

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 693

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO MUNICIPALITIES AND COUNTIES; PROVIDING AUTHORITY
FOR TRANSFERS OF DEVELOPMENT RIGHTS.

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

Section 1. A new section of Chapter 3, Article 18 NMSA
1978 is enacted to read:

"[NEW MATERIAL] FINDINGS AND PURPOSE-- TRANSFER OF
DEVELOPMENT RIGHTS. --

A. The legislature finds that:

(1) growth and urban development are
encroaching on and eliminating open and distinctive ecological,
agricultural and historical areas;

(2) the ability to transfer development rights
is useful to achieve community objectives if used consistent
with comprehensive plans; and

1 (3) transference of development rights using
2 normal markets may provide just compensation to property owners
3 for public benefits.

4 B. The purpose of this section is to:

5 (1) clarify an application of existing
6 authority;

7 (2) provide guidelines for counties and
8 municipalities to regulate transfers of development rights
9 consistent with comprehensive plans;

10 (3) protect ecological, agricultural and
11 historical values of land; and

12 (4) require public notification of transfers
13 of development rights.

14 C. A municipality or county may, by ordinance,
15 provide for voluntary transfer of all or partial development
16 rights from one parcel of land to another parcel of land.

17 D. The ordinance shall identify on a zoning map
18 areas from which development rights may be transferred and
19 areas to which development rights may be transferred.

20 E. The ordinance shall provide for:

21 (1) the voluntary transfer of a development
22 right from one parcel of land to increase the intensity of
23 development of another parcel of land;

24 (2) joint powers agreements, if applicable,
25 for administration of transfers of development rights across

1 jurisdictional boundaries;

2 (3) the method of transfer of development
3 rights, including methods of determining the accounting for the
4 rights transferred;

5 (4) the reasonable rules to effect and control
6 transfers and ensure compliance with the provisions of the
7 ordinance; and

8 (5) public notification to the areas to which
9 development rights may be transferred.

10 F. Transference of a development right shall be in
11 writing and executed by the owner of the parcel from which the
12 development right is being transferred and acknowledged by the
13 transferor. A development right shall not be subject to
14 condemnation.

15 G. As used in this section, "development right"
16 means the rights permitted to a lot, parcel or area of land
17 under a zoning ordinance or local law respecting permissible
18 use, area, density or height of improvements executed thereon,
19 and development rights may be calculated and allocated in
20 accordance with density or height limitations or any criteria
21 that will effectively quantify a development right in a
22 reasonable and uniform manner.

23 H. Nothing in this section shall be construed to
24 authorize a municipality or a county to alter existing zoning
25 of property. "

underscored material = new
[bracketed material] = delete