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HOUSE BILL 153

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

INTRODUCED BY

Elias Barela

AN ACT

RELATING TO TAXATION; AMENDING THE PROPERTY TAX CODE; REQUIRING
PROPERTY TAX LIABILITIES TO BE SATISFIED BEFORE SUBDIVIDING
PROPERTY; PROVIDING AUTHORITY TO COUNTY GOVERNING BODIES TO
COLLECT DELINQUENT TAXES; ALTERING THE TIMING OF PROCEDURES
RESULTING FROM FAILURE TO PAY PROPERTY TAXES.

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

Section 1. Section 3-19-6 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-18-6, as amended) is amended to read:

"3-19-6. SUBDIVISION REGULATIONS.--

A. The planning authority of a municipality shall
adopt regulations governing the subdivision of land within the
planning and platting jurisdiction of the municipality. The
subdivision regulations shall be approved by the governing body
before they become effective. The subdivision regulations may

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1 provide for:

2 (1) the harmonious development of the
3 municipality and its environs;

4 (2) the coordination of streets within the
5 subdivision with existing or planned streets or other features
6 of the master plan or official map of the municipality;

7 (3) adequate open space for traffic,
8 recreation, drainage, light and air; and

9 (4) the distribution of population and traffic
10 [~~which tend~~] that tends to create conditions favorable to the
11 health, safety, convenience, prosperity or general welfare of
12 the residents of the municipality.

13 B. Subdivision regulations may govern:

14 (1) the width of streets;

15 (2) the width, depth and arrangement of lots;

16 (3) land use, including natural drainage;

17 (4) other matters necessary to carry out the
18 purposes of the Municipal Code; and

19 (5) the extent and manner in which:

20 (a) streets are graded and improved; and

21 (b) water, sewer and other utility

22 facilities are installed as a condition precedent to the
23 approval of a plat.

24 C. The subdivision regulations shall include that
25 no property shall be approved for subdivision if any of the

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1 property taxes due within the last ten years remain delinquent,
2 unless the property is subject to sale by the taxation and
3 revenue department pursuant to Section 7-38-67 NMSA 1978.

4 ~~[G-]~~ D. The subdivision regulations or the practice
5 of the planning commission may allow tentative approval of the
6 plat previous to the completion of improvements and the
7 installation of utility facilities, but such tentative approval
8 shall not be entered on a plat. In lieu of the completion of
9 improvements and the installation of utility facilities
10 previous to the final approval of a plat, the subdivision
11 regulations may provide for:

12 (1) assessment or other methods whereby the
13 municipality makes the improvements and installations at the
14 cost of the owner of property within the subdivision; ~~[or]~~

15 (2) acceptance of a bond, in an amount and
16 with surety and conditions satisfactory to the planning
17 commission, securing to the municipality the actual
18 construction and installation of improvements and utility
19 facilities within a period of time specified by the planning
20 commission and expressed in the bond. A municipality may
21 enforce such a bond by all appropriate and legal remedies; or

22 (3) in lieu of a bond, ~~[the municipality may~~
23 ~~enter into]~~ an agreement ~~[with]~~ between the municipality and a
24 person seeking approval of a subdivision whereby the person
25 seeking approval shall, within two years following final

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1 approval of the plat, complete the improvements and the
2 installation of utility facilities provided for in the person's
3 application for subdivision approval, except that the agreement
4 set forth herein may provide that the person seeking approval
5 shall be permitted by the municipality to sell or otherwise
6 dispose of or improve any lot within the subdivision to which
7 improvements and utility facilities have been provided by the
8 person seeking approval at any time within the two-year period.
9 Any such agreement shall be recorded with the county clerk at
10 the time of filing [~~said~~] the plat.

11 [~~D-~~] E. The governing body or planning commission
12 of the municipality shall hold a public hearing on the adoption
13 of a subdivision regulation or an amendment to it. Notice of
14 the time and place of the public hearing shall be published
15 once at least fifteen days prior to the date of the public
16 hearing.

17 [~~E-~~] F. If the requirement or restriction does not
18 violate the zoning ordinance, the governing body or planning
19 commission of the municipality may agree with a person seeking
20 approval of a subdivision upon the use, height, area or bulk
21 requirement or restriction governing buildings and premises
22 within the subdivision. The requirement or restriction shall:

23 (1) accompany the plat before it is approved
24 and recorded;

25 (2) have the force of law;

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1 (3) be enforced; and

2 (4) be subject to amendment or repeal as the
3 provisions of the zoning ordinance and map are enforced,
4 amended or repealed."

