

1 SENATE BILL 447

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

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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9  
10 AN ACT

11 RELATING TO PROPERTY; AMENDING THE CONDOMINIUM ACT; PROVIDING  
12 THAT A DISCLOSURE STATEMENT MAY BE DELIVERED PRIOR TO  
13 RECORDATION OF THE CONDOMINIUM DECLARATION.

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

16 SECTION 1. Section 47-7D-3 NMSA 1978 (being Laws 1982,  
17 Chapter 27, Section 55) is amended to read:

18 "47-7D-3. DISCLOSURE STATEMENT--GENERAL PROVISIONS.--

19 A. A disclosure statement may be delivered to a  
20 purchaser prior to the recordation of the condominium  
21 declaration.

22 [~~A.~~] B. Except as provided in Subsection [~~B~~] C of  
23 this section, a disclosure statement must contain or fully and  
24 accurately disclose:

25 (1) the name and principal address of the

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1 declarant and of the condominium;

2 (2) a general description of the condominium,  
3 including to the extent possible the types, number and  
4 declarant's schedule of commencement and completion of  
5 construction of buildings and amenities that the declarant  
6 anticipates including in the condominium;

7 (3) the number of units in the condominium;

8 (4) copies of the declaration, other than the  
9 plats and plans, and any other recorded covenants, conditions,  
10 restrictions and reservations affecting the condominium; the  
11 bylaws and ~~[any]~~ rules or regulations of the association;  
12 copies of ~~[any]~~ contracts and leases to be signed by purchasers  
13 at closing; and a brief narrative description of ~~[any]~~  
14 contracts or leases that will or may be subject to cancellation  
15 by the association under Section ~~[38 of the Condominium Act]~~  
16 47-7C-5 NMSA 1978;

17 (5) ~~[any]~~ a current balance sheet and a  
18 projected budget for the association, either within or as an  
19 exhibit to the disclosure statement, for one year after the  
20 date of the first conveyance to a purchaser, and thereafter the  
21 current budget of the association, a statement of who prepared  
22 the budget and a statement of the budget's assumptions  
23 concerning occupancy and inflation factors. The budget shall  
24 include without limitation:

25 (a) a statement of the amount or a

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1 statement that there is no amount included in the budget as a  
2 reserve for repairs and replacement;

3 (b) a statement of any other reserves;

4 (c) the projected common expense

5 assessment by category of expenditures for the association; and

6 (d) the projected monthly common expense  
7 assessment for each type of unit;

8 (6) [~~any~~] services not reflected in the budget  
9 that the declarant provides, or expenses that [~~he~~] the  
10 declarant pays, and that [~~he~~] the declarant expects may become  
11 at [~~any~~] a subsequent time a common expense of the association  
12 and the projected common expense assessment attributable to  
13 each of those services or expenses for the association and for  
14 each type of unit;

15 (7) [~~any~~] an initial or special fee due from  
16 the purchaser at closing, together with a description of the  
17 purpose and method of calculating the fee;

18 (8) a description of [~~any~~] liens, defects or  
19 encumbrances on or affecting the title to the condominium;

20 (9) a description of [~~any~~] financing offered  
21 or arranged by the declarant;

22 (10) the terms and significant limitations of  
23 [~~any~~] warranties provided by the declarant and limitations on  
24 the enforcement [~~thereof~~] of them or on damages;

25 (11) a statement that:

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1 (a) within seven days after receipt of a  
2 disclosure statement a purchaser, before conveyance, may cancel  
3 ~~[any]~~ a contract for purchase of a unit from a declarant;

4 (b) if a declarant fails to provide a  
5 disclosure statement to a purchaser before conveying a unit,  
6 ~~[that]~~ the purchaser may rescind the purchase within six months  
7 from the date of conveyance;

8 (c) shall set forth the procedures set  
9 forth in Subsection C of Section ~~[60 of the Condominium Act]~~  
10 47-7D-8 NMSA 1978; and

11 (d) if a purchaser receives the  
12 disclosure statement more than seven days before signing a  
13 contract to purchase a unit, ~~[he]~~ the purchaser cannot cancel  
14 the contract;

15 (12) a statement of ~~[any]~~ unsatisfied  
16 judgments or pending suits against the association and the  
17 status of ~~[any]~~ pending suits material to the condominium of  
18 which a declarant has actual knowledge;

19 (13) a statement that ~~[any]~~ a deposit made in  
20 connection with the purchase of a unit shall be held in an  
21 escrow account until closing and shall be returned to the  
22 purchaser if the purchaser cancels the contract pursuant to  
23 Section ~~[60 of the Condominium Act]~~ 47-7D-8 NMSA 1978, together  
24 with the name and address of the escrow agent;

25 (14) ~~[any]~~ restraints on alienation of ~~[any]~~ a

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1 portion of the condominium;

2 (15) a description of the insurance coverage  
3 provided for the benefit of unit owners;

4 (16) ~~[any]~~ current or expected fees or charges  
5 to be paid by unit owners for the use of the common elements  
6 and other facilities related to the condominium; and

7 (17) the extent to which financial  
8 arrangements have been provided for completion of all  
9 improvements labeled "MUST BE BUILT" pursuant to Section ~~[21 of~~  
10 ~~the Condominium Act]~~ 47-7B-9 NMSA 1978.

11 ~~[B.]~~ C. If a condominium composed of not more than  
12 twenty-five units is not subject to ~~[any]~~ development rights  
13 and no power is reserved to a declarant to make the condominium  
14 part of a larger condominium, group of condominiums or other  
15 real estate, a public offering statement may but need not  
16 include the information otherwise required by Paragraphs (9),  
17 (10) and (15) through (17) of Subsection ~~[A]~~ B of this section.

18 ~~[G.]~~ D. A declarant promptly shall amend the  
19 disclosure statement to report ~~[any]~~ a material change in the  
20 information required by this section."