HOUSE BILL 441

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

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AN ACT

RELATING TO REAL PROPERTY; EXPANDING THE DEFINITION OF
"AFFORDABLE HOUSING" IN THE DEVELOPMENT FEES ACT.

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

SECTION 1. Section 5-8-2 NMSA 1978 (being Laws 1993,
Chapter 122, Section 2) is amended to read:

"5-8-2. DEFINITIONS.--As used in the Development Fees
Act:

A. "affordable housing" means any housing
development built <u>primarily</u> to benefit [those whose income is
at or below eighty percent of the area median income and who
will pay no more than thirty percent of their gross monthly
income towards such housing] <u>persons of low or moderate income</u>;

B. "approved land use assumptions" means land use
assumptions adopted originally or as amended under the

1　Development Fees Act;

2　　　　　C.　"assessment" means a determination of the amount

3　of an impact fee;

4　　　　　D.　"capital improvement" means any of the following

5　facilities that have a life expectancy of ten or more years and

6　are owned and operated by or on behalf of a municipality or

7　county:

8　　　　　　　　(1)　water supply, treatment and distribution

9　facilities; wastewater collection and treatment facilities; and

10　storm water, drainage and flood control facilities;

11　　　　　　　　(2)　roadway facilities located within the

12　service area, including roads, bridges, bike and pedestrian

13　trails, bus bays, rights of way, traffic signals, landscaping

14　and any local components of state and federal highways;

15　　　　　　　　(3)　buildings for fire, police and rescue and

16　essential equipment costing ten thousand dollars ($10,000) or

17　more and having a life expectancy of ten years or more; and

18　　　　　　　　(4)　parks, recreational areas, open space

19　trails and related areas and facilities;

20　　　　　E.　"capital improvements plan" means a plan

21　required by the Development Fees Act that identifies capital

22　improvements or facility expansion for which impact fees may be

23　assessed;

24　　　　　F.　"county" means a county of any classification;

25　　　　　G.　"facility expansion" means the expansion of the

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1   capacity of an existing facility that serves the same function

2   as an otherwise necessary new capital improvement, in order

3   that the existing facility may serve new development. [The

4   term] "Facility expansion" does not include the repair,

5   maintenance, modernization or expansion of an existing facility

6   to better serve existing development, including schools and

7   related facilities;

8   H.   "hook-up fee" means a reasonable fee for

9   connection of a service line to an existing gas, water, sewer

10   or municipal or county utility;

11   I.   "impact fee" means a charge or assessment

12   imposed by a municipality or county on new development in order

13   to generate revenue for funding or recouping the costs of

14   capital improvements or facility expansions necessitated by and

15   attributable to the new development. [The term] "Impact fee"

16   includes amortized charges, lump-sum charges, capital recovery

17   fees, contributions in aid of construction, development fees

18   and any other fee that functions as described by this

19   definition. [The term] "Impact fee" does not include hook-up

20   fees, dedication of rights of way or easements or construction

21   or dedication of on-site water distribution, wastewater

22   collection or drainage facilities or streets, sidewalks or

23   curbs if the dedication or construction is required by a

24   previously adopted valid ordinance or regulation and is

25   necessitated by and attributable to the new development;

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1	　　　　　J.　"land use assumptions" includes a description of

2	the service area and projections of changes in land uses,

3	densities, intensities and population in the service area over

4	at least a five-year period;

5	　　　　　K.　"municipality" means any incorporated city, town

6	or village, whether incorporated under general act, special act

7	or special charter, and H class counties, including any home

8	rule municipality or H class county chartered under the

9	provisions of Article 10, Section 6 of the constitution of New

10	Mexico;

11	　　　　　L.　"new development" means the subdivision of land;

12	reconstruction, redevelopment, conversion, structural

13	alteration, relocation or enlargement of any structure; or any

14	use or extension of the use of land; any of which increases the

15	number of service units;

16	　　　　　M.　"qualified professional" means a professional

17	engineer, surveyor, financial analyst or planner providing

18	services within the scope of [his] the professional's license,

19	education or experience;

20	　　　　　N.　"roadway facilities" means arterial or collector

21	streets or roads that have been designated on an officially

22	adopted roadway plan of the municipality or county, including

23	bridges, bike and pedestrian trails, bus bays, rights of way,

24	traffic signals, landscaping and any local components of state

25	or federal highways;

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1   O. "service area" means the area within the

2 corporate boundaries or extraterritorial jurisdiction of a

3 municipality or the boundaries of a county to be served by the

4 capital improvements or facility expansions specified in the

5 capital improvements plan designated on the basis of sound

6 planning and engineering standards; and

7   P. "service unit" means a standardized measure of

8 consumption, use, generation or discharge attributable to an

9 individual unit of development calculated in accordance with

10 generally accepted engineering or planning standards for a

11 particular category of capital improvements or facility

12 expansions."

13   **SECTION 2.** EFFECTIVE DATE.--The effective date of the

14 provisions of this act is July 1, 2011.

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