representation.

Community Outreach and Education--Comunidades en Acción y de Fé (CAFÉ), United South Broadway Corporation, and Independent Living Resources. These local community-based organizations will share information and educate their communities about housing resources.

Housing and Foreclosure website--www.keepyourhomenewmexico.org. New Mexico Legal Aid's website that provides homeowners with helpful information on statewide housing and foreclosure services and how they can access that help.

Housing Hotline--1-855-664-6630-Springboard Non-profit Corporation provides an entry point so that any New Mexico homeowner can call and obtain information about their mortgage issues and be directed to the nearest service provider. *(continued on back)*

Facing foreclosure can be stressful.

Worried homeowners are desperate for answers and for someone to help. Unfortunately, criminals know this and are preying on fearful homeowners by offering bogus foreclosure help programs. Certain businesses, some purporting to be law firms, claim they can change your loan to reduce your monthly mortgage payment or take other steps to save your home. Some claim high success rates, a money back guarantee, or that they are affiliated with the government or your lender.

Recognize a Scam

Scammer will contact you by phone, through the mail or via the Internet. They will make statements such as:

"Stop foreclosure now!"

"Get a loan modification!"

"Over 90% of our customers get results."

"We have special relationships with banks that can speed up the approval process."

"100% Money Back Guarantee."

"Keep Your Home. We know your home is scheduled to be sold. No Problem!"

Once they have your attention there are various types of scams that are all designed to dupe homeowners. Here are some of the scams:

Fake Loan Modification Help

Scammers tell you that if you pay them a fee, they will negotiate a deal with your lender to reduce your mortgage payments in order to save your home. They may claim to be attorneys or represent a law firm. They may tell you not to contact your lender, lawyer, or credit counselor. They promise to handle all the details once you pay them a fee. Then they stop returning your calls and take off with your money.

In New Mexico it is against the law for most

companies to get paid before loan modification services are complete.

The "Forensic Audit"

In exchange for an upfront fee, so-called forensic loan auditors, mortgage loan auditors, or foreclosure prevention auditors offer to have an attorney or other expert review your mortgage documents to determine if your lender complied with the law. The "auditors" say you can use their report to avoid foreclosure, speed the loan modification process, reduce what you owe, or even cancel your loan. In fact, there is no evidence that forensic loan audits will help you get a loan modification or any other mortgage relief. The Federal Trade Commission, warns that forensic audits are not helpful in obtaining a loan modification.

Rent-to-Buy Schemes

Scammers who use the rent-to-buy scheme tell you to surrender the title to your house as part of a deal that allows you to stay there as a renter and buy it back later. They say that surrendering the title will let a borrower with a better credit rating get new financing and prevent the loss of the home. But the terms of these deals usually are so expensive that buying back your home becomes impossible. You lose the house and the scammer walks away with the money you put into it. The result: You lose your home – and you are still responsible for the unpaid mortgage and taxes because transferring the deed does nothing to transfer what you owe on the mortgage and property tax.

Bait-and-Switch

In a bait-and-switch scam, the criminals give you papers they claim you need to sign to get another loan to make your mortgage current. But buried in the stack is a document that surrenders the title to your house to the scammers in

exchange for a "rescue" loan.

Red Flags

If you are looking for a loan modification or other help to save your home, avoid any business that:

- Guarantees to get you a loan modification or stop the foreclosure process – no matter what your circumstances;
- Tells you not to contact your lender, lawyer, or housing counselor;
- Claims that all or most of its customers get loan modifications or mortgage relief;
- Asks for an upfront fee before providing you with any services (unless it's a New Mexico attorney you have checked out thoroughly);
- Accepts payment only by cashier's check or wire transfer;
- Encourages you to lease your home so you can buy it back over time;
- Tells you to make your mortgage payments directly to it, rather than your lender;
- Tells you to transfer your property deed or title to the business;
- Pressures you to sign papers you haven't had a chance to read thoroughly or that you don't understand.

Protect yourself from scams; know your rights under the law

The New Mexico Mortgage Foreclosure Consultant Fraud Prevention Act

The following is required under the law:

Foreclosure consultants must adhere to New Mexico law; they are not allowed to:

1. Collect any fees upfront
2. Gain ownership of the property
3. Take power of attorney from the homeowner

They must provide:

1. The final written foreclosure consulting contract 24 hours before signing

Where to Get Help

Homeownership Preservation Program

The New Mexico Attorney General's Office Homeownership Preservation Program partners with United South Broadway, New Mexico Legal Aid, DNA, Independent Living Resource Center and with other non-profit organizations statewide to help homeowners at risk of losing their homes to foreclosure.

