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HOUSE BILL 156

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

James Roger Madalena

AN ACT

RELATING TO COUNTIES; CHANGING COUNTY RECORDING FEES; PROVIDING FOR THE DISPOSITION OF FEES; DEFINING "ACKNOWLEDGED" FOR PURPOSES OF RECORDING; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 14-8-13 NMSA 1978 (being Laws 1865, Chapter 46, Section 2, as amended) is repealed and a new Section 14-8-13 NMSA 1978 is enacted to read:

"14-8-13. [NEW MATERIAL] RECORDING FEES--DISPOSITION.--

A. Unless otherwise specified by law, the county clerk shall collect a recording fee of twenty-five dollars (\$25.00) for each document recorded by the county clerk.

B. If a document being recorded assigns, releases or transfers the interests of more than five persons, the

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1 county clerk shall collect an additional fee of twenty-five
2 dollars (\$25.00) for each additional block of ten or fewer
3 assignments, releases or transfers contained in the document.

4 C. For each twenty-five-dollar (\$25.00) fee
5 collected by the county clerk pursuant to this section,
6 eighteen dollars (\$18.00) shall be deposited in the county
7 general fund and seven dollars (\$7.00) shall be deposited in
8 the equipment recording and filing fund."

9 Section 2. Section 14-8-4 NMSA 1978 (being Laws 1901,
10 Chapter 62, Section 18, as amended) is amended to read:

11 "14-8-4. ACKNOWLEDGMENT NECESSARY FOR RECORDING--
12 DECREES--EXCEPTIONS.--

13 A. Any instrument of writing, duly acknowledged
14 [~~and certified~~], may be filed and recorded. Any instrument of
15 writing, not duly acknowledged [~~and certified~~], may not be
16 filed and recorded [~~nor~~] or considered of record, though so
17 entered; provided, however, that judicial decrees or certified
18 copies, patents, land office receipts, certified copies of
19 foreign wills duly authenticated and instruments of writing in
20 any manner affecting lands in the state, when these instruments
21 have been duly executed by an authorized public officer, need
22 not be acknowledged but may be filed and recorded; provided
23 further, any filing or recording permitted or required under
24 the provisions of the Uniform Commercial Code need not comply
25 with the requirements of this section; and provided further

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1 that instruments acknowledged on behalf of a corporation need
2 not have the corporation's seal affixed thereto in order to be
3 filed and recorded.

4 B. For the purposes of this section, "acknowledged"
5 means notarized by a person empowered to perform notarial acts
6 pursuant to the Notary Public Act or the Uniform Law on
7 Notarial Acts."

8 Section 3. Section 14-8-12.2 NMSA 1978 (being Laws 1985,
9 Chapter 122, Section 2, as amended) is amended to read:

10 "14-8-12.2. ~~[RECORDING FEES]~~ COUNTY CLERK RECORDING AND
11 FILING FUND--EXPENDITURES.--

12 ~~[A. For each instrument recorded, the county clerk~~
13 ~~shall charge a recording fee of five dollars (\$5.00) for the~~
14 ~~first page and two dollars (\$2.00) for each additional page or~~
15 ~~portion thereof of the same instrument.~~

16 ~~B. For each instrument recorded, the county clerk~~
17 ~~may charge, in addition to any other fees authorized by law,~~
18 ~~including the fee provided in Subsection A of this section, an~~
19 ~~equipment recording fee. The equipment recording fee shall not~~
20 ~~exceed four dollars (\$4.00) for each instrument recorded.~~

21 ~~G. Amounts collected from the equipment recording~~
22 ~~fee shall be deposited into]~~

23 A. A county clerk recording and filing fund [which]
24 shall be established by the county.

25 ~~[D. The equipment recording fee and]~~

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1 B. Expenditures from the county clerk recording
2 and filing fund shall be determined annually by the county
3 clerk and approved by the board of county commissioners.

4 ~~[E-]~~ C. Expenditures from the county clerk
5 recording and filing fund may be expended only:

6 (1) to rent, purchase, lease or lease-purchase
7 recording equipment and for supplies, training and maintenance
8 for such equipment;

9 (2) to rent, purchase, lease or lease-purchase
10 equipment associated with all regular duties in the county
11 clerk's office and for supplies, training and maintenance for
12 such equipment;

13 (3) to rent, purchase, lease or lease-purchase
14 vehicles associated with all regular duties in the county
15 clerk's office and for supplies, training and maintenance for
16 such vehicles, provided that the county clerk shall report
17 annually to the board of county commissioners the usage,
18 mileage and necessity of any vehicle acquired pursuant to this
19 paragraph; ~~[or]~~

20 (4) for technical assistance ~~[staff travel]~~
21 and training associated with all regular duties of the county
22 clerk's office ~~[pursuant to the Per Diem and Mileage Act]; or~~

23 (5) for staff travel associated with all
24 regular duties of the county clerk's office pursuant to the Per
25 Diem and Mileage Act."

