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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>House Judiciary Committee</u>	<b>LAST UPDATED</b>	<u>3/9/25</u>
		<b>ORIGINAL DATE</b>	<u>3/9/25</u>
<b>SHORT TITLE</b>	<u>Sealing of Certain Court Records</u>	<b>BILL</b>	<u>CS/House Bill</u>
		<b>NUMBER</b>	<u>253/HJCS</u>
		<b>ANALYST</b>	<u>Chavez</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
AOC	Indeterminate but minimal	At least \$50.0	No fiscal impact	At least \$50.0	Nonrecurring	General Fund
AOC	Indeterminate but minimal	At least \$65.0	At least \$65.0	At least \$130.0	Recurring	General Fund
Total	Indeterminate but minimal	At least \$115.0	At least \$65.0	At least \$180.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 98

### Sources of Information

LFC Files

#### Agency Analysis Received From

Administration Office of the Courts (AOC)

New Mexico Attorney General (NMAG)

Department of Finance and Administration (DFA)

#### Agency Analysis was Solicited but Not Received From

New Mexico Mortgage Finance Authority (MFA)

#### Agency Declined to Respond

Law Office of the Public Defender (LOPD)

Administrative Office of the District Attorney (AODA)

## SUMMARY

### Synopsis of HJC Substitute for House Bill 253

The House Judiciary Committee substitute for House Bill 253 (HB253) creates a new Section (47-8B-1 NMSA 1978) of the Property Code. HB253 would establish requirements and procedures for the sealing of court records relating to evictions under the Uniform Owner-Resident Relations Act and the Mobile Home Park Act.

HB253 defines key terms relating to evictions. The bill calls for the courts to seal eviction

records once an eviction is commenced. The bill further explains that the court records relating to evictions may be unsealed no fewer than 15 days after a court enters an order granting a landlord possession of the premises in question, only upon written request of the landlord. The court record may remain sealed if the parties agree to maintain the record sealed, the tenant files an appeal (the record must remain sealed through the pendency of the appeal), or if the court sets aside a date to seal the records, as soon as practicable. However, even if unsealed, the court must seal the eviction record again after at most three years to prevent permanent public access. HB253 allows the court to have the names of the parties on the eviction record for administrative purposes only.

HB253 provides that tenants are not required and not liable to disclose sealed eviction records when asked by third parties, such as landlords or employers. The bill allows a tenant to motion with the court to seal the eviction record if the petition indicates that sealing the record would be in the best interest of justice and that the tenant's interest do not outweigh the public's interest in access to the records. A tenant would not be charged a filing fee for the petition. Courts may unseal records for scholarly, journalistic, or governmental purposes but must weigh the tenant's privacy interests before granting such requests. HB253 also limits public access to sealed records, allowing only judges, court staff, involved parties, authorized attorneys, and individuals with court approval to view them. The bill further allows a sealed eviction court record to be released to authorized attorneys while maintaining the status of a sealed record. The provisions in HB253 apply to all evictions under the Uniform Owner-Resident Relations Act and the Mobile Home Park Act filed on or after the effective date.

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**

The Administration Office of the Courts (AOC) provided the following, still relevant, comment on the original version of the bill:

A significant focus of HB253 is sealing court records related to eviction cases. The required procedures implicate an increased workload for magistrate clerks because after an initial time intensive effort to identify and seal existing eligible eviction records, clerks will have an ongoing responsibility to ensure that records that become eligible due to their age are sealed in a timely manner. AOC estimates that the initial sealing effort will cost at least \$50,000. The ongoing work of determining whether a case should be unsealed would have to be absorbed by magistrate court clerks across the state. The magistrate courts will need additional clerks to absorb the additional work.

To estimate the fiscal impact of HB253 the initial cost of \$50 thousand on the courts as well as a recurring cost of \$65 thousand, the average cost of having at least one more clerk FTE to help support the record sealing mandate from this bill.

## **SIGNIFICANT ISSUES**

AOC estimates it will take at least six months to analyze existing eviction records, with a data analyst and developer required to identify, review, and seal them. Additionally, AOC may need to revise current procedures to ensure eviction records are unsealed in accordance with HB253's

deadlines, which would involve creating new procedures and training materials, followed by staff training, requiring an IT Business Analyst and a trainer. While some sealing and unsealing tasks can be automated, others will need to be done manually, which could be challenging due to the heavy caseloads magistrate court clerks already face. Moreover, the proposed legislation does not clarify what should happen if a mixed result occurs in an eviction case, further complicating the work for court staff.