Working together, the partners provide housing counseling and legal services to New Mexico homeowners to help them avoid foreclosure or choose alternatives to foreclosure.

Call the HOTLINE at
1-855-664-6630

for referral to housing counseling and legal services.

Or visit the website:

www.keepyourhomenewmexico.org

Partners

Even if you are in foreclosure, you can try to save your house. Get help to negotiate with your lender from housing counseling services. Call the Hotline or visit the Website to apply for help.

You can also negotiate with your lender yourself. Call or email your lender or servicer and ask for a loss mitigation application. Return the application with all of the documents they ask for.

Go to makinghomeaffordable.gov for more information about programs available for lowering your payments.

Read our brochure Foreclosure Alternatives (available on the Website) for more information.

BEWARE OF FORECLOSURE RESCUE SCAMS

Be wary of anyone who:

- > Wants an up-front payment to help you modify your loan
- > Is an out-of-state law firm offering to obtain a loan modification for you
- > Asks you to sign a deed giving them your home
- > Claims that you have to move out of the home so they can sell it.

If you think you have been scammed, or have questions, call the New Mexico Attorney General's Office at 1-505-222-9038.

FORECLOSURE



**What does it mean?
What can you do?**

**ATTORNEY GENERAL'S
HOMEOWNERSHIP
PRESERVATION PROGRAM**

Hotline 1-855-664-6630
www.keepyourhomenewmexico.org



505-764-8867

Material developed by United South Broadway Corporation.

WHAT IS A FORECLOSURE?

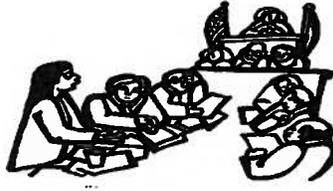
A foreclosure is a legal action that allows a lender to take a property when the borrower has not made payments. New Mexico is a “judicial foreclosure” state. Our laws require that the lender file a Complaint in a District Court and prove that it is entitled to take the property. A foreclosure case will take several months before the Court makes a final decision.

A foreclosure is a complicated kind of legal case. If you can, you should hire a lawyer or see if you qualify for free legal help. **Don’t wait!** You must act within 30 days of getting notice of a foreclosure lawsuit. ***Even if you are negotiating with your lender, you still must file papers with the court.***

COURT PROCESS

The **Complaint** is the first paper filed with the court by the Plaintiff. In a foreclosure action, the **Plaintiff** is the lender or servicer of the mortgage. The Complaint asks the Court for help in getting someone to pay a debt or forfeit their property. The Court gives the Plaintiff a Summons. The **Summons** is an order by the Court that gives the Defendant 30 days to respond to the Complaint. In a foreclosure action, the **Defendant** is the homeowner.

The first thing you should do if you have been served with a Summons and Complaint is file a response at the courthouse. Your written response can be a motion or an **Answer**. If you are representing yourself, you should probably file an Answer. In the Answer, the Defendant responds to the Complaint by agreeing or disagreeing with each paragraph of the Complaint. The Answer should be filed with the Court within 30 days from the day that the Defendant got the Summons and Complaint.



When the Plaintiff or Defendant wants the Court to take action, they ask the Court by filing a **Motion**.

Motion for Default Judgment: When the Defendant does not file an Answer or other response with the Court, the Plaintiff can ask the Court to automatically let them win the case. If the Defendant has not filed an Answer, the Plaintiff can file a motion for default judgment. The Plaintiff can win the case very quickly through a Default.

Motion for Summary Judgment: When the Plaintiff (lender or bank or servicer) thinks that the Defendant (homeowner or borrower) really hasn’t disagreed with the Complaint, the Plaintiff can file this motion. If the Plaintiff wins this motion, the Plaintiff has basically won the entire case.

When the Plaintiff or Defendant files a Motion, the party that gets the Motion has 15 days to file a **Response** saying why they disagree with what the Motion is asking for.

The party that files a Motion, also files a **Request for Hearing**. The Court will schedule a hearing where both sides get to explain what they want. The judge’s decision will be set out in an **Order**. When the Court decides that the Plaintiff is entitled to the property, the **Judgment** allowing the sale will be signed by the Judge. The Plaintiff schedules the sale and must file a **Notice of Sale**. The Sale is an auction on the courthouse steps. Usually the bank buys the

house for much less than what is owed and the Defendant will still owe money to the bank.

