

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE MEMORIAL 40

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

A MEMORIAL

REQUESTING THAT THE NEW MEXICO LEGISLATIVE COUNCIL CREATE A
TASK FORCE TO STUDY HOW TO PROVIDE CONSUMER PROTECTIONS FOR
LOW-INCOME PURCHASERS OF RESIDENTIAL REAL ESTATE THROUGH
INSTALLMENT CONTRACTS IN ORDER TO PREVENT UNETHICAL AND UNFAIR
SALES AND CURB THE PROLIFERATION OF RESIDENTIAL DEVELOPMENT
THAT LACKS CRITICAL INFRASTRUCTURE.

WHEREAS, many low-income New Mexicans seek the security
for themselves and their families that owning residential real
property represents; and

WHEREAS, many low-income New Mexicans who seek such
security are unable to secure conventional mortgage loans due
to a lack of assets or a lack of a favorable credit history, or
because the property being purchased is nonconforming or is
located in an illegal subdivision; and

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1 WHEREAS, many of those low-income New Mexicans purchase
2 real property through an installment contract; and

3 WHEREAS, many low-income New Mexicans who purchase
4 residential real property through installment contracts may not
5 be fully informed of the terms of the sale, the description and
6 condition of the property and their rights and responsibilities
7 under the contract; and

8 WHEREAS, many of these real property sales may not be
9 recorded with county clerks, and therefore New Mexico counties
10 are unable to effectively manage development of their lands;
11 and

12 WHEREAS, when residential communities develop through the
13 sale of real property through unscrupulous and unrecorded
14 installment contracts and outside of recognized legal
15 subdivisions, they often lack basic infrastructure development,
16 including water, wastewater, electrical and natural gas
17 services and dedicated roadways, that would result in safe and
18 healthy housing; and

19 WHEREAS, when residential communities develop without
20 infrastructure, well-intentioned efforts to remedy that
21 situation may be thwarted because ownership and property rights
22 cannot be easily determined on these unscrupulous and
23 unrecorded transactions; and

24 WHEREAS, as a community, all New Mexicans need to come
25 together to determine the necessary requirements, protections

1 and remedies that should be put into effect to protect
2 low-income New Mexicans who purchase residential real property
3 through installment contracts in a manner that will not
4 negatively affect the economic viability and vitality of
5 ethical seller-financed contracts for the sale of residential
6 real property;

7 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
8 OF NEW MEXICO that the New Mexico legislative council be
9 requested to create a task force to identify and study the
10 consumer protections and remedies that could be enacted in the
11 state for low-income New Mexicans who purchase residential real
12 property through installment contracts; and

13 BE IT FURTHER RESOLVED that the task force consider the
14 fiscal and policy implications of these consumer protections
15 and remedies for low-income New Mexicans, counties and the
16 state as a whole; and

17 BE IT FURTHER RESOLVED that the task force be composed of
18 persons who are actively engaged as low-income New Mexicans who
19 purchase residential real property through installment
20 contracts and their advocates; persons who sell residential
21 real property through installment contracts and their
22 advocates; representatives of county governments and their
23 advocates; representatives from escrow companies with at least
24 twenty years' experience in the real estate business and are
25 currently servicing at least two thousand five hundred real

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1 estate contracts; representatives from the New Mexico land
2 title association; representatives from the REALTORS
3 association of New Mexico; representatives from the New Mexico
4 center on law and poverty; representatives from the colonias
5 development council; representatives from united south broadway
6 corporation; representatives from tierra del sol housing
7 corporation; representatives of the consumer protection
8 division of the office of the attorney general; and
9 representatives from the New Mexico mortgage finance authority;
10 and

11 BE IT FURTHER RESOLVED that the task force report the work
12 and progress of the task force to the appropriate legislative
13 interim committee that deals with legal issues and the
14 appropriate legislative interim committee that deals with
15 economic development issues by November 1, 2013; and

16 BE IT FURTHER RESOLVED that the task force report its
17 findings and recommendations to the appropriate legislative
18 interim committee that deals with legal issues and the
19 appropriate legislative interim committee that deals with
20 economic development issues by July 1, 2014; and

21 BE IT FURTHER RESOLVED that copies of this memorial be
22 transmitted to the co-chairs of the New Mexico legislative
23 council, the REALTORS association of New Mexico, the New Mexico
24 center on law and poverty, the colonias development council,
25 the united south broadway corporation, the tierra del sol

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1 housing corporation, the New Mexico mortgage finance authority,
2 the attorney general, the New Mexico real estate commission,
3 the public regulation commission and the governor.

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