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SENATE BILL 86

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

INTRODUCED BY  
Eric G. Griego

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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provide for:

- (1) the harmonious development of the municipality and its environs;
- (2) the coordination of streets within the subdivision with existing or planned streets or other features of the master plan or official map of the municipality;
- (3) adequate open space for traffic, recreation, drainage, light and air; and
- (4) the distribution of population and traffic ~~[which tend]~~ that tends to create conditions favorable to the health, safety, convenience, prosperity or general welfare of the residents of the municipality.

B. Subdivision regulations may govern:

- (1) the width of streets;
- (2) the width, depth and arrangement of lots;
- (3) land use, including natural drainage;
- (4) other matters necessary to carry out the purposes of the Municipal Code; and
- (5) the extent and manner in which:
  - (a) streets are graded and improved; and
  - (b) water, sewer and other utility facilities are installed as a condition precedent to the approval of a plat.

C. The subdivision regulations shall include that 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~~] one year from the date of  
2 delinquency, the real property will be sold and a deed issued;  
3 [~~and~~]

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

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

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

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

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

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1 sale list shall be recorded with the office of the county clerk  
2 the day following the sale of the property. There shall be no  
3 recording fee for recordation of the final property tax sale  
4 list.

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

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

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

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

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

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

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

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

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

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

24 B. If the county collects the delinquent property  
25 taxes, at the time of payment to the county of delinquent

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

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

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

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

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

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

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

18 (2) an installment agreement for payment of  
19 all delinquent taxes, penalties, [~~interests~~] interest and costs  
20 due is entered into with the department by 5:00 p.m. of the day  
21 prior to the date of the sale pursuant to Section 7-38-68 NMSA  
22 1978.

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

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1 take place.

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

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

6 "7-38-67. REAL PROPERTY SALE REQUIREMENTS.--

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

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

23 C. Real property shall be sold at public auction  
24 either by the department or an auctioneer hired by the  
25 department. The auction shall be held in the county where the

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1 real property is located at a time and place designated by the  
2 department.

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

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

25 F. Payment shall be made in full by the close of

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1 the public auction before an offer may be deemed accepted by  
2 the department.

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

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

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

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

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

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

22 "47-6-11. PRELIMINARY PLAT APPROVAL--SUMMARY REVIEW.--

23 A. Preliminary plats shall be submitted for type-  
24 one, type-two, type-three, except type-three subdivisions that  
25 are subject to review under summary procedure as set forth in

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1 Subsection I of this section, and type-four subdivisions.

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

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

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

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

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

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

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

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

25 (8) payment of property tax liabilities for

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1 the preceding ten years on the property to be subdivided.

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

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

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

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

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

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

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

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1 F. In determining whether a subdivider can fulfill  
2 the requirements of Subsections B and C of this section, the  
3 board of county commissioners shall, within ten days after the  
4 preliminary plat is deemed complete, request opinions from:

5 (1) the state engineer to determine:

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

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

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

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

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

25 (c) whether the subdivider can fulfill

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1 the proposals contained in the subdivider's disclosure  
2 statement concerning water quality and concerning liquid and  
3 solid waste disposal facilities;

4 (3) the department of transportation to  
5 determine whether the subdivider can fulfill the state highway  
6 access requirements for the subdivision in conformity with  
7 state regulations promulgated pursuant to Section 67-3-16 NMSA  
8 1978;

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

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

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

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

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1 determine:

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

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

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

12 G. If, in the opinion of each appropriate public  
13 agency or an Indian nation, tribe or pueblo, a subdivider can  
14 fulfill the requirements of Subsection F of this section, the  
15 board of county commissioners shall weigh these opinions in  
16 determining whether to approve the preliminary plat at a public  
17 hearing to be held in accordance with Section 47-6-14 NMSA  
18 1978.

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

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1 commissioners, and the procedure set out below shall be  
2 followed:

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

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

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

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

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

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

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

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

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

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1 (2) determine whether the subdivision conforms  
2 with the New Mexico Subdivision Act and the county's  
3 subdivision regulations; and

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

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

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

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

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

20 M. The board of county commissioners shall by  
21 regulation establish a procedure for summary review for certain  
22 type-three subdivisions, as provided in Subsection I of this  
23 section, and all type-five subdivisions. If the board of  
24 county commissioners fails to adopt criteria for summary  
25 review, the board of county commissioners shall approve the

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

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

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