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HOUSE BILL 136

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Greg Nibert

AN ACT

RELATING TO PROPERTY; CREATING AN EXCEPTION TO THE NEW MEXICO
SUBDIVISION ACT FOR PARCELS DIVIDED FOR OIL OR GAS OPERATIONS.

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. "board of county commissioners" means the
governing board of a county;

B. "common promotional plan" means a plan or scheme
of operation, undertaken by a single subdivider or a group of
subdividers acting in concert, to offer for sale or lease
parcels of land where the land is either contiguous or part of
the same area of land or is known, designated or advertised as

1 a common unit or by a common name;

2 C. "final plat" means a map, chart, survey, plan or
3 replat certified by a licensed, registered land surveyor
4 containing a description of the subdivided land with ties to
5 permanent monuments prepared in a form suitable for filing of
6 record;

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

12 E. "Indian nation, tribe or pueblo" means any
13 federally recognized Indian nation, tribe or pueblo located
14 wholly or partially in New Mexico;

15 F. "lease" means to lease or offer to lease land;

16 G. "parcel" means land capable of being described
17 by location and boundaries and not dedicated for public or
18 common use;

19 H. "person" means any individual, estate, trust,
20 receiver, cooperative association, club, corporation, company,
21 firm, partnership, joint venture, syndicate or other entity;

22 I. "preliminary plat" means a map of a proposed
23 subdivision showing the character and proposed layout of the
24 subdivision and the existing conditions in and around it, and
25 need not be based upon an accurate and detailed survey of the

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1 land;

2 J. "sell" means to sell or offer to sell land;

3 K. "subdivide" means to divide a surface area of
4 land into a subdivision;

5 L. "subdivider" means any person who creates or who
6 has created a subdivision individually or as part of a common
7 promotional plan or any person engaged in the sale, lease or
8 other conveyance of subdivided land; however, "subdivider" does
9 not include any duly licensed real estate broker or salesperson
10 acting on another's account;

11 M. "subdivision" means the division of a surface
12 area of land, including land within a previously approved
13 subdivision, into two or more parcels for the purpose of sale,
14 lease or other conveyance or for building development, whether
15 immediate or future; but "subdivision" does not include:

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

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

24 (3) the division of land within the boundaries
25 of a municipality;

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1 (4) the division of land in which only gas,
2 oil, mineral or water rights are severed from the surface
3 ownership of the land;

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

7 (6) the division of land for grazing or
8 farming activities; provided the land continues to be used for
9 grazing or farming activities;

10 (7) the division of land resulting only in the
11 alteration of parcel boundaries where parcels are altered for
12 the purpose of increasing or reducing the size of contiguous
13 parcels and where the number of parcels is not increased;

14 (8) the division of land to create burial
15 plots in a cemetery;

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

21 (10) the division of land created to provide
22 security for mortgages, liens or deeds of trust; provided that
23 the division of land is not the result of a seller-financed
24 transaction;

25 (11) the sale, lease or other conveyance of

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1 land that creates no parcel smaller than one hundred forty
2 acres;

3 (12) the division of land to create a parcel
4 that is donated to any trust or nonprofit corporation granted
5 an exemption from federal income tax, as described in Section
6 501(c)(3) of the United States Internal Revenue Code of 1986,
7 as amended; school, college or other institution with a defined
8 curriculum and a student body and faculty that conducts classes
9 on a regular basis; or church or group organized for the
10 purpose of divine worship, religious teaching or other
11 specifically religious activity; [~~or~~]

12 (13) the division of a tract of land into two
13 parcels that conform with applicable zoning ordinances;
14 provided that a second or subsequent division of either of the
15 two parcels within five years of the date of the division of
16 the original tract of land shall be subject to the provisions
17 of the New Mexico Subdivision Act; provided further that a
18 survey, and a deed if a parcel is subsequently conveyed, shall
19 be filed with the county clerk indicating that the parcel shall
20 be subject to the provisions of the New Mexico Subdivision Act
21 if the parcel is further divided within five years of the date
22 of the division of the original tract of land; or

23 (14) the division of land for oil or gas
24 operations;

25 N. "terrain management" means the control of

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1 floods, drainage and erosion and measures required for adapting
2 proposed development to existing soil characteristics and
3 topography;

4 O. "time of purchase, lease or other conveyance"
5 means the time of signing any document obligating the person
6 signing the document to purchase, lease or otherwise acquire a
7 legal interest in land;

8 P. "type-one subdivision" means any subdivision
9 containing five hundred or more parcels, any one of which is
10 less than ten acres in size;

11 Q. "type-two subdivision" means any subdivision
12 containing not fewer than twenty-five but not more than four
13 hundred ninety-nine parcels, any one of which is less than ten
14 acres in size;

15 R. "type-three subdivision" means any subdivision
16 containing not more than twenty-four parcels, any one of which
17 is less than ten acres in size;

18 S. "type-four subdivision" means any subdivision
19 containing twenty-five or more parcels, each of which is ten
20 acres or more in size; and

21 T. "type-five subdivision" means any subdivision
22 containing not more than twenty-four parcels, each of which is
23 ten acres or more in size."