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SECRETARY OF STATE

State of New Mexico

Susana Martinez
Governor

April 8, 2011

HOUSE EXECUTIVE MESSAGE NO. 38

The Honorable Ben Luján and
Members of the House of Representatives
State Capitol Building
Santa Fe, NM 87501

Honorable Speaker Luján and Members of the House:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and am returning HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL 653, as amended, with emergency clause, enacted by the Fiftieth Legislature, First Session, 2011.

This bill creates a civil cause of action against someone who “prepare(s) for recording a title document with knowledge that it contains a false claim of title against real property or an interest in real property.”

This bill’s genesis comes from Taos County, where two warranty deeds were recorded in October and December 2010 by representatives of two land grants purporting to claim title to about 40,000 acres. These deeds affect more than 7,000 parcels of privately owned property. Some affected land owners claim these deeds are fraudulent. These deeds cloud title on these properties and may prevent the owners from selling or refinancing their homes and property. The potential damages to these thousands of property owners could be substantial.

These allegations, if true, are covered by well-settled, existing law. For instance, if someone willfully files deeds that are untrue and disparaging of another’s property rights, then the property right holder may sue for slander of title. See, Gregory Rockhouse Ranch, LLC v. Glenn’s Water Well Service, Inc., 191 P.3d 548 (Ct. App. 2008).

Moreover, these allegations of fraud, if true, may support criminal prosecution for fraud. Section 30-16-6 NMSA (1978) provides, “Fraud consists of the intentional misappropriation or taking of anything of value which belongs to another by means of fraudulent conduct, practices or representations.” If the value of the property

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The Honorable Ben Luján

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misappropriated or taken exceeds \$20,000.00, which appears likely here, then the perpetrators, if found guilty, face a second degree felony.

While I have great sympathy for the property owners who may be damaged by these allegedly fraudulent deeds, their remedy will not come from the legislature in the form of yet another law. There are multiple existing laws that apply here, including those cited above. Rather, their remedy lies in court and in law enforcement, where these existing laws should be enforced.

Furthermore, the property owners should insist that the Taos District Attorney and the New Mexico Attorney General investigate these activities and enforce the law if the facts warrant. This conflict has the potential to pit neighbor against neighbor and tear the community's social fabric. Taos County citizens should expect their elected officials to enforce the law.

Respectfully yours,



Susana Martinez
Governor

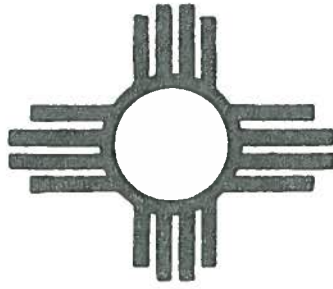
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Time: 8:40 (a.m.) p.m.
Date: April 8 2011

By Billy U
Secretary of State

Time: _____ a.m. p.m.
Date: _____ 2011

By _____
Chief Clerk of the House



The Legislature
of the
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

CHAPTER _____

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR

HOUSE BILL 653, as amended, with emergency clause

Introduced by

VETOED



62-111-100
State of New Mexico
2011

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AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
ESTABLISHING A CAUSE OF ACTION FOR THE FILING AND RECORDING OF
FALSE DOCUMENTS OF TITLE AFFECTING REAL PROPERTY; PROVIDING
FOR REMEDIES; DECLARING AN EMERGENCY.

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

SECTION 1. LIABILITY FOR FILING AND RECORDING FALSE
DOCUMENTS OF TITLE.--

A. A person shall not prepare for recording a
title document with knowledge that it contains a false claim
of title against real property or an interest in real
property.

B. The state, a county or municipality or a party
adversely affected by the filing of a title document
containing a false claim of title may bring an action seeking
to have the title document declared void ab initio and may
seek damages.

C. A person likely to be damaged by the recording
of a title document containing a false claim of title may be
granted an injunction against the person presenting the title
document on terms that the court considers reasonable.

D. As used in this section, "title document" means
any instrument, deed, contract for the sale of real property
or other document purporting to adjudicate, convey or create

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1 an interest in real property or a lis pendens.

2 SECTION 2. EMERGENCY.--It is necessary for the public
3 peace, health and safety that this act take effect
4 immediately. _____

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OFFICE OF THE CLERK
JULY 10 1968
LEGISLATIVE

S/ BEN LUJAN
BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES

S/ STEPHEN R. ARIAS
STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES

S/ JOHN A. SANCHEZ
JOHN A. SANCHEZ, PRESIDENT
SENATE

S/ LENORE M. NARANJO
LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this _____ day of _____, 2011

SUSANA MARTINEZ, GOVERNOR
STATE OF NEW MEXICO

5/11/11 5:03 PM

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