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AN ACT

RELATING TO PUBLIC RECORDS; ADDING AND REMOVING THE TYPES OF DOCUMENTS THAT MUST BE ACKNOWLEDGED BEFORE BEING FILED AND RECORDED; REMOVING A NOTICE REQUIREMENT OF THE EXPIRATION OF A TAX LIEN; UPDATING CERTAIN CROSS-REFERENCES IN THE LAW; REQUIRING AND STANDARDIZING COUNTY RECORDING INDEXES, FORMS AND PROCEDURES; MAKING GOVERNMENTAL AGENCIES SUBJECT TO THE UNIFORM ELECTRONIC TRANSACTIONS ACT; REPEALING A REQUIREMENT THAT COUNTY COMMISSION MINUTES BE PUBLISHED IN A NEWSPAPER; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2011.

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

SECTION 1. Section 7-1-39 NMSA 1978 (being Laws 1965, Chapter 248, Section 41, as amended) is amended to read:

"7-1-39. RELEASE OR EXTINGUISHMENT OF LIEN--LIMITATION ON ACTIONS TO ENFORCE LIEN.--

A. When any substantial part of the amount of tax due from a taxpayer is paid, the department shall immediately file, in the same county in which a notice of lien was filed, and in the same records, a document completely or partially releasing the lien. The county clerk to whom such a document is presented shall record it without charge.

B. The department may file, in the same county as the notice of lien was filed, a document releasing or

1 partially releasing any lien filed in accordance with Section
2 7-1-38 NMSA 1978 when the filing of the lien was premature or
3 did not follow requirements of law or when release or partial
4 release would facilitate collection of taxes due. The county
5 clerk to whom the document is presented shall record it
6 without charge.

7 C. In all cases when a notice of lien for taxes,
8 penalties and interest has been filed under Section 7-1-38
9 NMSA 1978 and a period of ten years has passed from the date
10 the lien was filed, as shown on the notice of lien, the
11 taxes, penalties and interest for which the lien is claimed
12 shall be conclusively presumed to have been paid and the lien
13 is thereby extinguished. No action shall be brought to
14 enforce any lien extinguished in accordance with this
15 subsection."

16 SECTION 2. Section 14-2-6 NMSA 1978 (being Laws 1993,
17 Chapter 258, Section 3, as amended by Laws 2011, Chapter 134,
18 Section 3 and by Laws 2011, Chapter 181, Section 1 and also
19 by Laws 2011, Chapter 182, Section 1) is amended to read:

20 "14-2-6. DEFINITIONS.--As used in the Inspection of
21 Public Records Act:

22 A. "custodian" means any person responsible for
23 the maintenance, care or keeping of a public body's public
24 records, regardless of whether the records are in that
25 person's actual physical custody and control;

1 B. "file format" means the internal structure of
2 an electronic file that defines the way it is stored and
3 used;

4 C. "inspect" means to review all public records
5 that are not excluded in Section 14-2-1 NMSA 1978;

6 D. "person" means any individual, corporation,
7 partnership, firm, association or entity;

8 E. "protected personal identifier information"
9 means:

10 (1) all but the last four digits of a:

11 (a) taxpayer identification number;

12 (b) financial account number; or

13 (c) driver's license number;

14 (2) all but the year of a person's date of
15 birth; and

16 (3) a social security number;

17 F. "public body" means the executive, legislative
18 and judicial branches of state and local governments and all
19 advisory boards, commissions, committees, agencies or
20 entities created by the constitution or any branch of
21 government that receives any public funding, including
22 political subdivisions, special taxing districts, school
23 districts and institutions of higher education; and

24 G. "public records" means all documents, papers,
25 letters, books, maps, tapes, photographs, recordings and

1 other materials, regardless of physical form or
2 characteristics, that are used, created, received, maintained
3 or held by or on behalf of any public body and relate to
4 public business, whether or not the records are required by
5 law to be created or maintained."