The homeowner usually has 30 days after the sale during which the property can still be redeemed through a private sale or by paying off the loan. This is the right to **Redemption**.

After the property is sold, if the homeowner does not move out, the Plaintiff can ask the Court for a **Writ of Assistance**. The sheriff can then make the Defendant move out.

The losing party can file a **Notice of Appeal** with the Court of Appeals if s/he disagrees with the decision of the District Court.

FILING WITH THE COURTS

There are thirteen District Courts in New Mexico. The Summons and Complaint will say at the very top what County and which Court the Complaint was filed in. Call the District Court listed on the Summons to find out if you can get help through the Court with your case. Some of the Courts have special offices to help people who can’t afford a lawyer.

Information about the Courts is also available at www.nmcourts.com. This website also has information about what is happening in your case through “Case Lookup.”

When you file papers with the Court, take the papers to the Clerk’s Office. Take two extra copies. The Court will keep the original. **You have to mail one copy to the lawyer for the other side of the case.** You keep one copy for your records.

Find out about the Court Rules and New Mexico laws at your library or look at the Rules and laws on-line at:
www.nmcompcomm.us
Use the Public Access Law tab.

- instructs you not to contact your lender, lawyer, or credit or housing counselor
- collects a fee before providing any services or accepts payment only by cashier's check or wire transfer
- encourages you to lease your home so you can buy it back over time
- recommends that you make your mortgage payments directly to that business, rather than your lender
- urges you to transfer your property deed or title to that business
- offers to buy your house for cash at a fixed price that is inappropriate for the housing market
- pressures you to sign papers you have not had a chance to read thoroughly or that you do not understand

If you suspect that you have been solicited by or are the victim of scammers, contact the New Mexico Attorney General's Office.

Foreclosure Prevention Resources

Foreclosure Mitigation Assistance/Counseling

U.S. Department of Housing and Urban Development (HUD)

- www.HUD.gov
- www.HUD.gov/offices/hsg/sfh/hcc/fc
- (800) 569-4287

Homeownership Preservation Foundation

- www.995hope.org
- (888) 995-HOPE or (888) 995-4673

NeighborWorks America

- www.FindaForeclosureCounselor.org
- www.NW.org/network/home.asp

New Mexico Attorney General's Office

- www.nmag.gov
- (505)222-9100

United South Broadway Corporation

- www.unitedsouthbroadway.org
- (505)764-8867

Government Mortgage Modification Programs

Making Home Affordable

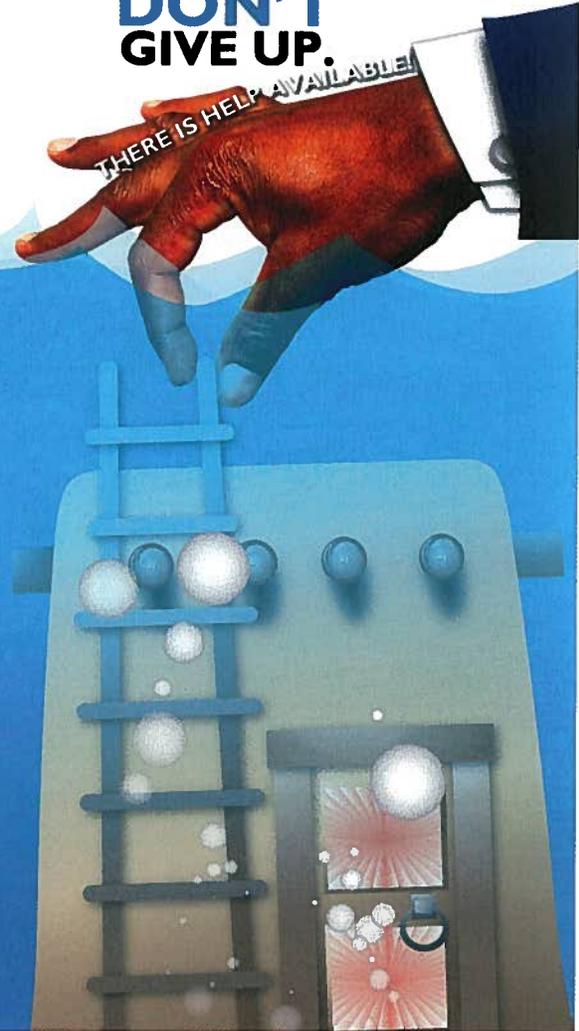
- www.MakingHomeAffordable.gov

Hope for Homeowners (H4H)

- <http://portal.HUD.gov>
- (800) CALL-FHA or (800) 225-5342



**FACING
FORECLOSURE?
DON'T
GIVE UP.**



Help! I'm behind on my mortgage payments, what can I do?

