

AN ACT

RELATING TO PROPERTY; LIMITING THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR INFRASTRUCTURE IMPROVEMENTS IN PUBLIC IMPROVEMENT DISTRICTS; REQUIRING AN APPLICATION FOR FORMATION OF A PUBLIC IMPROVEMENT DISTRICT TO BE SUBMITTED TO THE MUNICIPALITY OR COUNTY IN WHICH THE DISTRICT IS TO BE LOCATED; REQUIRING NOTICE TO BE PROVIDED TO A PURCHASER OF PROPERTY IN A PUBLIC IMPROVEMENT DISTRICT; PROVIDING FOR REMEDIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 5-11-1 NMSA 1978 (being Laws 2001, Chapter 305, Section 1) is amended to read:

"5-11-1. SHORT TITLE.--Chapter 5, Article 11 NMSA 1978 may be cited as the "Public Improvement District Act"."

SECTION 2. Section 5-11-2 NMSA 1978 (being Laws 2001, Chapter 305, Section 2, as amended) is amended to read:

"5-11-2. DEFINITIONS.--As used in the Public Improvement District Act:

A. "allowable base" means the sum of the appraised value, not including the value of public infrastructure improvements, of:

(1) taxable property in a district that is owned by persons other than the applicant or the applicant's related entities;

(2) commercial, industrial or retail property in a district that is owned by the applicant or the applicant's related entities for which a certificate of completion has been issued; and

(3) all other taxable property in a district not described in Paragraphs (1) and (2) of this subsection, to the extent that its appraised value is less than or equal to the appraised value of property described in Paragraph (1) of this subsection;

B. "applicant" means a person that applies for the formation of a district pursuant to the Public Improvement District Act;

C. "clerk" means the clerk of the municipality or county, or any person appointed by the district board to be the district clerk pursuant to Section 5-11-6 NMSA 1978;

D. "county" means a county that forms a public improvement district pursuant to the Public Improvement District Act in an unincorporated area or in an incorporated area with the municipality's consent;

E. "debt service" means the principal of, interest on and premium, if any, on the bonds, when due, whether at maturity or prior redemption; the fees and costs of registrars, trustees, paying agents or other agents necessary to handle the bonds; and the costs of credit enhancement or liquidity support;

F. "development agreement" means an agreement between a property owner or developer and the county, municipality or district, concerning the improvement of specific property within the district, which agreement may be used to establish obligations of the owner or developer, the county or municipality or the district concerning the zoning, subdivision, improvement, impact fees, financial responsibilities and other matters relating to the development, improvement and use of real property within a district;

G. "district" means a public improvement district formed pursuant to the Public Improvement District Act by a municipality or by a county in an unincorporated area or in an incorporated area with the municipality's consent;

H. "district board" means the board of directors of the district, which shall be composed of members of the governing body, ex officio, or, at the option of the governing body, five directors appointed by the governing body of the municipality or county in which the district is located, until replaced by elected directors, which shall occur not later than six years after the date on which the resolution establishing the district is enacted, as provided in Section 5-11-9 NMSA 1978;

I. "election" means an election held in compliance with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978;

J. "enhanced services" means public services provided by a municipality or county within the district at a higher level or to a greater degree than otherwise available to the land located in the district from the municipality or county, including such services as public safety, fire protection, street or sidewalk cleaning or landscape maintenance in public areas. "Enhanced services" does not include the basic operation and maintenance related to infrastructure improvements financed by the district pursuant to the Public Improvement District Act;

K. "general plan" means the general plan described in Section 5-11-3 NMSA 1978, as the plan may be amended from time to time;

L. "governing body" means the body or board that by law is constituted as the governing body of the municipality or county in which the public improvement district is located;

M. "municipality" means an incorporated city, village or town;

N. "owner" means:

(1) the person who is listed as the owner of real property in the district on the current property tax assessment roll in effect at the time that the action, proceeding, hearing or election has begun. For purposes of voting in elections held pursuant to the Public Improvement

District Act, when the owner of record title is a married person, only one spouse in whose name title is held may vote at such election. Where record title is held in more than one name, each owner may vote the number of fractions of acres represented by the owner's legal interest or proportionate share of and in the lands within the district;

(2) the administrator or executor of an estate holding record title to land within the district;