5 Section 2. A new section of Chapter 4, Article 38 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] POWER--PROHIBITING ISSUANCE OF COUNTY
8 AUTHORIZATIONS TO DELINQUENT PROPERTY TAXPAYERS.--

9 A. The board of county commissioners may adopt an
10 ordinance that prohibits a person who appears on the property
11 tax delinquency list issued annually by the county treasurer
12 pursuant to Section 7-38-61 NMSA 1978 and recorded in the
13 office of the county clerk from being issued or granted a
14 permit, license or other authorization controlled by the
15 county; provided that the ordinance clearly identifies the
16 specific authorization that may be denied an applicant who is a
17 delinquent property taxpayer.

18 B. As used in this section:

19 (1) "authorization" means an action that may
20 be authorized by the county, such as a land-split, a change in
21 zoning, a building permit or other type of authorizations that
22 an applicant is required to seek from the county prior to
23 entering into an activity; and

24 (2) "person" means either an individual or
25 business entity that is obligated to pay property taxes;

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1 however, any individual who is a partner, owner or owner of
2 more than twenty percent of the interest in the business entity
3 may be considered a "person" for purposes of this section."

4 Section 3. Section 7-35-2.1 NMSA 1978 (being Laws 1995,
5 Chapter 12, Section 5) is amended to read:

6 "7-35-2.1. ADDITIONAL ~~[DEFINITION]~~ DEFINITIONS.--As used
7 in the Property Tax Code:

8 A. "costs" means the expenses incurred by the
9 department or a county in connection with collecting delinquent
10 taxes. As applied to a particular property, "costs" may be:

11 (1) in regard to collections made by the
12 department, as determined by the ~~[discretion of the]~~
13 department, either the sum of the expenses incurred
14 specifically in connection with that property or the uniform
15 charge applied to the class of delinquent properties of which
16 the property is a member; or

17 (2) in regard to collections made by a
18 county, the expenses incurred specifically in connection with
19 that property, including an administrative fee to be set
20 annually by the governing body of the county, court costs,
21 attorney fees, title searches, filing fees, copying fees,
22 research fees and other fees or costs directly resulting from
23 the collection of delinquent taxes related to a specific
24 property; and

25 B. "governing body" means a board of county

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1 commissioners or if, in regard to an H class county, the county
2 council."

3 Section 4. Section 7-38-48 NMSA 1978 (being Laws 1973,
4 Chapter 258, Section 88, as amended) is amended to read:

5 "7-38-48. PROPERTY TAXES ARE A LIEN AGAINST REAL PROPERTY
6 FROM JANUARY 1--PRIORITIES--CONTINUANCE OF TAXING PROCESS.--

7 A. Except as provided in Subsection B of this
8 section, taxes on real property are a lien against the real
9 property from January 1 of the tax year for which the taxes are
10 imposed. The lien runs in favor of the state and secures the
11 payment of taxes on the real property and any penalty [~~and~~],
12 interest and costs that become due. The lien continues until
13 the taxes and any penalty [~~and~~], interest and costs are paid.
14 The lien created by this section is a first lien and paramount
15 to any other interest in the property, perfected or
16 unperfected. The annual taxing process provided for in the
17 Property Tax Code shall continue as to any particular property
18 regardless of prior tax delinquencies or of pending protests,
19 actions for refunds or other tax controversies involving the
20 property, including a sale for delinquent taxes.

21 B. No lien is created pursuant to Subsection A of
22 this section if:

23 (1) the tax otherwise creating the lien is not
24 due for the current tax year or the immediately preceding
25 property tax year;

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1 (2) the tax otherwise creating the lien is the
2 result of real estate improvements that were omitted from
3 property tax schedules in a prior year and listed and billed
4 pursuant to Section 7-38-76 NMSA 1978; and

5 (3) the current owner was not the owner at the
6 time the improvements were omitted and had no actual notice
7 that the improvements were omitted."