Thousands of New Mexicans, just like you, are facing the possibility of foreclosure every day. It can feel like a hopeless situation but there is help available. Ignoring the problem will only make it worse. Take the first step and figure out your options.

1. Gather your financial documents- make a list of the major bills you pay every month and your most recent income documents. Most important is your mortgage payment statement complete with your mortgage loan number. Having these nearby will help a counselor build an accurate assessment of your financial situation.
2. Contact your lender right away. Many lenders now have programs to work with homeowners who are behind on their payments even after a foreclosure has begun. Do not ignore your lender; make sure to open all of the mail you receive regarding your mortgage.
3. Speak with a HUD-approved counselor who can help you evaluate your options free of charge. Call 1-888-995-HOPE for free personalized advice from housing counseling agencies certified by the U.S. Department of Housing and Urban Development (HUD). This national hotline – open 24/7 – is operated by the Homeownership Preservation Foundation, a nonprofit member of the HOPE NOW Alliance of mortgage industry members and HUD-certified counseling agencies. For free guidance online, visit www.hopenow.com

I have already received a Notice of Foreclosure. Should I just give up? NO! There are still options available to help save your home. If you have received a notice from the court you should immediately contact the issuing court and ask about filing an Answer. There is a deadline to file an Answer so do not wait. Look carefully at

the court paperwork to find out what the deadline is for you to respond.

Contact the United South Broadway Corporation for help at (505) 764-8867.

Even after the foreclosure process has begun most lenders offer workout plans designed to help you keep your home. Such as:

1. **Special Forbearance-** Your lender may provide for a temporary reduction or suspension of your payments to allow you time to overcome the problem that reduced your income. Then you may be offered a payment plan so you can pay back the missed payments a little at a time until you are caught up.
2. **Mortgage Modification-** A permanent change to your loan through which the overdue payments may be added to your loan balance, the interest rate may be changed, or the number of years you have to pay off the loan may be extended.
3. **Partial Claim/Advance Claim-** The borrower receives a second loan in an amount necessary to bring the delinquent loan current. The loan is interest free and does not need to be repaid until you pay off your first mortgage or sell your home.
4. **FHA-Home Affordable Modification Program-** This option combines an enhanced partial claim with a loan modification. Under the FHA HAMP, the partial claim loan will include any amounts necessary to bring your mortgage current and may also include an amount to reduce your existing loan balance by up to (30%) thirty percent. The reduced loan balance will then be modified to lower your monthly mortgage payment to an affordable level.

I can no longer afford my home. What now?

If your income situation has changed due to unemployment or other financial hardship and you can no longer afford your mortgage payments, even with a workout plan offered by your lender,

then you should consider the following options.

1. **Short Sale:** Your servicers may allow you to sell the home yourself before it forecloses on the property, agreeing to forgive any shortfall between the sale price and the mortgage balance. This approach avoids a damaging foreclosure entry on your credit report. Under the Mortgage Forgiveness Debt Relief Act of 2007, the forgiven debt on your primary residence may be excluded from income when calculating the federal taxes you owe, but it still must be reported on your federal tax return. For more information, see www.irs.gov, and consider consulting a financial advisor, accountant, or attorney.
2. **Deed-in-lieu of foreclosure.** As a last resort, you may be able to voluntarily give your property back to your lender. If you leave the property clean and undamaged you may be eligible to receive relocation expenses. There could be income tax consequences to any plan that reduces the amount of debt you owe so check with a tax advisor before accepting these workout options.

Beware of Mortgage Assistance Relief Scams!

Facing foreclosure is distressing. Worried homeowners can be desperate for help. Unfortunately, criminals know this and are preying on worried New Mexico homeowners by offering bogus foreclosure help programs. There are many different scams but remember the old saying "If it sounds too good to be true, it probably is" and before you pay anyone...remember that there is free help available.

