

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 498

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO TAXATION; PROVIDING OPTIONS FOR COUNTIES TO  
ENFORCE COLLECTION OF DELINQUENT PROPERTY TAXES ON REAL  
PROPERTY; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-38-42 NMSA 1978 (being Laws 1979,  
Chapter 343, Section 1) is amended to read:

"7-38-42. COLLECTION AND RECEIPT OF AND ACCOUNTING FOR  
PROPERTY TAXES--APPLICATION OF RECEIPTS TO DELINQUENT TAXES.--

A. The county treasurer has the responsibility and  
authority for collection of taxes and any penalties or  
interest due under the Property Tax Code, ~~[except for]~~  
including the collection of delinquent taxes, if the county  
has elected to do so pursuant to Section 7-38-61.1 NMSA 1978.

In the absence of such an election, the department has

1 exclusive authority to collect delinquent taxes, penalties and  
2 interest [authorized to be collected by the department under]  
3 pursuant to Section 7-38-62 NMSA 1978.

4 B. Property taxes, penalties and interest  
5 collected shall be receipted and accounted for in accordance  
6 with law and regulations of the department of finance and  
7 administration.

8 C. Any payments received by the treasurer or the  
9 department as payments for property taxes, penalties or  
10 interest shall be first applied to the oldest outstanding  
11 unpaid property taxes, penalties or interest accrued in prior  
12 property tax years on the property identified and described in  
13 the property tax bill for which payment is tendered or, if the  
14 payment cannot be identified with a particular year's property  
15 tax bill, then the payment shall be applied first to the  
16 oldest liability for property taxes, penalties and interest  
17 shown in the treasurer's records under the name of the paying  
18 taxpayer. In applying the foregoing requirements for  
19 applications of payments and in the adoption of any  
20 regulations to implement those provisions, the following  
21 additional rules shall apply:

22 (1) applications of payments to prior year's  
23 delinquent taxes, penalties and interest shall not be made for  
24 more than ten years prior to the year of payment unless the  
25 treasurer's records show that the property for which taxes are

1 delinquent has been deeded to the state of New Mexico and that  
2 property has not been sold by the state pursuant to applicable  
3 law;

4 (2) after application of payment received, if  
5 all or part of the payment has been applied to a prior year's  
6 delinquent taxes, penalties or interest, the receipting  
7 authority shall issue a receipt to the paying taxpayer showing  
8 the application of the payment and indicating any balance due  
9 for taxes, penalties or interest to bring the property tax  
10 payment status current; and

11 (3) the failure of a receipting authority to  
12 apply a payment as required under this subsection or the  
13 failure to issue a required receipt to the taxpayer of the  
14 status of his account shall not relieve the taxpayer of  
15 liability for taxes, penalties or interest he would otherwise  
16 be required to pay nor does action or inaction by the  
17 receipting authority act to estop the collecting authority  
18 from taking any action to collect or enforce the payment of  
19 taxes, penalties and interest legally due. "

20 Section 2. Section 7-38-48 NMSA 1978 (being Laws 1973,  
21 Chapter 258, Section 88, as amended) is amended to read:

22 "7-38-48. PROPERTY TAXES ARE A LIEN AGAINST REAL  
23 PROPERTY FROM JANUARY 1--PRIORITIES--CONTINUANCE OF TAXING  
24 PROCESS.--Taxes on real property are a lien against the real  
25 property from January 1 of the tax year for which the taxes

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1 are imposed. The lien runs in favor of the state and secures  
2 the payment of taxes on the real property and any penalty and  
3 interest that [~~becomes~~] become due, except that if a county  
4 has elected to collect delinquent taxes pursuant to Section  
5 7-38-61.1 NMSA 1978, the lien runs in favor of the county.

6 The lien continues until the taxes and any penalty and  
7 interest are paid. The lien created by this section is a  
8 first lien and paramount to any other interest in the  
9 property, perfected or unperfected. The annual taxing process  
10 provided for in the Property Tax Code shall continue as to any  
11 particular property regardless of prior tax delinquencies or  
12 of pending protests, actions for refunds or other tax  
13 controversies involving the property, including a sale for  
14 delinquent taxes."

15 Section 3. Section 7-38-50 NMSA 1978 (being Laws 1973,  
16 Chapter 258, Section 90, as amended) is amended to read:

17 "7-38-50. DELINQUENT TAXES--CIVIL PENALTIES.--

18 A. If property taxes become delinquent, a penalty  
19 of one percent of the delinquent taxes for each month or any  
20 portion of a month they remain unpaid shall be imposed, but  
21 the total penalty shall not exceed five percent of the  
22 delinquent taxes except that, when the penalty determined  
23 under the foregoing provisions of this subsection is less than  
24 five dollars (\$5.00), the penalty to be imposed shall be five  
25 dollars (\$5.00). A county may suspend for a particular tax

1 year application of the minimum penalty requirements of this  
 2 subsection by resolution of its county commissioners adopted  
 3 not later than September 1 of that tax year. A copy of any  
 4 such resolution shall be forwarded to the county treasurer.

