

SENATE FLOOR SUBSTITUTE FOR
SENATE BILL 176

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

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

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underscored material = new
[bracketed material] = delete

1 the same area of land or is known, designated or advertised as
2 a common unit or by a common name;

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

8 D. "immediate family member" means a husband, wife,
9 father, stepfather, mother, stepmother, brother, stepbrother,
10 sister, stepsister, son, stepson, daughter, stepdaughter,
11 grandson, stepgrandson, granddaughter, stepgranddaughter,
12 nephew and niece, whether related by natural birth or adoption;

13 E. "Indian nation, tribe or pueblo" means any
14 federally recognized Indian nation, tribe or pueblo located
15 wholly or partially in New Mexico;

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

17 G. "parcel" means land capable of being described
18 by location and boundaries and not dedicated for public or
19 common use;

20 H. "person" means any individual, estate, trust,
21 receiver, cooperative association, club, corporation, company,
22 firm, partnership, joint venture, syndicate or other entity;

23 I. "preliminary plat" means a map of a proposed
24 subdivision showing the character and proposed layout of the
25 subdivision and the existing conditions in and around it, and

1 need not be based upon an accurate and detailed survey of the
2 land;

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

4 K. "subdivide" means to divide a surface area of
5 land into a subdivision;

6 L. "subdivider" means any person who creates or who
7 has created a subdivision individually or as part of a common
8 promotional plan or any person engaged in the sale, lease or
9 other conveyance of subdivided land; however, "subdivider" does
10 not include any duly licensed real estate broker or salesperson
11 acting on another's account;

12 M. "subdivision" means the division of a surface
13 area of land, including land within a previously approved
14 subdivision, into two or more parcels for the purpose of sale,
15 lease or other conveyance or for building development, whether
16 immediate or future; but "subdivision" does not include:

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

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

25 (3) the division of land within the boundaries

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1 of a municipality;

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

5 (5) the division of land created by court
6 order where the order creates no more than one parcel per
7 party;

8 (6) the division of land for grazing or
9 farming activities; provided the land continues to be used for
10 grazing or farming activities;

11 (7) the division of land resulting only in the
12 alteration of parcel boundaries where parcels are altered for
13 the purpose of increasing or reducing the size of contiguous
14 parcels and where the number of parcels is not increased;

15 (8) the division of land to create burial
16 plots in a cemetery;

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

22 (10) the division of land created to provide
23 security for mortgages, liens or deeds of trust; provided that
24 the division of land is not the result of a seller-financed
25 transaction;

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1 (11) the sale, lease or other conveyance of
2 land that creates no parcel smaller than one hundred forty
3 acres;

4 (12) the division of land to create a parcel
5 that is donated to any trust or nonprofit corporation granted
6 an exemption from federal income tax, as described in Section
7 501(c)(3) of the United States Internal Revenue Code of 1986,
8 as amended; school, college or other institution with a defined
9 curriculum and a student body and faculty that conducts classes
10 on a regular basis; or church or group organized for the
11 purpose of divine worship, religious teaching or other
12 specifically religious activity; or

13 (13) the sale, lease or other conveyance of a
14 single parcel from a tract of land, except from a tract within
15 a previously approved subdivision, within any five-year period;
16 provided [~~that a second or subsequent sale, lease or other~~
17 ~~conveyance from the same tract of land within five years of the~~
18 ~~first sale, lease or other conveyance shall be subject to the~~
19 ~~provisions of the New Mexico Subdivision Act; provided further]~~
20 that a survey shall be filed with the county clerk indicating
21 [~~the~~] a five-year holding period for division of both the
22 original tract and the newly created tract; and provided
23 further that nothing in the New Mexico Subdivision Act shall
24 prohibit the sale, lease or other conveyance of a tract of
25 land;

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1 N. "terrain management" means the control of
2 floods, drainage and erosion and measures required for adapting
3 proposed development to existing soil characteristics and
4 topography;

5 O. "time of purchase, lease or other conveyance"
6 means the time of signing any document obligating the person
7 signing the document to purchase, lease or otherwise acquire a
8 legal interest in land;

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

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

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

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

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