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HOUSE BILL 519

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Zachary J. Cook

AN ACT

RELATING TO PROPERTY; ALLOWING TENANTS IN COMMON TO SECURE
FINANCING BY TEMPORARILY WAIVING THEIR RIGHT TO PARTITION THEIR
JOINTLY OWNED PROPERTY.

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

SECTION 1. A new section of Chapter 42, Article 5 NMSA
1978 is enacted to read:

"[NEW MATERIAL] TENANTS IN COMMON--TEMPORARY WAIVER OF
RIGHT TO PARTITION.--

A. Tenants in common may waive their right to
partition their jointly owned property:

- (1) to use the property to secure financing;
- (2) for the duration of the security
instrument, including a mortgage, deed of trust or security
agreement, encumbering the property;

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(3) if the security instrument's express duration is thirty years or less; and

(4) if the waiver is agreed to by all the tenants in common of the property and evidenced by one or more writings or other records signed by them.

B. The provisions of this section do not limit the right of tenants in common to make other lawful agreements concerning their right to partition their jointly owned property.

C. As used in this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.