

LFC Requester:	Marty Daly
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date February 11, 2015
Bill No: HB 365

Sponsor: Reps McQueen & Griego
Short Title: Protection from Eminent Domain

Agency Code: Attorney General's Office
Person Writing: Paul Splett, AAG
Phone: 827-6704 **Email:** psplett@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis: House Bill 365 is an act seeking to provide additional protections to real property owners against eminent domain by amending six sections of the Eminent Domain Code, Chapter 42A, Article 1 NMSA 1978. Section 1 amends 42A-1-6A by adding a sentence further defining a good-faith effort to purchase, and adds a subsection (C) requiring all necessary regulatory approvals be obtained before beginning an action to condemn.

Section 2 adds a subsection (G) to 42A-1-24 mandating that the value of the property, if depressed due to the threat of condemnation or intended use of the property, reflects its market value in the absence of that threat or condemnation.

Section 3 adds a subsection (4) to 42A-1-25A awarding condemnee their litigation expenses whenever the final award is more than the offer made pursuant to 42A-1-6 if the condemnor is a non-governmental entity. It also adds a subsection (C) stating that in no event shall the court award the condemnor its litigation expenses.

Section 4 strikes language in 42A-1-16A referring to the enhancement of the fair market value of the property before and after the taking is considered, and strikes the remaining language of that subsection referring to noncompensable damages and the using of enhancements to property as offsets for any damages to the property not already taken. This section also adds a subsection (B) that allows the condemnee to require the condemnor to acquire the entire tract of a partially condemned property at its full market value should that partial property’s damages equal or exceed fifty percent of its market value prior to the damage resulting from the taking.

Section 5 adds language to 42A-1-33 that would include easements intended public uses that have not been implemented within five years from the date of possession as those easements considered extinguished and returned to the original owners or their successors in interest free from any rights in the condemnor.

Section 6 makes the effective date of the provisions of this act July 1, 2015.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

None

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

None