Spotting a Scam

If you are looking for foreclosure prevention help, avoid any business that:

- guarantees to stop the foreclosure process – no matter what your circumstances are

KEEP YOUR HOME NEW MEXICO (formerly known as Homeownership Preservation Program)

The NMAG's Keep Your Home New Mexico is an unprecedented effort to NM to assist homeowners who face mortgage delinquency or foreclosure. This coordinated effort will provide a single 1-800 number entry point for homeowners who will be screened and directed to the proper housing counseling or foreclosure legal help. The AG is also dedicating resources to aggressively pursue individuals and companies that prey on vulnerable homeowners through loan modifications and real estate scams.

The NMAG's Keep Your Home New Mexico received \$11.1 million dollars and will utilize the funds over three years to coordinate and fund statewide collaboration between our office, and NM Mortgage Finance Authority and eight non-profit organizations to provide a safety net for NM homeowners. Services include:

- Housing counseling services
- Legal defense for foreclosure cases
- Community outreach and education
- Housing and foreclosure website
- 1-800 Housing hotline
- Court foreclosure facilitation pilot project

The Keep Your Home New Mexico Program, the Administrative Office of the Courts, the 2nd Judicial District Court and the 13th Judicial District Court have developed a Foreclosure Settlement Facilitation Pilot Project which will be implemented in the fall of 2013. This pilot project will provide the opportunity for banks and the homeowners to explore viable alternatives to foreclosure and loss of the home and, if there is not, identify loss mitigation strategies such as short sales, deeds in lieu or "cash for keys" which can be better options rather than lengthy court foreclosure process.

INTERNET CRIMES AGAINST CHILDREN (ICAC)

The NM AGO is a regional Internet Crimes Against Children task force for NM. The taskforce consists of 63 Federal, State, Local, Tribal Law Enforcement and prosecutors, in addition to several non-profit affiliates.

In the past year, the AGO ICAC unit:

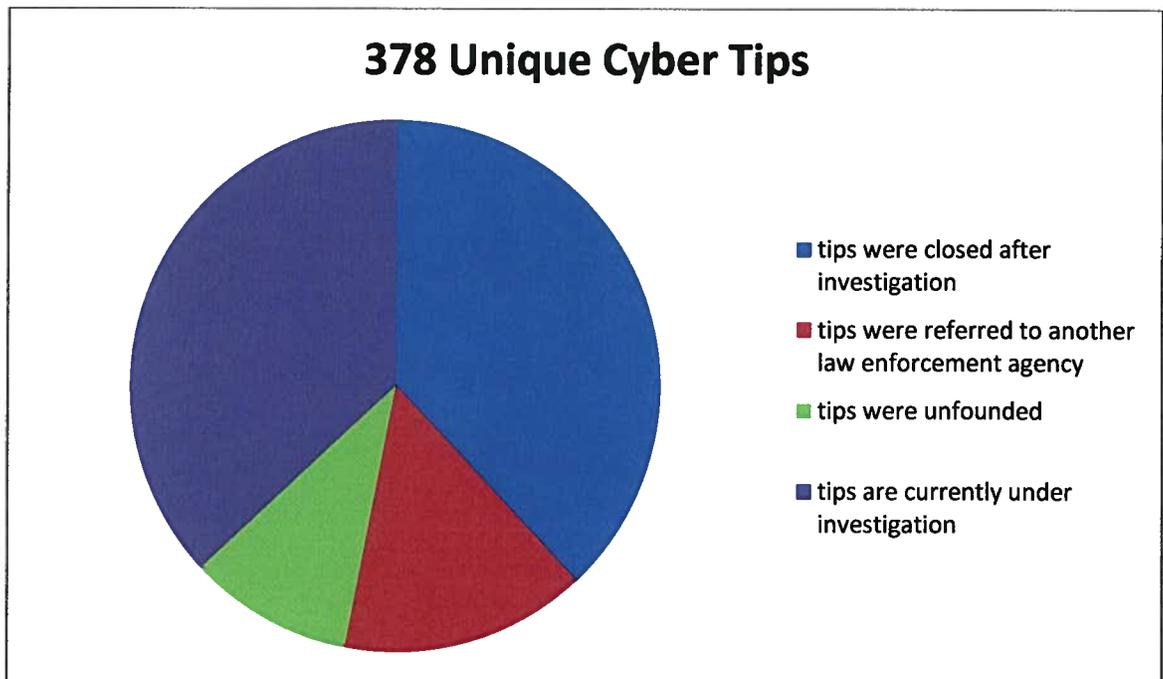
- ✓ Investigated 18 cases
- ✓ Executed 17 search warrants
- ✓ 11 Arrests
- ✓ 42 full computer forensic examinations
- ✓ Assisted other law enforcement agencies in over 300 technical assists

