

1 HOUSE BILL 296

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Greg Nibert

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10 AN ACT

11 RELATING TO REAL PROPERTY; CREATING ACTUAL AUTHORITY FOR
12 SPECIFIED PERSONS IN BUSINESS ENTITIES TO ENTER INTO REAL
13 PROPERTY CONVEYANCES AND ENCUMBRANCES; PROVIDING EXCEPTIONS.

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

16 SECTION 1. A new section of Chapter 47, Article 1 NMSA
17 1978 is enacted to read:

18 "[NEW MATERIAL] ACTUAL AUTHORITY--REPRESENTATIVES OF
19 BUSINESS ENTITIES--EXCEPTION.--

20 A. Except as provided in Subsections B and D of
21 this section, the persons in the following offices or positions
22 shall each have the authority to execute conveyancing
23 instruments and contracts for the transfer or encumbrance of
24 real property owned by a business entity:

25 (1) for a cooperative association: president

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- 1 and vice president;
- 2 (2) for a professional corporation: president
- 3 and vice president;
- 4 (3) for a nonprofit corporation: president
- 5 and vice president;
- 6 (4) for a business corporation: president and
- 7 vice president;
- 8 (5) for a limited liability company: manager,
- 9 member manager, president and vice president;
- 10 (6) for a general partnership: partner;
- 11 (7) for a limited liability partnership:
- 12 general partner; and
- 13 (8) for a limited partnership: general
- 14 partner.

15 B. A business entity may limit or expand the

16 authority provided for in Subsection A of this section by

17 filing with the county clerk, in the county where the real

18 property is located, a statement reflecting limitations on the

19 persons listed as having authority, requiring multiple persons

20 to exercise such authority or authorizing other officers or

21 positions to have the requisite authority to act to transfer or

22 encumber real property owned by the business entity. The

23 recorded statement shall be binding until the business entity

24 revokes or amends the recorded statement and records the

25 revocation or amendment with the county clerk.

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1 C. A person may rely on the authority of the
2 persons set forth in Subsection A of this section to act on
3 behalf of a business entity, subject to limitations set forth
4 in a previously recorded statement as provided in Subsection B
5 of this section. Nothing in this section shall preclude a
6 business entity from executing a power of attorney and
7 empowering an attorney in fact to also act on its behalf
8 pursuant to the Uniform Power of Attorney Act.

9 D. An instrument or contract for the transfer or
10 encumbrance of real property by a person without the authority
11 provided in Subsection A or B of this section may be relied
12 upon as binding the business entity if the instrument or
13 contract has been recorded for a period exceeding ten years.
14 That recorded instrument or contract may not be relied upon as
15 binding, however, if:

16 (1) prior to the execution of that instrument
17 or contract, the business entity recorded another document
18 reflecting that the person who executed the instrument or
19 contract did not have the authority to bind the business
20 entity; or

21 (2) the authority of the person who executed
22 the instrument or contract has been successfully challenged or
23 is in the process of being challenged in a court having
24 jurisdiction.

25 E. As used in this section, "business entity" means

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- a:
- (1) cooperative association created pursuant to the Cooperative Association Act;
 - (2) professional corporation created pursuant to the Professional Corporation Act;
 - (3) nonprofit corporation created pursuant to the Nonprofit Corporation Act;
 - (4) business corporation created pursuant to the Business Corporation Act;
 - (5) limited liability company created pursuant to the Limited Liability Company Act;
 - (6) partnership created pursuant to the Uniform Partnership Act (1994);
 - (7) limited liability partnership created pursuant to the Uniform Partnership Act (1994); or
 - (8) limited partnership created pursuant to the Uniform Revised Limited Partnership Act."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.