(3) the guardian of a minor or incompetent person holding record title to land within the district, appointed and qualified under the laws of the state;

(4) an officer of a corporation holding record title to land within the district, which officer has been authorized by resolution of the corporation's board of directors to act with respect to such land;

(5) the general partner of a partnership holding record title to land within the district;

(6) the trustee of a trust holding record title to land within the district; or

(7) the manager or member of a limited liability company holding record title to land within the district who has been authorized to represent the company;

0. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture,

syndicate or other association;

P. "public infrastructure improvements" means all improvements listed in this subsection and includes both on-site improvements and off-site improvements that directly or indirectly benefit the district. Such improvements include necessary or incidental work, whether newly constructed, renovated or existing, and all necessary or desirable appurtenances. "Public infrastructure improvements" includes:

(1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

(3) water systems for domestic, commercial, office, hotel or motel, industrial, irrigation, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel,

ingress, egress and parking;

(6) pedestrian malls, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;

(8) public buildings, public safety facilities and fire protection and police facilities;

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

(12) cable or other telecommunications lines and related equipment;

(13) traffic control systems and devices, including signals, controls, markings and signage;

(14) school sites and facilities with the consent of the governing board of the public school district for which the site or facility is to be acquired, constructed or renovated;

(15) library and other public educational or cultural facilities;

(16) equipment, vehicles, furnishings and other personalty related to the items listed in this

subsection; and

(17) inspection, construction management and program management costs;

Q. "public infrastructure purpose" means:

(1) planning, design, engineering, construction, acquisition or installation of public infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of such infrastructure;

(2) acquiring, converting, renovating or improving existing facilities for public infrastructure, including facilities owned, leased or installed by an owner;

(3) acquiring interests in real property or water rights for public infrastructure, including interests of an owner;

(4) establishing, maintaining and replenishing reserves in order to secure payment of debt service on bonds;

(5) funding and paying from bond proceeds interest accruing on bonds for a period not to exceed three years from their date of issuance;

(6) funding and paying from bond proceeds fiscal, financial and legal consultant fees, trustee fees, discount fees, district formation and election costs and all

costs of issuance of bonds issued pursuant to the Public Improvement District Act, including, but not limited to, fees and costs for bond counsel, financial advisors, consultants and underwriters, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit and other credit enhancement costs and printing costs;

(7) providing for the timely payment of debt service on bonds or other indebtedness of the district;

(8) refinancing any outstanding bonds with new bonds, including through the formation of a new public improvement district; and

(9) incurring expenses of the district incident to and reasonably necessary to carry out the purposes specified in this subsection;

R. "related entities" means two or more entities that are owned in an amount greater than fifty percent by the same person, either directly or through one or more persons;

S. "resident qualified elector" means a person who resides within the boundaries of a district or proposed district and who is qualified to vote in the general elections held in the state pursuant to Section 1-1-4 NMSA 1978;

T. "special levy" means a levy imposed against real property within a district that may be apportioned according to direct or indirect benefits conferred upon affected real property, as well as acreage, front footage, the

cost of providing public infrastructure for affected real property, or other reasonable method, as determined by the governing body or district board, as applicable; and

U. "treasurer" means the treasurer of the governing body or the person appointed by the district board as the district treasurer pursuant to Section 5-11-6 NMSA 1978."

SECTION 3. Section 5-11-3 NMSA 1978 (being Laws 2001, Chapter 305, Section 3, as amended) is amended to read:

"5-11-3. RESOLUTION DECLARING INTENTION TO FORM DISTRICT.--

A. If the public convenience and necessity require, and on presentation of an application required by Section 10 of this 2013 act that is supported by a petition signed by the owners of at least twenty-five percent of the real property by assessed valuation proposed to be included in the district, the governing body may adopt a resolution declaring its intention to form a public improvement district to include contiguous or noncontiguous property, which shall be wholly within the corporate boundaries of the municipality or county. If the governing body fails to act within ninety days following presentation of a petition to create a public improvement district, the petition shall be deemed to have been accepted by the governing body, which shall adopt a resolution and hold a public hearing pursuant to this section.

