

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

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR HJC ORIGINAL DATE 03/13/11
LAST UPDATED _____ HB 653/HJCS
SHORT TITLE Remedies for Real Property False Documents SB _____
ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$.3	\$ 1.3	\$ 1.3	\$ 2.9	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

The House Judiciary Committee Substitute for House Bill 653 creates a new law prohibiting a person from preparing or presenting for recording a title document if the person has knowledge that it contains a false claim or title against real property or an interest in real property.

HB 653 authorizes the state, a county, a municipality, or a party any of whom is adversely affected by such a filing to bring an action seeking to have the document declared void ab initio (from the beginning) and to recover damages.

The bill also authorizes a party likely to be damaged by such a document to seek injunctive relief against the person presenting the document on terms the court considers reasonable.

This bill contains an emergency clause.

FISCAL IMPLICATIONS

In the event additional lawsuits are filed under the authority granted in this bill, the judiciary may incur additional operating costs. The numbers in the table above reflect those costs, based on information provided by AOC for property cases in district courts, and assumes 4 cases per year.

SIGNIFICANT ISSUES

This bill appears to codify the common law cause of action for slander of title (when a party is adversely affected by a false claim against that party's interest in real property).

The definition of “title document” includes a lis pendens (a notice filed in a county’s real estate records warning all persons that the title to certain property is in litigation). Allowing a lis pendens to be the basis of an action under HB 653 may be contrary to the determination by our courts that the filing of a lis pendens is absolutely privileged and cannot support an action for slander of title.

In addition, authorizing injunctive relief to a person “likely to be damaged” may conflict with the traditional standard employed by the courts, which requires immediate and irreparable injury, loss or damage.

ADMINISTRATIVE IMPLICATIONS

By creating a new cause of action, this bill may increase the caseloads of both district and appellate courts.

MD/mew