8 Section 5. Section 7-38-60 NMSA 1978 (being Laws 1973,
9 Chapter 258, Section 101, as amended) is amended to read:

10 "7-38-60. NOTIFICATION TO PROPERTY OWNER OF DELINQUENT
11 TAXES.--[By] Not later than June 10 of each year, the county
12 treasurer shall mail a notice to each property owner of
13 property for which taxes [~~have been~~] are delinquent [~~for more~~
14 ~~than two years~~]. The notice shall be in a form and contain the
15 information prescribed by department regulations and shall
16 include the following:

17 A. a description of the property upon which the
18 taxes are due;

19 B. a statement of the amount of property taxes due,
20 the date on which they became delinquent, the rate of accrual
21 of interest and any penalties or costs that may be charged;

22 C. a statement that the delinquent tax account on
23 real property will be transferred to the department for
24 collection;

25 D. a statement that if taxes due on real property

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1 are not paid within three years from the date of delinquency,
2 the real property will be sold and a deed issued; ~~and~~

3 E. a statement that if taxes due on personal
4 property are not paid, the personal property may be seized and
5 sold for taxes under authority of a demand warrant; and

6 F. a statement that a taxpayer who is determined by
7 a county treasurer to be delinquent in paying property taxes on
8 real property is liable to the department or the county,
9 whichever collects the delinquent property taxes, for the costs
10 incurred to collect the delinquent property taxes."

11 Section 6. Section 7-38-61 NMSA 1978 (being Laws 1973,
12 Chapter 258, Section 100, as amended) is amended to read:

13 "7-38-61. DELINQUENT REAL PROPERTY TAXES ~~[DELINQUENT FOR~~
14 ~~MORE THAN TWO YEARS]~~--TREASURER TO PREPARE DELINQUENCY LIST--
15 NOTATION ON PROPERTY TAX SCHEDULE.--

16 A. By July 1 of each year, the county treasurer
17 shall prepare a property tax delinquency list of all real
18 property for which taxes ~~[have been]~~ are delinquent ~~[for more~~
19 ~~than two years]~~. The tax delinquency list shall contain the
20 information and be in a form prescribed and submitted by the
21 date required by department regulations. The county treasurer
22 shall record the tax delinquency list in the office of the
23 county clerk. There shall be no recording fee for recordation
24 of the tax delinquency list. The updated final property tax
25 sale list shall be recorded with the office of the county clerk

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1 the day following the sale of the property. There shall be no
2 recording fee for recordation of the final property tax sale
3 list.

4 B. The county treasurer shall make a notation on
5 the property tax schedule indicating that the account has been
6 transferred to the department for collection at the time the
7 tax delinquency list is mailed to the department."

8 Section 7. Section 7-38-62 NMSA 1978 (being Laws 1973,
9 Chapter 258, Section 102, as amended) is amended to read:

10 "7-38-62. AUTHORITY OF COUNTY TO COLLECT DELINQUENT
11 PROPERTY TAXES--AUTHORITY OF DEPARTMENT TO COLLECT DELINQUENT
12 PROPERTY TAXES AFTER RECEIPT OF TAX DELINQUENCY LIST--USE OF
13 PENALTIES, INTEREST AND COSTS.--

14 A. The governing body of a county is authorized to
15 adopt an ordinance directing a designated county officer or
16 employee to collect delinquent property taxes and costs at any
17 time following the identification of real property on which
18 property taxes have not been paid as required by law and prior
19 to the issuance of the tax delinquency list. A governing body
20 that authorizes a county officer or employee to collect
21 delinquent property taxes shall adopt rules governing the
22 procedures for collecting delinquent property taxes, publish
23 the rules in a newspaper of general circulation in the county
24 once a week for three consecutive weeks prior to the rules
25 becoming effective and publish the rules on the web site of the

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1 governing body. The governing body of the county and the
2 department may enter into an agreement to collaborate to
3 collect delinquent property taxes after the issuance of the tax
4 delinquency list by the county treasurer. The rules of the
5 department regarding collection of delinquent property taxes
6 shall govern collections after the issuance of the tax
7 delinquency list.

8 B. After the receipt of the tax delinquency list,
9 the department has the responsibility and exclusive authority
10 to take all action necessary to collect delinquent taxes shown
11 on the list unless the department enters into an agreement with
12 a county to share the authority to collect delinquent property
13 taxes in that county. This authority includes bringing
14 collection actions in the district courts based upon the
15 personal liability of the property owner for taxes as well as
16 the actions authorized in the Property Tax Code for proceeding
17 against the property subject to the tax for collection of
18 delinquent taxes. Payment of delinquent taxes listed and any
19 penalty, interest or costs due in connection with those taxes
20 shall be made [~~to~~] as required by the department if occurring
21 after the receipt by the department of the tax delinquency
22 list; however, the department may authorize county treasurers
23 to act as its agents in accepting payments of taxes, penalties,
24 interest or costs due. Penalties, interest and costs due
25 received by the department under this section shall be retained

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1 by the department for use, subject to appropriation by the
2 legislature, in the administration of the Property Tax Code,
3 except that costs incurred by a county to collect delinquent
4 property taxes shall be retained by the county."

