

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 895

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
PROVIDING FOR ALTERNATIVE PUBLICATION ON THE AIR OF LEGAL  
NOTICES BY RADIO OR TELEVISION STATIONS AND ON THE STATION'S  
WEB SITE; DECLARING AN EMERGENCY.

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

Section 1. Section 12-2A-3 NMSA 1978 (being Laws 1997,  
Chapter 173, Section 3) is amended to read:

"12-2A-3. GENERAL DEFINITIONS.--In the statutes and rules  
of New Mexico:

- A. "annually" means per year;
- B. "age of majority" begins on the first instant of  
an individual's eighteenth birthday;
- C. "child" includes a child by adoption;
- D. "oath" includes an affirmation;

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underscoring material = new  
[bracketed material] = delete

1           E. "person" means an individual, corporation,  
2 business trust, estate, trust, partnership, limited liability  
3 company, association, joint venture or any legal or commercial  
4 entity;

5           F. "personal property" means property other than  
6 real property;

7           G. "personal representative" of a decedent's estate  
8 includes an administrator and executor;

9           H. "population" means the number of individuals  
10 enumerated in the most recent federal decennial census;

11           I. "property" means real and personal property;

12           J. "real property" means an estate or interest in,  
13 over or under land and other things or interests, including  
14 minerals, water, structures and fixtures, that by custom, usage  
15 or law pass with a transfer of land even if the estate or  
16 interest is not described or mentioned in the contract of sale  
17 or instrument of conveyance and, if appropriate to the context,  
18 the land in which the estate or interest is claimed;

19           K. "rule" means a rule, regulation, order, standard  
20 or statement of policy, including amendments thereto or repeals  
21 thereof, adopted and promulgated by an administrative agency,  
22 that purports to affect one or more administrative agencies  
23 other than the promulgating agency or that purports to affect  
24 persons who are not members or employees of the promulgating  
25 agency;

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1 L. "sign" or "subscribe" includes the execution or  
2 adoption of any symbol by a person with the present intention  
3 to authenticate a writing;

4 M. "state" means a state of the United States, the  
5 District of Columbia, the Commonwealth of Puerto Rico or any  
6 territory or insular possession subject to the jurisdiction of  
7 the United States;

8 N. "swear" includes affirm;

9 O. "will" includes a codicil; and

10 P. "written" and "in writing" includes printing,  
11 engraving or any other mode of representing words and letters;  
12 provided that for purposes of publication of legal notices, the  
13 requirement for written notice may be satisfied by publication  
14 on the air by a radio or television station, by reading and by  
15 posting on the station's web site."

16 Section 2. Section 14-11-1 NMSA 1978 (being Laws 1937,  
17 Chapter 167, Section 1) is amended to read:

18 "14-11-1. LEGAL NOTICES AND ADVERTISEMENTS DEFINED.--Any  
19 notice or other written matter [~~whatsoever~~] required to be  
20 published in a newspaper by any law of this state or by the  
21 order of any court of record of this state shall be deemed [~~and~~  
22 ~~held to be~~] a legal notice or advertisement within the meaning  
23 of [~~this Act~~] Chapter 14, Article 11 NMSA 1978; provided that  
24 the requirement of publication may be satisfied by broadcasting  
25 the notice on a radio or television station heard in the

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1 location in which publication is required, by reading the  
2 notice and posting the notice on the station's web site."

3 Section 3. Section 14-11-2 NMSA 1978 (being Laws 1937,  
4 Chapter 167, Section 2, as amended) is amended to read:

5 "14-11-2. REQUIREMENT FOR PUBLICATION OF LEGAL NOTICE OR  
6 ADVERTISEMENT.--

7 A. Any and every legal notice or advertisement  
8 shall be published:

9 (1) in a daily, tri-weekly, [~~a~~] semi-weekly or  
10 [~~a~~] weekly newspaper of general circulation that can be  
11 obtained by single copy and that is entered under the second  
12 class postage privilege in the county in which the notice or  
13 advertisement is required to be published; [~~which~~] or

14 (2) on the air by a radio or television  
15 station, by reading and by posting on the station's web site.

16 B. The newspaper:

17 (1) if published tri-weekly, semi-weekly or  
18 weekly, shall have been [~~so~~] published in the county  
19 continuously and uninterruptedly during the period of at least  
20 twenty-six consecutive weeks [~~next~~] immediately prior to the  
21 first issue [~~thereof~~] containing [~~any such~~] the notice or  
22 advertisement; and [~~which newspaper~~]

23 (2) if published daily, shall have been [~~so~~]  
24 published in the county uninterruptedly and continuously during  
25 the period of at least six months [~~next~~] immediately prior to

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1 the first issue [~~thereof~~] containing [~~any such~~] the notice or  
 2 advertisement; provided that the mere change in the name of  
 3 [~~any~~] the newspaper or the [~~removal~~] relocation of the  
 4 principal business office or seat of publication of [~~any~~] the  
 5 newspaper [~~from one place to another~~] in the same county shall  
 6 not break or affect the continuity in the publication of [~~any~~  
 7 ~~such~~] the newspaper if the newspaper is in fact continuously  
 8 and uninterruptedly printed and published within the county [~~as~~  
 9 ~~provided in this section; provided further that~~].

10 C. A newspaper shall not lose its rights as a legal  
 11 publication if it fails to publish one or more of its issues by  
 12 reason of fire, flood, accident, transportation embargo or tie-  
 13 up or other casualty beyond the control of the publisher.  
 14 [~~provided further that any~~]

15 D. A legal notice [~~which~~] that fails [~~of~~  
 16 ~~publication~~] to be published for the required number of  
 17 insertions by reasons beyond the control of the publisher shall  
 18 not be declared illegal if the publication has been made in one  
 19 issue of the publication. [~~and provided further that~~]

20 E. If in any county in this state there has not  
 21 been published any newspaper for the prescribed period at the  
 22 time when [~~any such~~] the notice or advertisement is required to  
 23 be published, the notice or advertisement may be published in  
 24 [~~any~~] a newspaper:

25 (1) having a general circulation; or

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1                                   (2) that is published and printed in whole or  
2 in part in that county and that can be obtained by single copy  
3 in that county."

4                   Section 4. EMERGENCY.--It is necessary for the public  
5 peace, health and safety that this act take effect immediately.

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~~[bracketed material]~~ = delete