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1 Section 4. Section 14-8-16 NMSA 1978 (being Laws 1973,
2 Chapter 258, Section 150, as amended) is amended to read:

3 "14-8-16. FILINGS OF LEGAL DESCRIPTIONS AND PLATS OF REAL
4 PROPERTY AUTHORIZED--RECORDING--FEES.--

5 A. ~~[Any]~~ A person owning real property that is
6 subject to property taxation under the Property Tax Code may
7 file for record in the office of the county clerk of the county
8 where the real property is located a legal description or a
9 plat of the real property. To be eligible for recording, the
10 legal description or plat shall be certified by a professional
11 surveyor licensed in the state.

12 B. The United States, the state or its political
13 subdivisions and any agency, department or instrumentality of
14 the United States, the state or its political subdivisions may
15 file for record in the office of the county clerk of the county
16 where the real property is located a legal description or a
17 plat of real property. To be eligible for recording, the legal
18 description or plat shall be certified by a professional
19 surveyor licensed in the state and shall show the governmental
20 agency, department or political subdivision under whose
21 supervision and direction the description or plat was prepared.

22 C. The county clerk shall number descriptions filed
23 under this section consecutively and shall number plats filed
24 under this section consecutively. Immediately upon receiving a
25 description or plat for filing, the county clerk shall note on

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1 the instrument the filing number and the time of filing and
2 shall make proper entries in [~~his~~] the reception book and in
3 [~~his~~] the index to general real estate records.

4 D. The county clerk shall record descriptions and
5 plats filed under this section in the same manner as other
6 similar instruments affecting real property are recorded. The
7 county clerk shall charge [~~a fee of two dollars fifty cents~~
8 ~~(\$2.50) for filing and recording each description or plat. If~~
9 ~~the county clerk uses a post binder with transparent protective~~
10 ~~pages for the protection of the plats, he shall charge a fee of~~
11 ~~five dollars (\$5.00) for filing and recording each unit of a~~
12 ~~plat that is eighteen inches by twenty-four inches or part~~
13 ~~thereof.~~

14 E. ~~For filing legal descriptions or plats of real~~
15 ~~property, the county clerk may charge, in addition to any other~~
16 ~~fees authorized by law, including the fee provided for in~~
17 ~~Subsection D of this section, an equipment recording fee. The~~
18 ~~equipment recording fee shall not exceed four dollars (\$4.00)~~
19 ~~for each instrument or plat recorded.~~

20 F. ~~Amounts collected from the equipment recording~~
21 ~~fee shall be deposited into a county clerk recording and filing~~
22 ~~fund, which shall be established by the county. Money in the~~
23 ~~county clerk recording and filing fund shall be expended only~~
24 ~~to rent, purchase, lease or lease-purchase equipment associated~~
25 ~~with recording, filing, maintaining or reproducing documents in~~

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1 ~~the county clerk's office and for staff training on office~~
2 ~~procedures and equipment.~~

3 G. ~~The equipment recording fee and expenditures~~
4 ~~from the county clerk recording and filing fund shall be~~
5 ~~determined annually by the county clerk and approved by the~~
6 ~~board of county commissioners]~~ a recording fee as provided for
7 in Section 14-8-13 NMSA 1978 for documents recorded pursuant to
8 this section.

9 [H.] E. If the county clerk has the appropriate
10 technology, the clerk shall record the plat electronically,
11 return the original to the person who submitted the plat and
12 forward an electronic copy to the county assessor. Otherwise,
13 all plats to be recorded pursuant to the provisions of this
14 section shall be filed in duplicate with the county clerk. One
15 copy shall be recorded by the county clerk, and one copy shall
16 be delivered by the county clerk to the county assessor."

17 Section 5. REPEAL.--Sections 14-8-12.3, 14-8-12.4 and
18 14-8-14 NMSA 1978 (being Laws 1985, Chapter 122, Sections 3 and
19 4 and Laws 1886-1887, Chapter 10, Section 6, as amended) are
20 repealed.