The AGO ICAC unit as also:

- ✓ Instructed NM ICAC law enforcement affiliates in peer-to-peer (P2P) file sharing techniques
- ✓ Continues to facilitate ICAC task force meetings and computer forensic working groups quarterly

- ✓ Provided forensic and tactical experience in 4 US Marshall sex offender compliance operations
- ✓ Provided forensic and tactical experience in 6 NM Corrections Department sex offender verifications
- ✓ Assisted in a joint agency investigation with the Albuquerque Police Department's Vice unit concerning possible underage female(s) advertising dating service on 'backpage.com'
- ✓ The joint agency investigative effort resulted in 3 arrests

As the regional ICAC task force, AGO ICAC receives cyber tips from the National Center for Missing and Exploited Children (NCMEC). The ICAC criminal analyst performs initial investigations into these tips to determine if they are substantiated and if they warrant further investigation. The analyst attempts to identify the suspect(s) and victim(s), complete and initial report, and assign tips to the appropriate affiliate as directed by the Special Agent in charge.



CIVIL DIVISION

The Civil Division has three primary areas of responsibility:

1. Providing high-quality legal advice and representation to more than 100 state agencies, boards and commissions;
2. Researching and drafting Attorney General opinions and advisory letters in response to requests by state legislators, state officers and district attorneys; and
3. Enforcing the Open Meetings Act and Inspection of Public Records Act by investigating and responding to complaints alleging violations of the Acts and by providing training to governmental bodies and public regarding their rights and responsibilities under the Acts.

Over the last year, the Civil Division provided legal services to state agency clients on a daily basis including:

- Legal advice at board meetings
- Disciplinary hearings and rulemaking proceedings
- Defending and enforcing agency decisions in judicial appeals
- Reviewing contracts and other legal documents

The Division's legal representation for state agencies included controversial and contentious proceedings involving:

- Environmental Improvement Board
- Water Quality Control Commission
- Labor Relations Division of Workforce Solutions
- Public Education Department
- Human Services Department

The division handle approximately 50 appellate cases and other proceedings on behalf of state agencies.

In FY13, the Civil Division investigated over 40 complaints alleging violations of the Open Meetings Act and Inspection of Public Records and issued advisory letters and formal opinions. Division attorneys conducted training sessions throughout the state on the Open Meetings Act and Inspection of Public Records as part of the AGO's outreach program and made numerous additional presentations at trainings and conferences of other organizations and associations. Division attorneys also answered phone call and mail inquiries regarding the Open Meetings Act and the Inspection of Public Records Act on a daily basis. Questions came from government officials, members of the news media, and the general public.

CRIMINAL APPEALS

The criminal appeals division represents the State of NM in the state district court, the NM Court of Appeals, the NM Supreme Court, the federal district court, the Tenth Circuit Court of Appeals, and the US Supreme Court in all criminal and habeas proceedings. The division is one of the core functions of the AGO and follows form AG's role as chief law enforcement officer for the State.

The incomparable and specialized knowledge and expertise in criminal law, appellate law and writ proceedings are unique to the appeals division. The division cooperates with the Corrections Department, the Governor's office, Department of Health, and the Department of Public Safety. Providing legal advice to the Department of Public Safety regarding sex offender registration and the new enactments in 2013 is a recent example of the services provided by the division. In addition to an overwhelming and varied caseload and appearances in court, the division also provides training, support and advice through an established liaison program to the district attorneys in the 13th Judicial Districts throughout NM. Within the office, the division offers guidance to other divisions including Medicaid Fraud, Civil Litigation, Governmental Accountability, Special Prosecutions, Border Violence, and the statewide Traffic Prosecutor. Another function of the division is to distribute information required by the victims of crime act and afford victims the opportunity to follow the appellate process.

Members of the division serve on the DNA oversight committee, the appellate rules of procedure committee, and the state habeas corpus working group. The division participates in the statewide district attorney's conference, twice a year, as speakers as well as the June Jubilee at the 2nd Judicial District Attorney's Offices.