The resolution shall state the following:

(1) the area or areas to be included in the district;

(2) the purposes for which the district is to be formed;

(3) that a general plan for the district is on file with the clerk that includes a map depicting the boundaries of the district and the real property proposed to be included in the district, a general description of anticipated improvements and their locations, general cost estimates, proposed financing methods and anticipated tax levies, special levies or charges, and that may include possible alternatives, modifications or substitutions concerning locations, improvements, financing methods and other information provided in the general plan;

(4) the rate, method of apportionment and manner of collection of a special levy, if one is proposed, in sufficient detail to enable each owner or resident within the district to estimate the maximum amount of the proposed levy;

(5) a notice of public hearing in conformity with the requirements of Section 5-11-4 NMSA 1978;

(6) the place where written objections to the formation of the district may be filed by an owner;

(7) that formation of the district may result in the levy of property taxes or the imposition of

special levies to pay the costs of public infrastructure constructed by the district and for their operation and maintenance and may result in the assessment of fees or charges to pay the cost of providing enhanced services;

(8) a reference to the Public Improvement District Act; and

(9) whether the district will be governed by a district board comprised of the members of the governing body, ex officio, or comprised of five directors initially appointed by the governing body.

B. The resolution shall direct that a hearing on formation of the district be scheduled and that notice be mailed and published as provided in Section 5-11-4 NMSA 1978.

C. Before adopting a resolution pursuant to this section, a general plan for the district shall be filed with the clerk."

SECTION 4. Section 5-11-6 NMSA 1978 (being Laws 2001, Chapter 305, Section 6) is amended to read:

"5-11-6. ORDER FORMING DISTRICT--ELECTION.--

A. After the hearing, the governing body shall determine whether the district should be formed based upon the interests, convenience or necessity of the owners, residents of the district and citizens of the municipality or county in which the proposed district would be located. If the governing body determines that the district should be formed,

it shall adopt a resolution ordering that the district be formed, deleting any property determined not to be directly or indirectly benefited by the district or modifying the general plan and then ordering that an election be held on the question whether to form the district. A resolution ordering a formation of the district shall state that the district will be governed by a district board consisting of members of the governing body, ex officio, or, upon determination of the governing body, five directors appointed by the governing body, and shall contain the names of the five initial directors and the terms of office of each. If the governing body appoints a district board, it shall appoint a treasurer and a clerk from the appointed members.

B. A formation election shall include the owners unless a petition is presented to the governing body pursuant to Subsection I of Section 5-11-7 NMSA 1978. Each owner shall have the number of votes or portions of votes equal to the number of acres or portions of acres rounded upward to the nearest one-fifth of an acre owned by that owner in the submitted district. The right to vote on the question of formation of the district shall not be assigned or delegated to the property owners signing a petition submitted to the governing body for formation of a district or related entities of such property owners. The question shall also be submitted to a vote of the resident qualified electors. The conduct of

a formation election shall meet the requirements of Section 5-11-7 NMSA 1978."

SECTION 5. Section 5-11-9 NMSA 1978 (being Laws 2001, Chapter 305, Section 9, as amended) is amended to read:

"5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

A. The governing body, at its option, may authorize the appointment of a separate district board. In the case of an appointed district board, three of the appointed directors shall serve an initial term of six years. Two of the appointed directors shall serve an initial term of four years. The resolution forming the district shall state which directors shall serve four-year terms and which shall serve six-year terms. If a vacancy occurs on the district board because of death, resignation or inability of the director to discharge the duties of director, the governing body shall appoint a director to fill the vacancy, who shall hold office for the remainder of the unexpired term until a successor is appointed or elected.

B. A director may be a director of more than one district.

C. At the end of the appointed directors' terms, the governing body shall resume governance of the district as its board either directly or through the governing body's designees or, at the governing body's option, shall hold an

election of new directors by majority vote of the qualified electors and owners."