5 Section 8. Section 7-38-63 NMSA 1978 (being Laws 1973,
6 Chapter 258, Section 103, as amended) is amended to read:

7 "7-38-63. PAYMENT OF DELINQUENT TAXES TO THE DEPARTMENT--
8 DISTRIBUTION.--

9 A. If the department collects the delinquent
10 property taxes, at the time of payment to the department of
11 delinquent taxes, penalties, interest and [~~penalties~~] costs,
12 the department shall issue a receipt to the property owner for
13 the payment of delinquent taxes, penalties [~~and~~], interest and
14 costs. A duplicate of the receipt shall be mailed to the
15 county treasurer, together with a remittance of the property
16 taxes paid. When the county treasurer receives the remittance
17 of the taxes and the duplicate receipt, the treasurer shall
18 make a notation of the payment of the property taxes, penalties
19 [~~and~~], interest and costs on the property tax schedule and
20 shall distribute the property taxes to the appropriate
21 governmental units in accordance with the regulations of the
22 department of finance and administration.

23 B. If the county collects the delinquent property
24 taxes, at the time of payment to the county of delinquent
25 property taxes, penalties, interest and costs, the county shall

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1 issue a receipt to the property owner for the payment of
2 delinquent taxes, penalties, interest and costs. A duplicate
3 of the receipt shall be delivered to the county treasurer,
4 together with the remittance of the property taxes paid. The
5 treasurer shall make a notation of the payment of the property
6 taxes, penalties, interest and costs on the property tax
7 schedule and shall distribute the property taxes to the
8 appropriate governmental units in accordance with regulations
9 of the department of finance and administration.

10 C. If the department and a county have entered into
11 an agreement to collaborate to collect delinquent property
12 taxes, the agreement shall contain the method of distributing
13 the costs of collection charged to the taxpayer so that the
14 county is compensated for the expenditures it made to collect
15 the delinquent taxes."

16 Section 9. Section 7-38-65 NMSA 1978 (being Laws 1973,
17 Chapter 258, Section 105, as amended) is amended to read:

18 "7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL
19 PROPERTY--SALE OF REAL PROPERTY.--

20 A. If a lien exists by the operation of Section
21 7-38-48 NMSA 1978, the department may collect delinquent taxes
22 on real property by selling the real property on which the
23 taxes have become delinquent. The sale of real property for
24 delinquent taxes and costs shall be in accordance with the
25 provisions of the Property Tax Code. Real property may be sold

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1 for delinquent taxes and costs at any time after the expiration
2 of three years from the first date shown on the tax delinquency
3 list on which the taxes became delinquent. Real property shall
4 be offered for sale for delinquent taxes and costs either
5 within four years after the first date shown on the tax
6 delinquency list on which the taxes became delinquent or, if
7 the department is barred by operation of law or by order of a
8 court of competent jurisdiction from offering the property for
9 sale for delinquent taxes and costs within four years after the
10 first date shown on the tax delinquency list on which the taxes
11 became delinquent, within one year from the time the department
12 determines that it is no longer barred from selling the
13 property, unless:

14 (1) all delinquent taxes, penalties, interest
15 and costs due are paid by 5:00 p.m. of the day prior to the
16 date of the sale; or

17 (2) an installment agreement for payment of
18 all delinquent taxes, penalties, [~~interests~~] interest and costs
19 due is entered into with the department by 5:00 p.m. of the day
20 prior to the date of the sale pursuant to Section 7-38-68 NMSA
21 1978.

22 B. Failure to offer property for sale within the
23 time prescribed by Subsection A of this section shall not
24 impair the validity or effect of any sale [~~which~~] that does
25 take place.

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1 C. The time requirements of this section are
2 subject to the provisions of Section 7-38-83 NMSA 1978."