During the past year, a non-exhaustive listing of activities includes:

- ❖ 257 opinions/decisions issued by the NM Supreme Court and the NM Court of Appeals
- ❖ Federal habeas corpus cases including evidentiary hearings, status conferences, and supplemental briefing
- ❖ State habeas corpus cases including filing of responses, evidentiary hearings, and supplemental briefing
- ❖ Briefs filed in the NM Court of Appeals and NM Supreme Court including briefs-in-chief, answer briefs, reply briefs and supplemental briefs
- ❖ Petitions for writ of certiorari filed in the NM Supreme Court
- ❖ Oral arguments in the NM Court of Appeals and NM Supreme Court
- ❖ Memoranda in opposition filed in the NM Court of Appeals for summary calendar cases
- ❖ Assistance to district attorneys and other state agencies re: petitions for writ of mandamus, superintending control, and prohibition filed in the NM Supreme Court
- ❖ Extradition review requests
- ❖ Death penalty litigation involving Timothy Allen, Robert Fry, and Michaels Astorga by Victoria Wilson in the NM Supreme Court and the state district court
- ❖ Responses to Rule 12-501 NMRA petitions in the NM Supreme Court
- ❖ Responses to Rule 12-502 NMRA petitions in the NM Supreme Court
- ❖ Responses and objections to applications for interlocutory appeal in the NM Court of Appeals
- ❖ Coordination of efforts in response to the NM Innocence and Justice Project including a memorandum of understanding between the AG and all elected district attorneys regarding post-conviction relief and post-conviction DNA testing
- ❖ Filing of petitions for a writ of certiorari to the US Supreme Court in State vs. Herring and State vs. Navarette
- ❖ Responses and cooperation with the National Association of Attorneys General re: survey of laws, requests of participation in amicus filings, and other inquiries;
- ❖ Responses to IPRA requests
- ❖ Responses to correspondence and letters of inquiry
- ❖ Establishment of the Just Conviction and Exoneration Unit to facilitate review and litigation of post-conviction challenges in state and federal courts involving claims of actual innocence
- ❖ Participation in the oral arguments in high school program coordination by the NM Court of Appeals with arguments at Espanola High School, NM Military Institute, Valencia High School, and Valley High School, and
- ❖ Preparation of bill analysis for the 2013 session

MEDICAID FRAUD AND ELDER ABUSE DIVISION (MFEAD)

MFEAD had 14 civil recoveries totaling \$709,163.14 ranging from \$302,131.20 to \$2,238.97 in FY13, which were not Qui Tam actions.

Adaptive Personal Care Services, Inc., a personal care service provider, also settled the MFEAD's claims that for the period of January 1, 2008 to December 31, 2011, it submitted multiple claims for PCO services that were not in compliance with the Medicaid regulations, and that therefore the state Medicaid program was entitled to recover the monies paid for those claims. After review of the MFEAD's investigation report, Adaptive Personal Care Services, Inc. agreed to reimburse the State for its improper Medicaid claims totaling \$110,000.

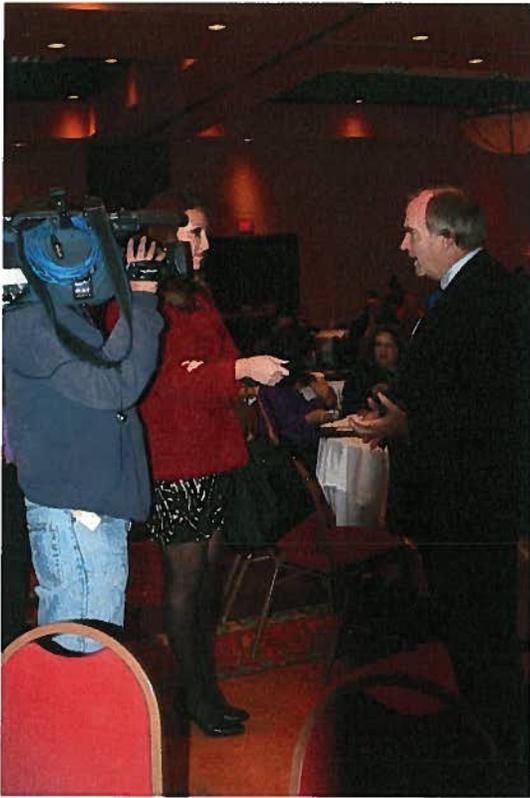
Families & Youth, Inc., a Medicaid provider of behavioral health services, self reported its failure to bill Medicaid in compliance with applicable statutes and regulations resulting from its discovery that a prior employee falsified consumer assessments. The time period involving the falsified assessments was from November 2009 to May 2012. The billings associated with the falsified or deficient assessments totaled \$320,131.20, which Families & Youth, Inc. paid back to New Mexico Human Services Department as a condition of settlement with MFEAD.

