

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 77

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO PROPERTY LAW; REVISING A COUNTY'S AUTHORITY TO
REGULATE SUBDIVISIONS; AMENDING A SECTION OF THE NEW MEXICO
SUBDIVISION ACT.

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

Section 1. Section 47-6-2 NMSA 1978 (being Laws 1973,
Chapter 348, Section 2, as amended) is amended to read:

"47-6-2. DEFINITIONS. -- As used in the New Mexico
Subdivision Act:

A. "immediate family member" means a husband, wife,
father, stepfather, mother, stepmother, brother, stepbrother,
sister, stepsister, son, stepson, daughter, stepdaughter,
grandson, stepgrandson, granddaughter, stepgranddaughter,
nephew and niece, whether related by natural birth or adoption;

1 B. "lease" means to lease or offer to lease land;

2 C. "parcel" means land capable of being described
3 by location and boundaries and not dedicated for public or
4 common use;

5 D. "person" means [~~any~~] an individual, estate,
6 trust, receiver, cooperative association, club, corporation,
7 company, firm, partnership, joint venture, syndicate or other
8 entity;

9 E. "final plat" means a map, chart, survey, plan or
10 replat certified by a licensed, registered land surveyor
11 containing a description of the subdivided land with ties to
12 permanent monuments prepared in a form suitable for filing of
13 record;

14 F. "preliminary plat" means a map of a proposed
15 subdivision showing the character and proposed layout of the
16 subdivision and the existing conditions in and around it and
17 need not be based upon an accurate and detailed survey of the
18 land;

19 G. "sell" means to sell or offer to sell land;

20 H. "subdivide" means to divide a surface area of
21 land into a subdivision;

22 I. "subdivider" means [~~any~~] a person who creates or
23 who has created a subdivision individually or as part of a
24 common promotional plan or [~~any~~] a person engaged in the sale,
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1 lease or other conveyance of subdivided land; however,
2 "subdivider" does not include [~~any~~] a duly licensed real estate
3 broker or salesperson acting on another's account;

4 J. "subdivision" means the division of a surface
5 area of land, including land within a previously approved
6 subdivision, into two or more parcels for the purpose of sale,
7 lease or other conveyance or for building development, whether
8 immediate or future, but "subdivision" does not include:

9 (1) the sale, lease or other conveyance of any
10 parcel that is thirty-five acres or larger in size within any
11 twelve-month period; provided that the land has been used
12 primarily and continuously for agricultural purposes, in
13 accordance with Section 7-36-20 NMSA 1978, for the preceding
14 three years;

15 (2) the sale or lease of apartments, offices,
16 stores or similar space within a building;

17 (3) the division of land within the boundaries
18 of a municipality;

19 (4) the division of land:

20 (a) in which only gas, oil, mineral or
21 water rights are severed from the surface ownership of the
22 land;

23 (b) to create a parcel that is used for
24 facilities that gather, process or transport gas, oil or
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1 byproducts of gas or oil, provided the parcel continues to be
2 used exclusively to gather, process or transport gas, oil or
3 byproducts of gas or oil; or

4 (c) to create a parcel that is used for
5 facilities that dispose of wastewater created during the
6 production or refining of gas, oil or other hydrocarbons,
7 provided the parcel continues to be used to dispose of
8 wastewater created during the production or refining of gas,
9 oil or other hydrocarbons;

10 (5) the division of land created by court
11 order where the order creates no more than one parcel per
12 party;

13 (6) the division of land for grazing or
14 farming activities; provided the land continues to be used for
15 grazing or farming activities;

16 (7) the division of land resulting only in the
17 alteration of parcel boundaries where parcels are altered for
18 the purpose of increasing or reducing the size of contiguous
19 parcels and where the number of parcels is not increased;

20 (8) the division of land to create burial
21 plots in a cemetery;

22 (9) the division of land to create a parcel
23 that is sold or donated as a gift to an immediate family
24 member; however, this exception shall be limited to allow the
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1 seller or donor to sell or give no more than one parcel per
2 tract of land per immediate family member;

3 (10) the division of land created to provide
4 security for mortgages, liens or deeds of trust; provided that
5 the division of land is not the result of a seller-financed
6 transaction;

7 (11) the sale, lease or other conveyance of
8 land that creates no parcel smaller than one hundred forty
9 acres;

10 (12) the division of land to create a parcel
11 that is donated to any trust or nonprofit corporation granted
12 an exemption from federal income tax, as described in Section
13 501 (c) (3) of the [United States] Internal Revenue Code of
14 1986, as amended; school, college or other institution with a
15 defined curriculum and a student body and faculty that conducts
16 classes on a regular basis; or [to any] church or group
17 organized for the purpose of divine worship, religious teaching
18 or other specifically religious activity; or

19 (13) the division of a tract of land, except
20 from a tract within a previously approved subdivision, into two
21 parcels for the sale, lease or other conveyance of a single
22 parcel from [a] within that tract of land; [~~except from a tract~~
23 ~~within a previously approved subdivision; within any five year~~
24 ~~period provided that a second or subsequent sale, lease other~~
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1 ~~conveyance from the same tract of land within five years of the~~
2 ~~first sale, lease or other conveyance shall be subject to the~~
3 ~~provisions of the New Mexico Subdivision Act;]~~ provided
4 [further] that a survey shall be filed with the county clerk
5 indicating the five-year holding period for ~~[both the original~~
6 ~~tract and the newly created tract]~~ the parcels; provided further
7 that a subsequent division of a tract of land to create
8 additional parcels from within that tract of land within five
9 years of the first division shall be subject to the provisions
10 of the New Mexico Subdivision Act; nothing in this paragraph
11 prohibits the sale, lease or other conveyance of the parcel
12 containing the remaining portion of the original tract within
13 the five-year period;

14 K. "terrain management" means the control of
15 floods, drainage and erosion and measures required for adapting
16 proposed development to existing soil characteristics and
17 topography;

18 L. "time of purchase, lease or other conveyance"
19 means the time of signing any document obligating the person
20 signing the document to purchase, lease or otherwise acquire a
21 legal interest in land;

22 M. "common promotional plan" means ~~[any]~~ a plan or
23 scheme of operation, undertaken by a single subdivider or a
24 group of subdividers acting in concert, to offer for sale or
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1 lease parcels of land where such land is either contiguous or
2 part of the same area of land or is known, designated or
3 advertised as a common unit or by a common name;

4 N. "type-one subdivision" means [~~any~~] a subdivision
5 containing five hundred or more parcels, any one of which is
6 less than ten acres in size;

7 O. "type-two subdivision" means [~~any~~] a subdivision
8 containing not fewer than twenty-five but not more than four
9 hundred ninety-nine parcels, any one of which is less than ten
10 acres in size;

11 P. "type-three subdivision" means [~~any~~] a
12 subdivision containing not more than twenty-four parcels, any
13 one of which is less than ten acres in size;

14 Q. "type-four subdivision" means [~~any~~] a
15 subdivision containing twenty-five or more parcels, each of
16 which is ten acres or more in size; and

17 R. "type-five subdivision" means [~~any~~] a
18 subdivision containing not more than twenty-four parcels, each
19 of which is ten acres or more in size."

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