6 SECTION 3. Section 14-8-4 NMSA 1978 (being Laws 1901,
7 Chapter 62, Section 18, as amended) is amended to read:

8 "14-8-4. ACKNOWLEDGMENT NECESSARY FOR RECORDING--
9 EXCEPTIONS.--

10 A. Any instrument of writing duly acknowledged may
11 be filed and recorded. Any instrument of writing not duly
12 acknowledged may not be filed and recorded or considered of
13 record, though so entered, unless otherwise provided in this
14 section. A duplicate of an instrument of writing duly
15 acknowledged may be filed and recorded to the same extent as
16 the original.

17 B. For purposes of this section, "acknowledged"
18 means notarized by a person empowered to perform notarial
19 acts pursuant to the Notary Public Act or the Uniform Law on
20 Notarial Acts.

21 C. The following documents need not be
22 acknowledged but may be filed and recorded:

23 (1) court-certified copies of a court order,
24 judgment or other judicial decree;

25 (2) court-certified transcripts of any money

1 judgment obtained in a court of this state or, pursuant to
2 Section 14-9-9 NMSA 1978, in the United States district court
3 for the district of New Mexico;

4 (3) land patents and land office receipts;

5 (4) notice of lis pendens filed pursuant to
6 Section 38-1-14 NMSA 1978;

7 (5) provisional orders creating improvement
8 districts pursuant to Section 4-55A-7 NMSA 1978;

9 (6) notices of levy on real estate under
10 execution or writ of attachment when filed by a peace officer
11 pursuant to Section 39-4-4 NMSA 1978;

12 (7) surveys of land that do not create a
13 division of land but only show existing tracts of record when
14 filed by a professional surveyor pursuant to Section
15 61-23-28.2 NMSA 1978;

16 (8) certified copies of foreign wills,
17 marriages or birth certificates duly authenticated; and

18 (9) instruments of writing in any manner
19 affecting lands in the state filed pursuant to Section 14-9-7
20 NMSA 1978, when these instruments have been duly executed by
21 an authorized public officer.

22 D. Any filing or recording permitted or required
23 under the provisions of the Uniform Commercial Code need not
24 comply with the requirements of this section.

25 E. Instruments acknowledged on behalf of a

1 corporation need not have the corporation's seal affixed
2 thereto in order to be filed and recorded."

3 SECTION 4. Section 14-8-17 NMSA 1978 (being Laws 1921,
4 Chapter 61, Section 1, as amended) is amended to read:

5 "14-8-17. DOCUMENTS RECORDED WITHOUT COST.--The county
6 clerk shall record free of charge:

7 A. oaths of public office made pursuant to Article
8 20, Section 1 of the constitution of New Mexico;

9 B. the discharge papers of any person who was
10 accepted for service and served in the armed forces of the
11 United States for thirty days or more;

12 C. notices of state tax liens filed by the
13 taxation and revenue department pursuant to Section 7-1-38
14 NMSA 1978;

15 D. tax delinquency lists filed by the county
16 treasurer pursuant to Section 7-38-61 NMSA 1978;

17 E. notices and warrants issued by the secretary of
18 workforce solutions for defaults on payments to the
19 unemployment compensation administration fund filed pursuant
20 to Section 51-1-36 NMSA 1978; and

21 F. a claim of lien under oath of the state
22 engineer, artesian well supervisor or an officer of an
23 artesian conservancy district filed pursuant to Section
24 72-13-8 NMSA 1978."

25 SECTION 5. Section 14-10-1 NMSA 1978 (being Laws 1903,

1 Chapter 87, Section 1, as amended) is amended to read:

2 "14-10-1. INDEX.--For the convenience of the public and
3 the better preservation of titles to real property, there
4 shall be a complete and accurate county recording index made
5 of all instruments of record affecting real property made by
6 the county clerk of each county."

7 SECTION 6. Section 14-10-2 NMSA 1978 (being Laws 1903,
8 Chapter 87, Section 2, as amended) is amended to read:

9 "14-10-2. INDEX BOOKS.--For the purpose of the county
10 recording index created pursuant to Section
11 14-10-1 NMSA 1978, the county clerk shall maintain a
12 searchable database, which may include index books, and all
13 instruments affecting title to real estate shall be
14 indexed."