In other civil settlements with Medicaid providers, investigations disclosed Medicaid payments for multiple claims, lack of documentation, and failure to comply with applicable Medicaid statutes and regulations specific to the types of services being provided. Providers who settled with MFEAD and repaid monies to the State included but are not limited to two school districts, personal care service providers, developmentally disabled service providers, and transportation service providers.

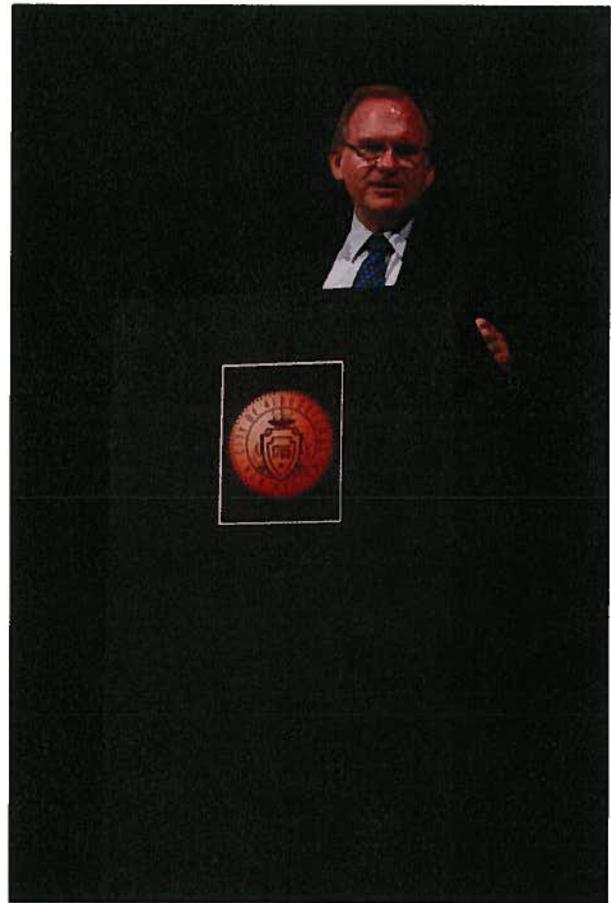
Primarily, through MFEAD's participation in the National Association of Medicaid Fraud Control Units, MFEAD participated in 13 National settlements which identified \$2,510,916.77 in recoveries for the State of New Mexico. The Qui Tam settlement yielding the largest recovery for New Mexico in this fiscal year was a case wherein The McKesson Corporation, a pharmaceutical corporation settled a federal Qui Tam lawsuit alleging drug price inflation. The suit claimed the McKesson intentionally reported inflated price data in order to markedly increase pricing for brand name drugs. The McKesson Corporation agreed to pay \$1.2 million to settle claims by the State of New Mexico for this conduct.



AG King at Announcement of Foreclosure Prevention Event in ABQ



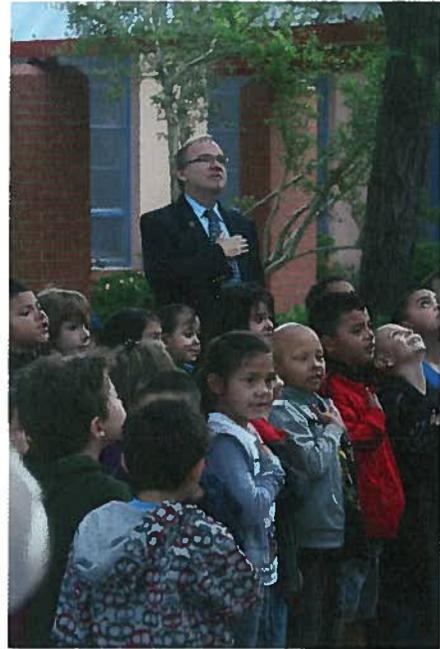
AG King at Safe School Summit in ABQ



AG King at Anti-Bullying Event



AG King at HT Summit



AG King at Constitution Day



AG King at Award Ceremony at Santa Fe National Guard



AG King at Prescription Drug Abuse Awareness Summit



AG King at Open Meetings Act and IPRA Compliance Seminars



AG King at Police Officer Stephen A. Sandlin Memorial Dedication



AG King at National Night Out



AG King at Community Summit on Community Violence



AG King at CABQ Transit Dept- ABQ Ride Wall of Fame Unveiling