SECTION 6. Section 5-11-16 NMSA 1978 (being Laws 2001, Chapter 305, Section 16) is amended to read:

"5-11-16. PROJECT APPROVAL.--

A. Before constructing or acquiring any public infrastructure improvement, the district board shall have approved a study of the feasibility and benefits of the public infrastructure improvement project to be prepared, which shall include:

(1) a description of the public infrastructure improvement to be constructed or acquired and enhanced services to be provided and estimated costs thereof, if any, and other information reasonably necessary to understand the project;

(2) a map showing, in general, the location of the project within the district;

(3) an estimate of the cost to construct, acquire, operate and maintain the project;

(4) an estimated schedule for completion of the project, a map or description of the area to be benefited by the project and a plan for financing the project;

(5) an estimated or projected annual mill or special levy for all owners in the proposed district;

(6) the current, direct and overlapping tax

and assessment burden on taxable property that is proposed to be taxed and the assessed valuation of the taxable property as shown on the most recent assessment roll;

(7) the expected market absorption of the development within the district and the effect of the bond issuance by the district on tax rates within the district, calculated at the beginning, middle and end of the market absorption period or based on the phasing of the project to be financed, as applicable;

(8) projections of working capital needs for a period that shall be the longer of:

(a) thirty years following the creation of a tax upon the district taxable property; or

(b) the final maturity date of any bonds issued by the district;

(9) an analysis of:

(a) the impact of the proposed debt financing, operation and maintenance costs, user charges and other district costs on the ultimate end users of the property, including projected property tax rates, special levies, fees, charges and other costs that would be borne by the property in the district;

(b) the impact that the costs described in Subparagraph (a) of this paragraph will have on the marketability of the private development; and

(c) a comparison of proposed tax rates and charges in adjoining and similar areas outside of the proposed district;

(10) a financing plan for any private development in the district that is not to be dedicated to the municipality or county; and

(11) a market absorption study for the private development in the district prepared by an independent consultant, which shall include the ability of the market to absorb the private development and a market absorption calendar for the private development.

B. Prior to approval of a project, the district board shall provide notice and opportunity to comment to the owners and the municipality or county.

C. In the event that project approval and formation of the public improvement district are occurring concurrently, a single feasibility study may be used to satisfy the requirement in Subsection A of this section and Paragraph (3) of Subsection A of Section 10 of this 2013 act.

D. For public infrastructure improvement projects undertaken by a district after formation, the district board shall hold a public hearing on the study and provide notice of the hearing by publication not less than two weeks in advance in the official newspaper of the municipality or county or, if there are none in the municipality or county, a newspaper of

general circulation in the county. If the district board is composed of members other than the governing body, the notice shall be mailed to the governing body of the municipality or county in which the district is located. After the hearing, the district board may reject, amend or approve the report. If the report is amended substantially, a new hearing shall be held before approval. If the report is approved, the district board shall adopt a resolution approving the public infrastructure improvement of the project, identifying the areas benefited, the expected method of financing and an appropriate system of providing revenues to operate and maintain the project."

SECTION 7. Section 5-11-18 NMSA 1978 (being Laws 2001, Chapter 305, Section 18) is amended to read:

"5-11-18. RECORDING DOCUMENTS.--

A. The district shall file and record with the county clerk the resolution ordering formation of the district, the general plan of the district and the canvass of any general obligation bond election.

B. Upon formation of a district, and within thirty days before June 1 and December 1 of each year, a district shall file and record with the county clerk the notice requirements described in Subsection A of Section 11 of this 2013 act and include contact information for the district board."

SECTION 8. Section 5-11-19 NMSA 1978 (being Laws 2001, Chapter 305, Section 19, as amended) is amended to read:

"5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--
EXCEPTION.--

A. At any time after the hearing on formation of the district, the district board, or, if before formation, the governing body may from time to time order and call a general obligation bond election to submit to the owners and qualified electors the question of authorizing the district to issue general obligation bonds of the district to provide money for any public infrastructure purposes consistent with the general plan. The question shall include authorization for a levy, including a limitation on the levy, of a property tax to pay debt service on the bonds. The election may be held in conjunction with the formation election.

B. If general obligation bonds are approved at an election, the district board may issue and sell general obligation bonds of the district; provided that the district board shall have determined by resolution that the principal amount of all district general obligation bonds currently outstanding and the district general obligation bonds proposed for issuance and sale shall not result in a total annual debt service that exceeds five-tenths percent of the allowable base.

C. Bonds may be sold in a public offering or in a

negotiated sale.

