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HOUSE BILL 1067

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

DELORES C. WRIGHT

AN ACT

RELATING TO REAL ESTATE; PROVIDING FOR DISCLOSURE OF INFORMATION  
IN LAND SALES; REQUIRING ROADS AND IMPROVEMENTS FOR CERTAIN LAND  
SALES THAT DO NOT CONSTITUTE SUBDIVISIONS; PROVIDING A PENALTY.

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

Section 1. REAL ESTATE SALES OF FIVE ACRES OR LESS--  
DISCLOSURE OF INFORMATION--PENALTY. --

A. A seller of a parcel of real property shall  
comply with the provisions of Subsections B through F of this  
section if the parcel being sold:

(1) is located outside of the boundaries of any  
municipality and is not within the extraterritorial planning and  
platting jurisdiction of any municipality;

(2) is not within an approved subdivision;

(3) is five acres or less in area; and

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1 (4) results from a division of a larger tract  
2 of real property owned by the seller.

3 B. Within five days after the closing of the  
4 transaction the buyer or a person acting on his behalf shall  
5 record either a deed transferring legal title to the parcel to  
6 the buyer or, if the buyer is purchasing his interest pursuant  
7 to the terms of an executory real estate contract, the original  
8 executed real estate contract. Recordation of the documents  
9 shall be in the office of the county clerk of the county in  
10 which the real property is located.

11 C. The seller shall deliver to the buyer at least  
12 five days before the scheduled closing of the transaction a plat  
13 of survey prepared by a licensed professional surveyor. The  
14 plat shall show the parcel being sold and provide a legal  
15 description of the parcel. The plat may show other parcels of  
16 real property in addition to the parcel being sold. The plat  
17 shall depict with proper references to recorded documents an  
18 easement providing access from a public road to the parcel being  
19 sold and shall also depict the location on the ground of any  
20 road that provides road access to the parcel. The easement for  
21 access shall be at least thirty-five feet in width if the  
22 easement provides access to less than five parcels and shall be  
23 at least fifty feet in width if it provides access to more than  
24 five parcels. Utility service easements shall also be shown on  
25 the plat. A copy of the plat shall be attached to the deed or

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1 executory real estate contract prior to recording of the  
2 instrument after closing.

3 D. The seller shall deliver to the purchaser a  
4 written disclosure statement at least three days before closing.

5 The disclosure statement shall include:

6 (1) the name and address of the seller and  
7 seller's agent;

8 (2) the name and address of the person who is  
9 recorded as having legal and equitable title to the property  
10 offered for sale or lease and a statement of the condition of  
11 title, including any liens or encumbrances, unless a policy of  
12 title insurance insuring buyer's title is furnished to the buyer  
13 subsequent to closing and a title insurance commitment is  
14 furnished to the buyer at least five days before closing;

15 (3) a statement of all restrictions or  
16 reservations of record that affect the property or its use or  
17 occupancy;

18 (4) a statement as to the availability,  
19 easements for and current estimated cost of extending public  
20 utilities, including electricity, water, sewer and telephone  
21 services to the property;

22 (5) a statement estimating current depth to  
23 ground water if subsurface water is the only source available  
24 for potable water;

25 (6) a description of the available means of

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1 liquid waste disposal for the property and any limitations of  
2 the department of environment on the use of septic tanks on the  
3 property, if sewage utilities are not available; and

4 (7) a statement describing roads for access to  
5 the property, identifying parties responsible for maintenance  
6 and identifying any obligation imposed upon the buyer for road  
7 maintenance under any common road maintenance agreement.

8 E. The disclosure statement shall be printed in  
9 English and Spanish if requested by the buyer. A copy of the  
10 disclosure statement shall be signed by both the seller and  
11 buyer and attached to the purchase agreement or deed prior to  
12 closing and shall be recorded as an exhibit to the document that  
13 is recorded first.

14 F. At least five days prior to the date established  
15 in the purchase agreement for closing, the seller shall furnish  
16 to the buyer either:

17 (1) a commitment to furnish a title insurance  
18 policy covering the property; or

19 (2) an abstract of title covering a continuous  
20 twenty-year title to the property up to the date of closing  
21 unless the buyer waives the right to receive the title evidence  
22 or agrees to acquire it at the buyer's expense.

23 G. Any sale of a parcel of real property by a person  
24 in violation of the provisions of this section is a misdemeanor  
25 and upon conviction the person shall be punished by a fine of

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1 not more than five thousand dollars (\$5,000) or by imprisonment  
2 for a definite term not to exceed one year, or both.

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