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AN ACT  
RELATING TO SUBDIVISIONS; AMENDING THE NEW MEXICO SUBDIVISION  
ACT TO CLARIFY AN EXCEPTION FROM THE DEFINITION OF  
"SUBDIVISION".

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 a common unit or by a common name;

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

D. "immediate family member" means a husband,  
wife, father, stepfather, mother, stepmother, brother,

1 stepbrother, sister, stepsister, son, stepson, daughter,  
2 stepdaughter, grandson, stepgrandson, granddaughter,  
3 stepgranddaughter, nephew and niece, whether related by  
4 natural birth or adoption;

5 E. "Indian nation, tribe or pueblo" means any  
6 federally recognized Indian nation, tribe or pueblo located  
7 wholly or partially in New Mexico;

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

9 G. "parcel" means land capable of being described  
10 by location and boundaries and not dedicated for public or  
11 common use;

12 H. "person" means any individual, estate, trust,  
13 receiver, cooperative association, club, corporation,  
14 company, firm, partnership, joint venture, syndicate or other  
15 entity;

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

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

22 K. "subdivide" means to divide a surface area of  
23 land into a subdivision;

24 L. "subdivider" means any person who creates or  
25 who has created a subdivision individually or as part of a

1 common promotional plan or any person engaged in the sale,  
2 lease or other conveyance of subdivided land; however,  
3 "subdivider" does not include any duly licensed real estate  
4 broker or salesperson acting on another's account;

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

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

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

19 (3) the division of land within the  
20 boundaries of a municipality;

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

24 (5) the division of land created by court  
25 order where the order creates no more than one parcel per

1 party;

2 (6) the division of land for grazing or  
3 farming activities; provided the land continues to be used  
4 for grazing or farming activities;

5 (7) the division of land resulting only in  
6 the alteration of parcel boundaries where parcels are altered  
7 for the purpose of increasing or reducing the size of  
8 contiguous parcels and where the number of parcels is not  
9 increased;

10 (8) the division of land to create burial  
11 plots in a cemetery;

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

17 (10) the division of land created to provide  
18 security for mortgages, liens or deeds of trust; provided  
19 that the division of land is not the result of a  
20 seller-financed transaction;

21 (11) the sale, lease or other conveyance of  
22 land that creates no parcel smaller than one hundred forty  
23 acres;

24 (12) the division of land to create a parcel  
25 that is donated to any trust or nonprofit corporation granted

1 an exemption from federal income tax, as described in Section  
2 501(c)(3) of the United States Internal Revenue Code of 1986,  
3 as amended; school, college or other institution with a  
4 defined curriculum and a student body and faculty that  
5 conducts classes on a regular basis; or church or group  
6 organized for the purpose of divine worship, religious  
7 teaching or other specifically religious activity; or

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

20 N. "terrain management" means the control of  
21 floods, drainage and erosion and measures required for  
22 adapting proposed development to existing soil  
23 characteristics and topography;

24 O. "time of purchase, lease or other conveyance"  
25 means the time of signing any document obligating the person

1 signing the document to purchase, lease or otherwise acquire  
2 a legal interest in land;

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

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

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

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

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