D. After the bonds are issued, the district board shall enter in its minutes a record of the bonds sold and their numbers and dates and shall annually levy and cause a property tax to be collected, at the same time and in the same manner as other property taxes are levied and collected on all taxable property in the district, sufficient, together with any money from the sources described in Section 5-11-17 NMSA 1978 to pay debt service on the bonds when due. Money derived from the levy of property taxes that are pledged to pay the debt service on the bonds shall be kept separately from other funds of the district. Property tax revenues not pledged to pay debt service on bonds may be used to pay other costs of the district, including costs of formation, administration, operation and maintenance, services or enhanced services. A district's levy of property taxes shall constitute a lien on all taxable property within the district, including, without limitation, all leased property or improvements to leased land, which shall be subject to foreclosure in the same manner as other property tax liens under the laws of this state. The lien shall include delinquencies and interest thereon at a rate not to exceed ten percent per year, the actual costs of foreclosure and any other costs of the district resulting from the delinquency. The proceeds of any foreclosure sale shall be deposited in the special bond fund for payment of any

obligations secured thereby.

E. Subject to the election requirements of this section, a district may issue general obligation bonds at such times and in such amounts as the district deems appropriate to carry out a project or projects in phases.

F. Pursuant to this section, the district may issue and sell refunding bonds to refund general obligation bonds of the district authorized by the Public Improvement District Act. No election is required in connection with the issuance and sale of refunding bonds. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded."

SECTION 9. Section 5-11-20 NMSA 1978 (being Laws 2001, Chapter 305, Section 20) is amended to read:

"5-11-20. SPECIAL LEVY--BONDS--IMPOSITION.--

A. At any time after the hearing on formation of the district, the district board may from time to time order that a hearing be held to determine whether a special levy should be imposed and special levy bonds issued to provide money for any public infrastructure purpose consistent with the general plan. The question of imposing a special levy may be considered at the hearing on district formation upon notice that both issues will be heard at that time, which notice shall include the information required in Subsection B of this

section.

B. Notice of hearing shall be provided at least two weeks in advance of the hearing itself in a newspaper of general circulation in the municipality or county in which the district is located. The notice shall include the following:

(1) a description of the method by which the amount of the proposed special levy will be determined for each class of property to which the levy is proposed to apply, in sufficient detail to enable the owner of the affected parcel to determine the amount of the special levy;

(2) a description of the project to be financed with special levy bonds or revenues; and

(3) a statement that any person affected by the proposed special levy may object in writing or in person at the hearing.

C. Prior to issuing special levy bonds, the district board shall set a maximum levy for each class of property that may be imposed for debt service on the special levy bonds.

D. Unless a local government has enacted an ordinance providing a greater limitation, no special levy bonds may be issued if at the time of issuance of such bonds the estimated total tax and assessment obligation for a class of property, including projected ad valorem taxes and special levies as provided in the feasibility study, exceeds one and

ninety-five hundredths percent of the anticipated, average market value of each class of property at the time of issuance of a certificate of occupancy as determined by a member appraiser of the appraisal institute.

E. Special levy bonds may be sold in a public offering or in a negotiated sale.

F. After the bonds are issued, the district board shall enter in its minutes a record of the bonds sold and their numbers and dates and shall annually impose and cause a special levy to be collected, at the same time and in the same manner as property taxes are levied and collected on all property within the district that may be subject to the levy, including, without limitation, all leased property or improvements to leased land, sufficient, together with any other money lawfully available to pay debt service on the bonds when due, except to the extent that the district board has provided for other imposition, collection and foreclosure procedures in connection with special levies. Money derived from the imposition of the special levy when collected that is pledged to pay the debt service on the bonds shall be kept separately from other funds of the district. Special levy revenues not pledged to pay debt service on bonds may be used to pay other costs of the district, including costs of formation, administration, operation and maintenance, service or enhanced services.

G. The district board shall specify conditions under which the obligation to pay special levies may be prepaid and permanently satisfied.

H. Special levies against privately owned residential property shall be subject to the following provisions:

(1) the amount of special levy that may be imposed shall not be increased over time by an amount exceeding two percent per year, except that the amount of special levy actually imposed may be increased by up to ten percent as a result of the delinquency or default by the owner of any other parcel within the district, but in no case shall the amount of the special levy imposed exceed the maximum special levy provided in the rate and method of apportionment;

(2) the special levy shall be imposed for a specified time period, after which no further special levy shall be imposed and collected, except that special levies imposed solely to finance the cost of ongoing district services, maintenance or operations or enhanced services may be levied while such services, maintenance or operations or enhanced services are continuing; and

(3) nothing in this subsection shall preclude the establishment of different categories of residential property or changing the amount of the special levies for a parcel whose size or use is changed. A change in

the amount of a special levy imposed upon a parcel due to a change in its size or use shall not require voter approval if the method for changing the amount of special levy was approved in the election approving the special levy in sufficient detail to enable the owner of the affected parcel to determine how the change in size or use of the parcel would affect the amount of the special levy.

