

1 SENATE BILL 147

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

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7
8 FOR THE ECONOMIC AND RURAL DEVELOPMENT COMMITTEE

9
10 AN ACT

11 RELATING TO PUBLIC NOTICE; PROVIDING FOR ALTERNATIVE
12 PUBLICATION OF LEGAL NOTICES ON AN AUTHORIZED WEB SITE.

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

15 SECTION 1. Section 12-2A-3 NMSA 1978 (being Laws 1997,
16 Chapter 173, Section 3) is amended to read:

17 "12-2A-3. GENERAL DEFINITIONS.--In the statutes and rules
18 of New Mexico:

19 [~~A.~~ "~~annually~~" ~~means per year~~;

20 ~~B.~~] A. "age of majority" begins on the first
21 instant of an individual's eighteenth birthday;

22 B. "annually" means per year;

23 C. "authorized web site" means the official web
24 site established pursuant to Section 14-11-1 NMSA 1978;

25 [~~C.~~] D. "child" includes a child by adoption;

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1 ~~[D.]~~ E. "oath" includes an affirmation;

2 ~~[E.]~~ F. "person" means an individual, corporation,
3 business trust, estate, trust, partnership, limited liability
4 company, association, joint venture or any other legal or
5 commercial entity;

6 ~~[F.]~~ G. "personal property" means property other
7 than real property;

8 ~~[G.]~~ H. "personal representative" of a decedent's
9 estate includes an administrator and executor;

10 ~~[H.]~~ I. "population" means the number of
11 individuals enumerated in the most recent federal decennial
12 census;

13 ~~[I.]~~ J. "property" means real and personal
14 property;

15 K. "qualified radio or television station" means a
16 radio or television station that has a commercial license
17 issued by the federal communications commission and is a
18 full-power station;

19 ~~[J.]~~ L. "real property" means an estate or interest
20 in, over or under land and other things or interests, including
21 minerals, water, structures and fixtures, that by custom, usage
22 or law pass with a transfer of land even if the estate or
23 interest is not described or mentioned in the contract of sale
24 or instrument of conveyance and, if appropriate to the context,
25 the land in which the estate or interest is claimed;

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1 [~~K-~~] M. "rule" means a rule, regulation, order,
2 standard or statement of policy, including amendments thereto
3 or repeals thereof, adopted and promulgated by an
4 administrative agency, that purports to affect one or more
5 administrative agencies other than the promulgating agency or
6 that purports to affect persons who are not members or
7 employees of the promulgating agency;

8 [~~L-~~] N. "sign" or "subscribe" includes the
9 execution or adoption of any symbol by a person with the
10 present intention to authenticate a writing;

11 [~~M-~~] O. "state" means a state of the United States,
12 the District of Columbia, the Commonwealth of Puerto Rico or
13 any territory or insular possession subject to the jurisdiction
14 of the United States;

15 [~~N-~~] P. "swear" includes affirm;

16 [~~O-~~] Q. "will" includes a codicil; and

17 [~~P-~~] R. "written" and "in writing" includes
18 printing, engraving or any other mode of representing words and
19 letters; provided that for purposes of the publication of legal
20 notices and advertisements, the requirement for written notice
21 may be satisfied by posting on the authorized web site."

22 SECTION 2. Section 14-11-1 NMSA 1978 (being Laws 1937,
23 Chapter 167, Section 1) is amended to read:

24 "14-11-1. LEGAL NOTICES AND ADVERTISEMENTS DEFINED.--Any
25 notice or other written matter [~~whatsoever~~] required to be

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1 published in a newspaper by any law of this state or by the
2 order of any court of record of this state shall be deemed [~~and~~
3 ~~held to be~~] a legal notice or advertisement within the meaning
4 of [~~this Act~~] Chapter 14, Article 11 NMSA 1978; provided that
5 the requirement of publication may be satisfied by posting on
6 the authorized web site. Each qualified radio or television
7 station shall without charge at least once a day between the
8 hours of 5:00 a.m. and 10:00 p.m. announce the availability of
9 legal notices and advertisements on the authorized web site.
10 The New Mexico broadcasters association shall be responsible
11 for establishing and maintaining the authorized web site,
12 www.nmlegalnotices.com, which shall be promoted by members of
13 the New Mexico broadcasters association."

14 SECTION 3. Section 14-11-2 NMSA 1978 (being Laws 1937,
15 Chapter 167, Section 2, as amended) is amended to read:

16 "14-11-2. REQUIREMENT FOR PUBLICATION OF LEGAL NOTICE OR
17 ADVERTISEMENT.--

18 A. Any and every legal notice or advertisement
19 shall be published:

20 (1) in a daily, tri-weekly, [~~a~~] semi-weekly or
21 [~~a~~] weekly newspaper of general circulation that can be
22 obtained by single copy and that is entered under the second
23 class postage privilege in the county in which the notice or
24 advertisement is required to be published; [~~which~~] or

25 (2) by posting on the authorized web site,

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1 which electronic posting shall be archived and accessible for a
2 period of not less than five years.

3 B. The newspaper in which a legal notice or
4 advertisement is published:

5 (1) if the newspaper is published tri-weekly,
6 semi-weekly or weekly, shall have been so published in the
7 county continuously and uninterrupted during the period of at
8 least twenty-six consecutive weeks next prior to the first
9 issue thereof containing any such notice or advertisement; and
10 [~~which newspaper~~]

11 (2) if the newspaper is published daily, shall
12 have been so published in the county uninterrupted and
13 continuously during the period of at least six months next
14 prior to the first issue thereof containing any such notice or
15 advertisement; provided that the mere change in the name of any
16 newspaper or the removal of the principal business office or
17 seat of publication of any newspaper from one place to another
18 in the same county shall not break or affect the continuity in
19 the publication of any such newspaper if the newspaper is in
20 fact continuously and uninterrupted printed and published
21 within the county [~~as provided in this section; provided~~
22 ~~further that~~].

23 C. A newspaper or the authorized web site shall not
24 lose its rights as a legal publication if it fails to publish
25 one or more of its issues by reason of fire, flood, accident,

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1 transportation embargo or tie-up, electrical or web-hosting
2 outage or other casualty beyond the control of the publisher
3 [~~provided further that any~~].

4 D. A legal notice [~~which~~] or advertisement that
5 fails [of publication] to be published in the newspaper or on
6 the authorized web site for the required number of insertions
7 by reasons beyond the control of the publisher of the newspaper
8 or the authorized web site shall not be declared illegal if the
9 publication has been made in one issue of the [~~publication and~~
10 ~~provided further that~~] newspaper or on the authorized web site.

11 E. If in any county in this state there has not
12 been published any newspaper for the prescribed period at the
13 time when any such notice or advertisement is required to be
14 published, the notice or advertisement may be published in any
15 newspaper having a general circulation or published and printed
16 in whole or in part in that county and that can be obtained by
17 single copy in that county.

18 F. A New Mexico qualified radio or television
19 station shall not violate Section 14-11-1 NMSA 1978 if it fails
20 to announce the availability of legal notices and
21 advertisements on the authorized web site by reason of fire,
22 flood, accidental or other casualty beyond the control of the
23 station."