

LFC Requester:	Caroline Malone
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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
Prepared: March 4, 2015
Bill No: SB 426

Sponsor: Sen. Ron Griggs
Correction of Errors Affecting Property

Agency Code: Attorney General's Office S'
Person Writing
fsdfs **Analysis:** Paul Splett, AAG

Short Title: _____

Email
Phone: 827-6704 : 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: Senate Bill 426 is an act adding a new section to Chapter 47, Article 1, NMSA 1978, requiring the use of scrivener’s error affidavits to correct drafting or clerical errors relating to the identification of certain parties and legal descriptions of real property in instruments affecting the title to real property. The bill includes subsections describing who shall be legally able to execute the affidavits, the required contents of the affidavits, how the affidavits are to be recorded and indexed, when and how they become effective, examples of errors of an obvious or minor nature, and the form in which the affidavits should follow.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

SB 426 makes a distinction in determining when the affidavit is effective based on whether the errors being corrected are “of an obvious or minor nature,” in which case the affidavit is effective as of the time of recording the original instrument. For all other errors and for a bona fide purchaser or bona fide encumbrancer, for value of real property, it is effective at the time the affidavit is recorded. Although six examples of errors of an obvious or minor nature are listed, it is unclear if the distinction being drawn

is sufficient to accurately determine the time the affidavit is effective.

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

N/A