I. A district's imposition of a special levy shall constitute a lien on the property within the district subject to the special levy, including property acquired by the state or its political subdivisions after imposition of the special levy, which shall be effective during the period in which the special levy is imposed and shall have priority co-equal to the lien of property taxes. A special levy shall be subject to foreclosure by the district at any time after six months following written notice of delinquency to the owner of the real property to which the delinquency applies. The lien shall include delinquencies, penalties and interest thereon at a rate not to exceed the maximum legal rate of interest per year and penalties otherwise applicable for delinquent property taxes, the district's actual costs of foreclosure and any other costs of the district resulting from the delinquency. All rights of redemption applicable to property sold in connection with property tax foreclosures pursuant to the laws of this state shall apply to property sold following

foreclosure of a special levy lien. The portion of proceeds of any foreclosure sale necessary to discharge the lien for the special levy shall be deposited in the special bond fund for payment of any obligations secured thereby.

J. No holder of special levy bonds issued pursuant to the Public Improvement District Act may compel any exercise of the taxing power of the district, municipality or county to pay the bonds or the interest on the bonds. Special levy bonds issued pursuant to that act are not a debt of the district, municipality or county, nor is the payment of special levy bonds enforceable out of any money other than the revenue pledged to the payment of the bonds.

K. Subject to the requirements of this section, a district may issue special levy bonds at such times and in such amounts as the district deems appropriate to carry out a project or projects in phases.

L. Pursuant to this section, the district may issue and sell refunding bonds to refund any special levy bonds of the district authorized by the Public Improvement District Act. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded."

SECTION 10. A new section of the Public Improvement District Act is enacted to read:

"FORMATION OF A PUBLIC IMPROVEMENT DISTRICT--APPLICATION

REQUIREMENTS.--

A. An application for the formation of a district shall be submitted to the governing body. Each application shall be supported by a petition signed by the owners of at least twenty-five percent of the real property by assessed valuation proposed to be included in the district and shall contain, at a minimum, the following:

(1) a description of the proposed district, including:

(a) a legal description of its boundaries;

(b) the identity and addresses of all persons or entities with any interest in the property, including submitting a current title report on the property as evidence of the names of persons with any interest in the property;

(c) the names and addresses of any resident qualified electors located within the proposed boundaries, if applicable;

(d) an explanation as to how the district boundaries were chosen;

(e) adequate information to establish financial parameters for the operation of the district, if applicable; and

(f) information regarding the future

ownership and maintenance of the public infrastructure improvements or enhanced services;

(2) a detailed description of the types of public infrastructure improvements or enhanced services to be provided by the district, including, if applicable:

(a) the estimated construction or acquisition costs of the public infrastructure improvements, including costs for repair and replacement of public infrastructure improvements;

(b) the estimated annual operation and maintenance costs of the public infrastructure improvements;

(c) projection of working capital needs for enhanced services; and

(d) any governmental approvals and licenses that are expected to be required for both the public and private improvements to be constructed and operated;

(3) a feasibility study containing the information required in Subsection A of Section 5-11-16 NMSA 1978;

(4) a description of the applicant's professional experience and evidence demonstrating its financial capacity to undertake the development associated with the public infrastructure, enhanced services and private development, as applicable;

(5) a disclosure form to owners describing:

(a) that the applicant intends to file an application for formation of a public improvement district;

(b) the purpose of the proposed public improvement district;

(c) a description of what a public improvement district is; and

(d) the rate, method of apportionment and manner of collection of a special levy, if one is proposed, in sufficient detail to enable each owner or resident within the district to estimate the maximum amount of the proposed levy;

(6) certification that the disclosure pursuant to Paragraph (5) of this subsection has been provided to each owner;

(7) a description of how the proposed district meets the existing development objectives of the municipality or county, to the extent that the municipality or county has adopted policies identifying such objectives, including how the district is consistent with:

(a) the goals of promoting orderly development;

(b) the municipality's or county's comprehensive plan;

(c) growth management policies and zoning requirements; and

(d) the municipality's or county's applicable policies for development, growth management and zoning; and

(8) any other information that the governing body may reasonably require after its initial review of the application.