15 SECTION 7. Section 14-10-3 NMSA 1978 (being Laws 1903,
16 Chapter 87, Section 3, as amended) is amended to read:

17 "14-10-3. COUNTY RECORDING INDEX--REQUIRED FIELDS.--
18 The county recording index shall contain, at a minimum:

19 A. the following administrative fields:

20 (1) the book and page or instrument number;

21 and

22 (2) the date and time of recordation; and

23 B. the following descriptive fields:

24 (1) the name of the grantor or grantors;

25 (2) the name of the grantee or grantees; and

1 (3) legal descriptions, references to
2 recorded instruments in the county containing legal
3 descriptions and miscellaneous information."

4 SECTION 8. Section 14-10-4 NMSA 1978 (being Laws 1903,
5 Chapter 87, Section 4, as amended) is amended to read:

6 "14-10-4. ENTRIES TO THE INDEX--DESCRIPTION OF LANDS.--
7 Each name, descriptor or reference placed in a descriptive
8 field constitutes a separate entry in the county recording
9 index. All real property or lands shall be entered and
10 described in the county recording index in the manner
11 indicated, according to numbers, metes or bounds; provided
12 that where this is impossible from the nature of the
13 description, the tract or tracts may be described by some
14 appropriate title."

15 SECTION 9. Section 14-10-5 NMSA 1978 (being Laws 1903,
16 Chapter 87, Section 5, as amended) is amended to read:

17 "14-10-5. STANDARD FORM.--The form of county recording
18 index provided in Chapter 14, Article 10 NMSA 1978 shall be
19 the standard form of index and shall be used throughout the
20 state."

21 SECTION 10. Section 14-16-18 NMSA 1978 (being Laws
22 2001, Chapter 131, Section 18) is amended to read:

23 "14-16-18. ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC
24 RECORDS BY GOVERNMENTAL AGENCIES.--The state records
25 administrator shall issue rules for the implementation of the

1 provisions of the Uniform Electronic Transactions Act that
2 shall apply to all governmental agencies; provided that a
3 governmental agency, giving due consideration to security,
4 may instead issue its own rules that specify:

5 A. the manner and format in which the electronic
6 records must be created, generated, sent, communicated,
7 received and stored and the systems established for those
8 purposes;

9 B. if electronic records must be signed by
10 electronic means, the type of electronic signature required,
11 the manner and format in which the electronic signature must
12 be affixed to the electronic record and the identity of, or
13 criteria that must be met by, any third party used by a
14 person filing a document to facilitate the process;

15 C. control processes and procedures as appropriate
16 to ensure adequate preservation, disposition, integrity,
17 security, confidentiality and auditability of electronic
18 records; and

19 D. any other required attributes for electronic
20 records that are specified for corresponding nonelectronic
21 records or reasonably necessary under the circumstances."

22 SECTION 11. Section 39-4-4 NMSA 1978 (being Laws 1933,
23 Chapter 13, Section 1) is amended to read:

24 "39-4-4. FILING NOTICE OF LEVY ON REAL ESTATE--
25 RECORDING AND INDEXING--RELEASE OF LEVY.--

1 A. Any peace officer making a levy on real estate
2 under execution or writ of attachment shall file a notice of
3 the levy in the office of the county clerk of the county
4 where located, describing the real estate levied upon, the
5 title and number of the case and the amount of the debt or
6 judgment. A certificate of the facts recited in the notice,
7 under the hand and seal of the peace officer, shall be
8 sufficient to entitle the instrument to record.

9 B. The county clerk shall record the notice of
10 levy and shall index it in the records of the county clerk's
11 office, and when so filed it shall be notice to the public of
12 the facts therein recited.

13 C. When the debt for which a levy is made has been
14 satisfied, or if directed by the plaintiff or the plaintiff's
15 attorney, the peace officer shall file a release of the levy
16 under the peace officer's official hand and seal, in the
17 office of the county clerk."