3 Section 10. Section 7-38-67 NMSA 1978 (being Laws 1973,
4 Chapter 258, Section 107, as amended) is amended to read:

5 "7-38-67. REAL PROPERTY SALE REQUIREMENTS.--

6 A. Real property shall not be sold for delinquent
7 taxes before the expiration of three years from the first date
8 shown on the tax delinquency list on which the taxes on the
9 real property became delinquent.

10 B. Notice of the sale shall be published in a local
11 newspaper within the county where the real property is located
12 or, if there is no local county or municipal newspaper, then a
13 newspaper published in a county contiguous to or near the
14 county in which the real property is located, at least once a
15 week for the three weeks immediately preceding the week of the
16 sale. For more generalized notice, the department may choose
17 to publish notice of the sale also in a newspaper not published
18 within the county and of more general circulation. The notice
19 shall state the time and place of the sale and shall include a
20 description of the real property sufficient to permit its
21 identification and location by potential purchasers.

22 C. Real property shall be sold at public auction
23 either by the department or an auctioneer hired by the
24 department. The auction shall be held in the county where the
25 real property is located at a time and place designated by the

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1 department.

2 D. If the real property can be divided so as to
3 enable the department to sell only part of it and pay all
4 delinquent taxes, penalties, interest and costs, the department
5 may, with the consent of the owner, sell only a part of the
6 real property.

7 E. Before the sale, the department shall determine
8 a minimum sale price for the real property. In determining the
9 minimum price, the department shall consider the value of the
10 property owner's interest in the real property, the amount of
11 all delinquent taxes, penalties and interest for which it is
12 being sold and the costs of collection and other costs
13 associated with the sale of the property. The minimum price
14 shall not be less than the total of all delinquent taxes,
15 penalties, interest and costs. Real property shall not be sold
16 for less than the minimum price unless no offer met the minimum
17 price when it was offered at an earlier public auction or the
18 property is sold in accordance with the provisions of
19 Subsection H of this section. A sale properly made under the
20 authority of and in accordance with the requirements of this
21 section constitutes full payment of all delinquent taxes,
22 penalties and interest that are a lien against the property at
23 the time of sale, and the sale extinguishes the lien.

24 F. Payment shall be made in full by the close of
25 the public auction before an offer may be deemed accepted by

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1 the department.

2 G. Real property not offered for sale may be
3 offered for sale at a later sale, but the requirements of this
4 section and Section 7-38-66 NMSA 1978 shall be met in
5 connection with each sale.

6 H. The board of trustees of a community land grant-
7 merced governed pursuant to the provisions of Chapter 49,
8 Article 1 NMSA 1978 or by statutes specific to the named land
9 grant-merced shall be allowed to match the highest bid at a
10 public auction, which shall entitle the board of trustees to
11 purchase the property for the amount bid if:

12 (1) the property is situated within the
13 boundaries of that land grant-merced as shown in the United
14 States patent to the grant;

15 (2) the bid covers all past taxes, penalties,
16 interest and costs due on the property; and

17 (3) the land becomes part of the common lands
18 of the land grant-merced."

19 Section 11. Section 47-6-11 NMSA 1978 (being Laws 1973,
20 Chapter 348, Section 11, as amended) is amended to read:

21 "47-6-11. PRELIMINARY PLAT APPROVAL--SUMMARY REVIEW.--

22 A. Preliminary plats shall be submitted for type-
23 one, type-two, type-three, except type-three subdivisions that
24 are subject to review under summary procedure as set forth in
25 Subsection I of this section, and type-four subdivisions.

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1 B. Prior to approving the preliminary plat, the
2 board of county commissioners of the county in which the
3 subdivision is located shall require that the subdivider
4 furnish documentation of:

5 (1) water sufficient in quantity to fulfill
6 the maximum annual water requirements of the subdivision,
7 including water for indoor and outdoor domestic uses;

8 (2) water of an acceptable quality for human
9 consumption and measures to protect the water supply from
10 contamination;

11 (3) the means of liquid waste disposal for the
12 subdivision;

13 (4) the means of solid waste disposal for the
14 subdivision;

15 (5) satisfactory roads to each parcel,
16 including ingress and egress for emergency vehicles, and
17 utility easements to each parcel;

18 (6) terrain management to protect against
19 flooding, inadequate drainage and erosion; ~~[and]~~

20 (7) protections for cultural properties,
21 archaeological sites and unmarked burials that may be affected
22 directly by the subdivision, as required by the Cultural
23 Properties Act; and

24 (8) payment of property tax liabilities for
25 the preceding ten years on the property to be subdivided.