B. The requirements of Paragraph (5) of Subsection A of this section shall not apply if the petition is signed by the owner of all the land in the district described in the petition submitted to the governing body.

C. The governing body may charge a fee to be applied by the governing body to the costs incurred in connection with the processing and review of the application and formation of the district in accordance with this section. Upon formation of the district, the governing body may charge an additional administrative expense fee to be applied by the governing body to the costs and expenses incurred in the formation of the district, specifically the review of the feasibility study and current appraisal of the project."

SECTION 11. A new section of the Public Improvement District Act is enacted to read:

"NOTICE OBLIGATIONS TO PURCHASER--REQUIREMENTS--REMEDIES.--

A. Prior to accepting an offer to purchase, a seller or an agent or broker of a seller of residential real

property that is located in a district established pursuant to the Public Improvement District Act has an affirmative duty to provide to the purchaser of the property a written notice of information filed with the county clerk pursuant to Subsection B of Section 5-11-18 NMSA 1978, in addition to the disclosure required by Section 47-13-4 NMSA 1978, that includes:

(1) information that the property is within a public improvement district;

(2) the purpose of the district;

(3) an explanation that the purchaser is obligated to pay any property tax or special levy that is imposed by the district board;

(4) an explanation that the property tax or special levy imposed by the district board is in addition to any other state, county or other local governmental taxes and assessments;

(5) for special levies:

(a) if a special levy has not been authorized by the district board, information that a special levy has not been authorized; or

(b) if a special levy has been authorized by the district board: 1) the maximum special levy that is authorized to be imposed upon the property in the district; or 2) that the special levy to be imposed on the property in the district has been prepaid in full as provided

in the rate or method of apportionment;

(6) for general obligation bonds:

(a) if general obligation bonds have not been issued, information that general obligation bonds have not been issued; or

(b) if general obligation bonds have been issued: 1) the amount of general obligation bonds that are outstanding; 2) the amount of annual debt service on outstanding general obligation bonds; 3) that the maximum rate and amount of property taxes that may be imposed upon the property in the district are limited only by the amount of debt outstanding; and 4) the estimated or projected annual mill levy or special levy per one thousand dollars (\$1,000) of assessed value as of the date of the disclosure with an explanation that the estimated levy or rate may be increased by the district board when necessary to meet debt obligations;

(7) information that the failure to pay the property tax or special levy could result in the foreclosure of the property;

(8) information that more information concerning the rate of the property tax or the amount of the assessment and the due dates of each may be obtained from the governing body that authorized the formation of the district; and

(9) information that a feasibility study was

completed as part of the formation of the district and that the feasibility study is available through the governing body that authorized the formation of the district.

B. The provisions of Paragraphs (5) through (7) of Subsection A of this section shall be set apart in a clear and conspicuous manner and in at least twelve-point bold type.

C. This section does not apply to a transfer:

- (1) of property under a court order or foreclosure sale;
- (2) of property by a trustee in bankruptcy;
- (3) of property to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;
- (4) of property by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;
- (5) of property by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship or trust;
- (6) of property from one co-owner to another co-owner of an undivided interest in the real property; or
- (7) of only a mineral interest or leasehold interest.

D. In the event of a finalized sale, any person who suffers any loss of money or property, real or personal, as a result of a violation of Subsection A or B of this section by a seller or an agent or broker of a seller may bring an action to recover actual damages and may be granted injunctive relief under the principles of equity and on terms that the court considers reasonable. The court shall award attorney fees and costs to the party complaining of a violation if the party prevails and actual damages are awarded. The court shall award attorney fees and costs to the party charged with a violation of Subsection A or B of this section if the court finds that the party complaining of such violation brought an action that was groundless. The relief provided in this subsection is in addition to remedies otherwise available against the same conduct under the common law or other laws of this state."

SECTION 12. APPLICABILITY.--The provisions of Sections 1 through 4 and 6 through 10 of this act do not apply to an application for formation of a public improvement district submitted to a governing body prior to January 1, 2014.

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013. _____