18 SECTION 12. Section 39-5-23 NMSA 1978 (being Laws 1931,
19 Chapter 149, Section 6) is amended to read:

20 "39-5-23. DUTY TO RECORD REDEMPTION.--

21 A. In all cases of redemption of lands from sale
22 pursuant to the provisions of Sections 39-5-17 through
23 39-5-23 NMSA 1978:

24 (1) if the redemption is by payment to the
25 purchaser, it is the duty of the purchaser within forty-five

1 days of receiving payment to create an acknowledged
2 instrument in writing evidencing the redemption; or

3 (2) if the redemption is by making deposit
4 in the office of the clerk of the district court upon
5 approval of the redemption by the district judge, it is the
6 duty of the clerk of the court to create under the seal of
7 the court an instrument evidencing the redemption.

8 B. It is the duty of the party redeeming to record
9 the instrument evidencing the redemption in the office of the
10 county clerk in the same manner as other instruments of
11 writing affecting title to real estate."

12 SECTION 13. Section 55-9-525 NMSA 1978 (being Laws
13 2001, Chapter 139, Section 96, as amended) is amended to
14 read:

15 "55-9-525. FEES.--

16 (a) Except as provided in Subsections (b) and (d)
17 of this section, the fee for filing and indexing a record
18 pursuant to Sections 55-9-501 through 55-9-526 NMSA 1978 in
19 the office of the secretary of state is:

20 (1) if the record is communicated in writing
21 in a form prescribed by the secretary of state:

22 (i) twenty dollars (\$20.00) if the
23 record consists of one, two or three pages;

24 (ii) forty dollars (\$40.00) if the
25 record consists of at least four pages, but no more than

1 twenty-five pages; and

2 (iii) one hundred dollars (\$100) if the
3 record consists of more than twenty-five pages, plus five
4 dollars (\$5.00) for each page;

5 (2) if the record is communicated in
6 writing, but not in a form prescribed by the secretary of
7 state, double the amount specified in Paragraph (1) of this
8 subsection for a record of the same length;

9 (3) if the record is communicated by
10 facsimile or a similar medium and the use of that medium is
11 authorized by filing-office rule, the amount specified in
12 Paragraph (1) of this subsection for a record of the same
13 length; and

14 (4) if the record is communicated in any
15 other medium authorized by filing-office rule:

16 (i) ten dollars (\$10.00) if the record
17 consists of fifteen thousand or fewer bytes; and

18 (ii) twenty dollars (\$20.00) if the
19 record consists of more than fifteen thousand bytes.

20 (b) Except as otherwise provided in Subsection (d)
21 of this section, the fee for filing and indexing an initial
22 financing statement of the following kind is the amount
23 specified in Subsection (a) of this section plus:

24 (1) one hundred dollars (\$100) if the
25 financing statement states that a debtor is a transmitting

1 utility; and

2 (2) one hundred dollars (\$100) if the
3 financing statement indicates that it is filed in connection
4 with a manufactured-home transaction.

5 (c) The number of names required to be indexed
6 does not affect the amount of the fee set forth in
7 Subsections (a) and (b) of this section.

8 (d) This section does not require a fee with
9 respect to a record of a mortgage that is effective as a
10 financing statement filed as a fixture filing or as a
11 financing statement covering as-extracted collateral or
12 timber to be cut under Subsection (c) of Section 55-9-502
13 NMSA 1978. However, the recording fees that otherwise would
14 be applicable to the record of the mortgage apply.

15 (e) The secretary of state is authorized to
16 establish additional fees for sale of data or records by
17 adopting and publishing rules, pursuant to Section 55-9-526
18 NMSA 1978, to implement the requirements set forth in Chapter
19 55, Article 9 NMSA 1978.

20 (f) The fee for filing and indexing a record
21 pursuant to Sections 55-9-501 through 55-9-526 NMSA 1978 in
22 the office of the county clerk is as provided in Section
23 14-8-15 NMSA 1978."

24 SECTION 14. REPEAL.--Sections 4-38-9, 39-4-5 and 39-4-6
25 NMSA 1978 (being Laws 1897, Chapter 60, Section 16 [15] and

1 Laws 1933, Chapter 13, Sections 2 and 3, as amended) are
2 repealed. _____

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