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AN ACT

RELATING TO WATER; CLARIFYING THAT A LEASE OF A WATER RIGHT SERVED BY AN ACEQUIA OR COMMUNITY DITCH AND SUBSEQUENT USE OF THAT WATER SHALL NOT TAKE EFFECT UNTIL AFTER THE APPLICATION HAS BEEN APPROVED IN ACCORDANCE WITH LAW; DECLARING AN EMERGENCY.

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

SECTION 1. Section 72-6-3 NMSA 1978 (being Laws 1967, Chapter 100, Section 3, as amended by Laws 2014, Chapter 45, Section 2 and by Laws 2014, Chapter 48, Section 2) is amended to read:

"72-6-3. OWNER MAY LEASE USE OF WATER.--

A. An owner may lease to any person all or any part of the water use due the owner under the owner's water right, and the owner's water right shall not be affected by the lease of the use. The use to which the owner is entitled under the owner's right shall, during the exercise of the lease, be reduced by the amount of water so leased. Upon termination of the lease, the water use and location of use subject to the lease shall revert to the owner's original use and location of use.

B. The lease may be effective for immediate use of water or may be effective for future use of the water covered by the lease; however, the lease shall not be effective to

1 cumulate water from year to year or to substantially enlarge
2 the use of the water in such manner that it would injure
3 other water users. The lease shall not toll any forfeiture
4 of water rights for nonuse, and the owner shall not, by
5 reason of the lease, escape the forfeiture for nonuse
6 prescribed by law; provided, however, that the state engineer
7 shall notify both the owner and the lessee of declaration of
8 nonuser as provided in Sections 72-5-28 and 72-12-8 NMSA
9 1978. The initial or any renewal term of a lease of water
10 use shall not exceed ten years, except as provided in
11 Subsections C and D of this section.

12 C. A water use may be leased for forty years by
13 municipalities, counties, state universities, special water
14 users' associations, public utilities supplying water to
15 municipalities or counties and member-owned community water
16 systems as lessee and shall be entitled to the protection of
17 the forty-year water use planning period as provided in
18 Section 72-1-9 NMSA 1978.

19 D. A water use deriving from an acequia or
20 community ditch organized pursuant to Chapter 73, Article 2
21 or 3 NMSA 1978, whether owned by a water right owner under
22 the acequia or community ditch or by the acequia or community
23 ditch, may be leased for a term not to exceed ten years;
24 provided that pursuant to the rules or bylaws duly adopted by
25 its members, an acequia or community ditch may require that

1 any water use lease of a water right served by the acequia or
2 community ditch, or any water use lease in which a water
3 right is moved into and then served by the acequia or
4 community ditch, shall be subject to approval by the
5 commissioners of the acequia or community ditch in accordance
6 with the procedures for approval of changes in point of
7 diversion or place or purpose of use as provided in
8 Subsection E of Section 73-2-21 NMSA 1978 and Sections
9 72-5-24.1 and 73-3-4.1 NMSA 1978.

10 E. A water use due under an adjudicated water
11 right secured to a pueblo pursuant to the settlement
12 agreements approved in Title 5 and Title 6 of the federal
13 Claims Resolution Act of 2010, P.L. No. 111-291, Sections
14 501-626, or in the partial final judgments and decrees
15 entered pursuant to those settlement agreements, may be
16 leased for a term, including all renewals, not to exceed the
17 term specifically authorized in that act; provided that this
18 subsection shall not apply to any water use due under any
19 state-law based water rights acquired by a pueblo or by the
20 United States on behalf of a pueblo."

21 **SECTION 2. EMERGENCY.**--It is necessary for the public
22 peace, health and safety that this act take effect
23 immediately. _____