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1 C. In addition to the requirements of Subsection B
2 of this section, prior to approving the preliminary plat, the
3 board of county commissioners of the county in which the
4 subdivision is located shall:

5 (1) determine whether the subdivider can
6 fulfill the proposals contained in the subdivider's disclosure
7 statement required by Section 47-6-17 NMSA 1978; and

8 (2) determine whether the subdivision will
9 conform with the New Mexico Subdivision Act and the county's
10 subdivision regulations.

11 D. The board of county commissioners shall not
12 approve the preliminary plat if:

13 (1) the subdivider cannot reasonably
14 demonstrate that the subdivider can fulfill the requirements of
15 Subsections B and C of this section; or

16 (2) the subdivider or the property owner
17 cannot produce documents showing the property tax liability on
18 the property proposed to be subdivided has been paid for each
19 of the preceding ten years.

20 E. Any subdivider submitting a preliminary plat for
21 approval shall submit sufficient information to the board of
22 county commissioners to permit the board to determine whether
23 the subdivider can fulfill the requirements of Subsections B
24 and C of this section.

25 F. In determining whether a subdivider can fulfill

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1 the requirements of Subsections B and C of this section, the
2 board of county commissioners shall, within ten days after the
3 preliminary plat is deemed complete, request opinions from:

4 (1) the state engineer to determine:

5 (a) whether the subdivider can furnish
6 water sufficient in quantity to fulfill the maximum annual
7 water requirements of the subdivision, including water for
8 indoor and outdoor domestic uses; and

9 (b) whether the subdivider can fulfill
10 the proposals in the subdivider's disclosure statement
11 concerning water, excepting water quality;

12 (2) the department of environment to
13 determine:

14 (a) whether the subdivider can furnish
15 water of an acceptable quality for human consumption and
16 measures to protect the water supply from contamination in
17 conformity with state regulations promulgated pursuant to the
18 Environmental Improvement Act;

19 (b) whether there are sufficient liquid
20 and solid waste disposal facilities to fulfill the requirements
21 of the subdivision in conformity with state regulations
22 promulgated pursuant to the Environmental Improvement Act, the
23 Water Quality Act and the Solid Waste Act; and

24 (c) whether the subdivider can fulfill
25 the proposals contained in the subdivider's disclosure

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1 statement concerning water quality and concerning liquid and
2 solid waste disposal facilities;

3 (3) the department of transportation to
4 determine whether the subdivider can fulfill the state highway
5 access requirements for the subdivision in conformity with
6 state regulations promulgated pursuant to Section 67-3-16 NMSA
7 1978;

8 (4) the soil and water conservation district
9 to determine:

10 (a) whether the subdivider can furnish
11 terrain management sufficient to protect against flooding,
12 inadequate drainage and erosion; and

13 (b) whether the subdivider can fulfill
14 the proposals contained in the subdivider's disclosure
15 statement concerning terrain management;

16 (5) each Indian nation, tribe or pueblo with a
17 historical, cultural or resource tie with the county that
18 submits at least annually, via certified mail, return receipt
19 requested, a written request for notification to the board of
20 county commissioners, which request indicates the Indian
21 nation, tribe or pueblo's historical, cultural or resource tie
22 with the county, its contact information and a listing of the
23 types of documentation required to be submitted by a subdivider
24 to the county that may be necessary for its review to
25 determine:

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1 (a) whether the subdivider can furnish,
2 fulfill or otherwise meet the requirements set forth in
3 Paragraphs (1) through (4) of this subsection; and

4 (b) how the subdivider's proposed plat
5 may directly affect cultural properties, archaeological sites
6 and unmarked burials; and

7 (6) such other public agencies as the county
8 deems necessary, such as local school districts and fire
9 districts, to determine whether there are adequate facilities
10 to accommodate the proposed subdivision.

11 G. If, in the opinion of each appropriate public
12 agency or an Indian nation, tribe or pueblo, a subdivider can
13 fulfill the requirements of Subsection F of this section, the
14 board of county commissioners shall weigh these opinions in
15 determining whether to approve the preliminary plat at a public
16 hearing to be held in accordance with Section 47-6-14 NMSA
17 1978.

