

AN ACT

RELATING TO ATTORNEYS; PROVIDING PRIVATE REMEDIES AND  
PENALTIES FOR THE UNAUTHORIZED PRACTICE OF LAW.

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

SECTION 1. A new section of Chapter 36, Article 2 NMSA  
1978 is enacted to read:

"UNAUTHORIZED PRACTICE OF LAW--PRIVATE REMEDIES.--

A. A person likely to be damaged by an  
unauthorized practice of law in violation of Section 36-2-27  
NMSA 1978 may bring an action for an injunction against the  
alleged violator. An injunction shall be granted pursuant to  
the principles of equity and on terms that the court considers  
reasonable. Proof of monetary damage or loss of profit is not  
required for an injunction to be granted pursuant to this  
subsection.

B. A person who suffers a loss of money or other  
property as a result of an unauthorized practice of law in  
violation of Section 36-2-27 NMSA 1978 may bring an action for  
the greater of actual damages or one thousand dollars (\$1,000)  
and for the restitution of any money or property received by  
the alleged violator, provided that if the court finds that  
the alleged violator willfully engaged in the unauthorized  
practice of law, the court may award up to three times the  
actual damages or three thousand dollars (\$3,000), whichever

is greater.

C. A person bringing an action pursuant to Subsection A or B of this section shall, if the person prevails, also be awarded attorney fees and costs.

D. The relief provided by this section is in addition to other remedies available at law or equity."

**SECTION 2.** A new section of Chapter 36, Article 2 NMSA 1978 is enacted to read:

"UNAUTHORIZED PRACTICE OF LAW--ACTION BY ATTORNEY  
GENERAL OR BAR ASSOCIATION.--

A. Whenever the attorney general, the state bar of New Mexico or a local bar association authorized by the state bar of New Mexico to prosecute actions related to the unauthorized practice of law has reason to believe that a person has engaged in the unauthorized practice of law in violation of Section 36-2-27 NMSA 1978 or has aided or abetted another person in the unauthorized practice of law and the initiation of legal proceedings would be in the public interest, the attorney general or bar association may bring an action in the name of the state against the alleged violator. The action may be brought in the district court for the county in which the alleged violator resides or has a principal place of business or in the district court for a county in which the alleged violation took place. In an action brought pursuant to this section, in addition to civil penalties, the attorney

general or bar association may petition the court for a temporary or permanent injunction and restitution and, if seeking a temporary or permanent injunction, the attorney general or bar association shall not be required to post bond.

B. In lieu of filing or continuing an action pursuant to this section, the attorney general or bar association may accept a written assurance of discontinuance of the unauthorized practice of law from the alleged violator. The assurance may contain an agreement by the alleged violator that restitution of money or property received from them in any transaction related to the unauthorized practice will be made to all persons, provided that a person harmed by the unauthorized practice is not required to accept restitution. If the offer of restitution is accepted, the person accepting the restitution is barred from recovering damages from the alleged violator in an action based upon the same unauthorized practice.

C. In an action brought by the attorney general or bar association pursuant to this section, if the court finds the alleged violator engaged in the unauthorized practice of law, the court may impose a civil penalty not to exceed five thousand dollars (\$5,000) per violation. In addition, if the court finds that a person has aided or abetted another to engage in the unauthorized practice of law, the court may impose a civil penalty not to exceed one thousand dollars

(\$1,000) for the first violation and a civil penalty not to exceed five thousand dollars (\$5,000) for each subsequent violation."

**SECTION 3. REPEAL.**--Section 36-2-28 NMSA 1978 (being Laws 1925, Chapter 100, Section 12) is repealed.

**SECTION 4. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2011. \_\_\_\_\_

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