

1 HOUSE BILL 293

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Greg Nibert

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10 AN ACT

11 RELATING TO PUBLIC RECORDS; CHANGING THE REQUIREMENTS FOR
12 FILING AND RECORDING DUPLICATES OF INSTRUMENTS OF WRITING.

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

15 SECTION 1. Section 14-8-4 NMSA 1978 (being Laws 1901,
16 Chapter 62, Section 18, as amended) is amended to read:

17 "14-8-4. ACKNOWLEDGMENT NECESSARY FOR RECORDING--
18 EXCEPTIONS--RECORDING OF DUPLICATES.--

19 A. Any original instrument of writing duly
20 acknowledged may be filed and recorded. Any instrument of
21 writing not duly acknowledged may not be filed and recorded or
22 considered of record, though so entered, unless otherwise
23 provided in this section. [~~A duplicate of an instrument of~~
24 ~~writing duly acknowledged may be filed and recorded to the same~~
25 ~~extent as the original.~~]

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

5 C. The following documents need not be acknowledged
6 but may be filed and recorded:

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

9 (2) court-certified transcripts of any money
10 judgment obtained in a court of [~~this state~~] New Mexico or,
11 pursuant to Section 14-9-9 NMSA 1978, in the United States
12 district court for the district of New Mexico;

13 (3) land patents and land office receipts;

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

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

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

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

25 (8) certified copies of foreign wills,

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1 marriages or birth certificates duly authenticated; and

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

6 D. If an original instrument of writing is
7 unavailable but, if it were available, could be filed and
8 recorded in accordance with this section, a duplicate of that
9 instrument shall be accepted for filing and recording if
10 accompanied by an affidavit executed pursuant to this
11 subsection. The affidavit shall:

12 (1) provide the name, phone number and mailing
13 address of the affiant;

14 (2) provide information regarding the
15 execution of the instrument, consideration paid, delivery or
16 other information establishing that the original instrument, if
17 it were available, would be entitled to be recorded pursuant to
18 Subsection A of this section;

19 (3) specify the reason the duplicate is filed
20 and recorded in place of the original instrument;

21 (4) include a statement that the duplicate is
22 a true and correct copy of the original instrument; and

23 (5) be acknowledged and made under oath
24 confirming that the statements set forth in the affidavit are
25 true and correct and of the personal knowledge of the affiant.

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underscoring material = new
~~[bracketed material] = delete~~

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E. The filing of a duplicate instrument in accordance with Subsection D of this section shall not incur a fee in addition to the fee, if any, charged for filing an original instrument. When the clerk records the instrument, the grantor and grantee shall be those of the duplicate instrument and the name of the affiant shall be indexed under miscellaneous information.

~~[D-]~~ F. Any filing or recording permitted or required under the provisions of the Uniform Commercial Code need not comply with the requirements of this section.

~~[E-]~~ G. Instruments acknowledged on behalf of a corporation need not have the corporation's seal affixed thereto in order to be filed and recorded."