18 H. If, in the opinion of the appropriate public
19 agency or an Indian nation, tribe or pueblo, a subdivider
20 cannot fulfill the requirements of Subsection F of this section
21 or, if the appropriate public agency or the Indian nation,
22 tribe or pueblo does not have sufficient information upon which
23 to base an opinion on any one of these subjects, the subdivider
24 shall be notified of this fact by the board of county
25 commissioners, and the procedure set out below shall be

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1 followed:

2 (1) if the appropriate public agency or the
3 Indian nation, tribe or pueblo has rendered an adverse opinion,
4 the board of county commissioners shall give the subdivider a
5 copy of the opinion;

6 (2) the subdivider shall be given thirty days
7 from the date of notification to submit additional information
8 to the public agency or the Indian nation, tribe or pueblo
9 through the board of county commissioners; and

10 (3) the public agency or the Indian nation,
11 tribe or pueblo shall have thirty days from the date the
12 subdivider submits additional information to change its opinion
13 or issue a favorable opinion when it has withheld one because
14 of insufficient information. No more than thirty days
15 following the date of the expiration of the thirty-day period,
16 during which the public agency or the Indian nation, tribe or
17 pueblo reviews any additional information submitted by the
18 subdivider, the board of county commissioners shall hold a
19 public hearing in accordance with Section 47-6-14 NMSA 1978 to
20 determine whether to approve the preliminary plat. Where the
21 public agency has rendered an adverse opinion, the subdivider
22 has the burden of showing that the adverse opinion is incorrect
23 either as to factual or legal matters. Where the Indian
24 nation, tribe or pueblo has rendered an adverse opinion, the
25 subdivider may submit additional information to the board of

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1 county commissioners. If a public agency disagrees with an
2 adverse opinion rendered by an Indian nation, tribe or pueblo,
3 that agency shall submit a response to the board of county
4 commissioners.

5 I. If a type-three subdivision contains five or
6 fewer parcels of land, and unless the land within the
7 subdivision has been previously identified in the county's
8 comprehensive plan, as amended or supplemented, or zoning
9 ordinances as an area subject to unique circumstances or
10 conditions that require additional review:

11 (1) if the smallest parcel is not less than
12 three acres in size, the board of county commissioners shall
13 use the same summary procedure for reviewing the subdivision as
14 the board uses for reviewing type-five subdivisions; or

15 (2) if the smallest parcel is less than three
16 acres in size, the board of county commissioners may use the
17 same summary procedure for reviewing the subdivision as the
18 board uses for reviewing type-five subdivisions.

19 J. Prior to approving the final plat of a type-five
20 subdivision, the board of county commissioners of the county in
21 which the subdivision is located shall:

22 (1) determine whether the subdivider can
23 fulfill the proposals contained in the subdivider's disclosure
24 statement required by Section 47-6-17 NMSA 1978; [and]

25 (2) determine whether the subdivision conforms

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1 with the New Mexico Subdivision Act and the county's
2 subdivision regulations; and

3 (3) determine if the subdivider or owner of
4 the property to be subdivided has satisfied current property
5 tax obligations pertaining to the property to be subdivided.

6 K. The board of county commissioners shall not
7 approve the final plat of any type-five subdivision:

8 (1) if the subdivider cannot reasonably
9 demonstrate that the subdivider can fulfill the requirements of
10 Subsection J of this section; or

11 (2) if the subdivider or property owner has a
12 delinquent tax liability for any of the previous ten years on
13 the property to be subdivided.

14 L. Any subdivider submitting a plat of a type-five
15 subdivision shall submit sufficient information to the board of
16 county commissioners to permit the board to determine whether
17 the subdivider can fulfill the requirements of Subsection J of
18 this section.

19 M. The board of county commissioners shall by
20 regulation establish a procedure for summary review for certain
21 type-three subdivisions, as provided in Subsection I of this
22 section, and all type-five subdivisions. If the board of
23 county commissioners fails to adopt criteria for summary
24 review, the board of county commissioners shall approve the
25 plat if it complies with Sections 47-6-3 and 47-6-4 NMSA 1978

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1 within the time limitation set forth in Section 47-6-22 NMSA
2 1978. The board of county commissioners may delegate to any
3 county administrative officer or planning commission member the
4 authority to approve any subdivision under summary review.
5 Approval by summary review is conclusive evidence of the
6 approval of the board of county commissioners."

7 Section 12. APPLICABILITY.--The provisions of this act
8 apply to property taxes that are determined by the county
9 treasurer of the county in which the real property is located
10 to be delinquent for the 2010 tax year or for a subsequent tax
11 year.

12 Section 13. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2010.