The Department of Finance and Administration (DFA) provides the following:

Allowing for eviction records to exist and remain visible on a person's record makes securing rental housing in the future more difficult and costly, and only adds to the housing issues within New Mexico. Statewide there are more than 15,000 evictions that occurred in 2023.<sup>1</sup> In Bernalillo County, the county with the highest rate of evictions in the State of New Mexico, there is one eviction filed for every 10 renter households per year.<sup>2</sup>

In an increasingly tight rental market, households that have been evicted face growing challenges in finding landlords willing to lease to them. The rise of tenant-screening agencies exacerbates this issue, as they often report any eviction filing as an actual eviction, regardless of the case's resolution. This can unfairly penalize renters who may have successfully defended themselves in court but still face barriers to securing housing. As a result, evictions become a major driver of homelessness and create persistent barriers for individuals attempting to exit homelessness. Implementing policies to either seal or destroy eviction records will mitigate long-term housing challenges stated above.

DFA suggests defining "expunge":

Add definition: "Expunge" means the process by which a record of eviction is destroyed and removed from a persons record and background check.

The New Mexico Attorney General (NMAG) provided the following for the original version of the bill. While the substitute bill alleviates some of the concern mentioned below by adding in the language that a court record shall remain unsealed no fewer than 15 days after the date of the order upon the written request of the owner, NMAG provides an alternative that remains relevant:

Section 47-8-10, NMSA 1978 provides that district and magistrate courts shall have jurisdiction over any conduct governed by the Uniform Owner-Resident Relations Act. Section 47-8-47, NMSA 1978 provides that a party aggrieved by a judgment under Uniform Owner-Resident Relations Act "may appeal as in other civil actions." Rule 12-201(A)(1)(b) NMRA states that notices of appeal must be filed within thirty days after entry of final order or judgment. Subsection C of the bill provides that court records concerning evictions are unsealed within fifteen days of entry of an order, but are to remain sealed during the pendency of any appeal. As drafted, the Bill could create a circumstance in which a court must unseal records at the fifteen-day mark and then re-seal them at the thirty-day mark upon filing of a notice of appeal. Legislators may consider extending the time for unsealing to thirty days to reflect the time for appeal in the Rules of Appellate Procedure.

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<sup>1</sup> <https://www.unitedsouthbroadway.org/eviction-sealing-should-top-new-mexicos-legislative-housing-agenda>

<sup>2</sup> From Eviction Lab at <https://evictionlab.org/>

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

NMAG provides the following analysis on HB253 and its relation to House Bill 98:

HB98 creates a new section of [Uniform Owner-Resident Relations Act] that would require the courts to automatically expunge eviction records after five years. HB253 and HB98 both seem to approach the policy issue of preventing eviction records from creating an ongoing burden for previously evicted residents in perpetuity. While both bills approach the problem in different ways, they are not inherently in conflict. As drafted, HB253 could provide for records being sealed at three years following an eviction order and HB98 could provide for expungement at five years.

## ALTERNATIVES

DFA provides the following analysis related to:

Automatic Expungement:

1. If an eviction case is dismissed, there is no pending appeal, and at least three years have passed since the case was filed, then an eviction is automatically expunged.
2. After the close of three years after the date on which the court record was made available to the public.

Expungement by Petition: If an eviction is based on nonpayment of rent or remaining after the lease ended, and the judgment has been satisfied, then an eviction may be expunged. Resident petitioner must file a petition and provide notice to the other party to the eviction. The court may not expunge the eviction if another party files a written objection.

Policy alternatives can provide opportunities for mediation or cure periods to help prevent evictions. In cases where eviction proceedings do occur, requiring that records remain sealed upon filing would protect the tenant's confidentiality until a ruling is made in the landlord's favor. Without sealed filings, eviction records become public, potentially branding tenants as high-risk— even if the court ultimately rules in their favor. For individuals who have faced eviction, expungement is the most effective solution to prevent long-term consequences and ensure that a single housing crisis does not lead to a lifetime of hardship.