5 B. If property taxes become delinquent because of  
 6 an intent to defraud by the property owner, fifty percent of  
 7 the property taxes due or fifty dollars (\$50.00), whichever is  
 8 greater, shall be added as a penalty.

9 C. An additional penalty to defray costs of  
 10 collection shall be imposed if the county has elected to  
 11 collect delinquent taxes and has referred the collection of  
 12 the delinquent taxes, penalties and interest to a private  
 13 attorney. The additional penalty shall be no greater than  
 14 thirty percent of the amount of taxes, penalties, interest,  
 15 costs and expenses due at the time of collection. A penalty  
 16 assessed pursuant to this subsection shall be used to pay the  
 17 private attorney employed by the county when the delinquent  
 18 taxes, penalties and interest are collected."

19 Section 4. Section 7-38-51 NMSA 1978 (being Laws 1973,  
 20 Chapter 258, Section 91, as amended) is amended to read:

21 "7-38-51. NOTIFICATION TO PROPERTY OWNER OF DELINQUENT  
 22 PROPERTY TAXES. --

23 A. In respect to any tax that is delinquent for  
 24 more than thirty days as of June 30 of each year, the county  
 25 treasurer shall mail a notice of delinquency at least thirty

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1 and no more than sixty days before September 1 to:

2 (1) the owner of the property as shown on the  
3 property tax schedule at the address of the owner as shown on  
4 the most recent property tax schedule; and

5 (2) any person other than the owner to whom  
6 the tax bill on the property was sent.

7 B. The notice required by this section shall be in  
8 a form and contain the information prescribed by ~~[division]~~  
9 department regulations and shall include at least the  
10 following:

11 (1) a description of the property upon which  
12 the property taxes are due;

13 (2) a statement of the amount of property  
14 taxes due, the date on which they became delinquent, the rate  
15 of accrual of interest and any penalties that may be charged;

16 (3) a statement that if the property taxes  
17 due on real property are not paid within three years from the  
18 date of delinquency, the real property will be sold and a deed  
19 issued by the ~~[division]~~ department; ~~[and]~~

20 (4) a statement that if property taxes due on  
21 personal property are not paid, the personal property may be  
22 seized and sold for taxes under authority of a demand warrant;  
23 and

24 (5) a statement that the delinquent taxes  
25 have been referred for collection to a private attorney

1 pursuant to Section 7-38-61.1 NMSA 1978, if that is the case,  
2 and that an additional civil penalty of up to thirty percent  
3 of the taxes, penalties, interest, costs and expenses due will  
4 be incurred if the taxes are not paid before September 1. "

5 Section 5. Section 7-38-53 NMSA 1978 (being Laws 1973,  
6 Chapter 258, Section 93) is amended to read:

7 "7-38-53. COLLECTION OF DELINQUENT PROPERTY TAXES ON  
8 PERSONAL PROPERTY--ASSERTION OF CLAIM AGAINST PERSONAL  
9 PROPERTY.--A county treasurer may collect delinquent property  
10 taxes on personal property by asserting a claim against the  
11 owner's personal property for which taxes are delinquent. A  
12 claim shall be asserted by service of a demand warrant by the  
13 county treasurer, an employee of his office designated by him,  
14 a private attorney retained by the county pursuant to Section  
15 7-38-61.1 NMSA 1978 or the county sheriff upon any person in  
16 possession of the personal property subject to the claim. "

17 Section 6. Section 7-38-60 NMSA 1978 (being Laws 1973,  
18 Chapter 258, Section 101, as amended) is amended to read:

19 "7-38-60. NOTIFICATION TO PROPERTY OWNER OF DELINQUENT  
20 TAXES.--By June 10 of each year, the county treasurer shall  
21 mail a notice to each property owner of property for which  
22 taxes have been delinquent for more than two years and whose  
23 delinquent tax account has not been referred for collection  
24 pursuant to Section 7-38-61.1 NMSA 1978 or, if referred, has  
25 been returned. The notice shall be in a form and contain the

1 information prescribed by department regulations and shall  
2 include the following:

3 A. a description of the property upon which the  
4 taxes are due;

5 B. a statement of the amount of property taxes  
6 due, the date on which they became delinquent, the rate of  
7 accrual of interest and any penalties or costs that may be  
8 charged;

9 C. a statement that the delinquent tax account on  
10 real property will be transferred to the department for  
11 collection;

12 D. a statement that if taxes due on real property  
13 are not paid within three years from the date of delinquency,  
14 the real property will be sold and a deed issued; and

15 E. a statement that if taxes due on personal  
16 property are not paid, the personal property may be seized and  
17 sold for taxes under authority of a demand warrant. "

18 Section 7. Section 7-38-61 NMSA 1978 (being Laws 1973,  
19 Chapter 258, Section 100, as amended) is amended to read:

20 "7-38-61. REAL PROPERTY TAXES DELINQUENT FOR MORE THAN  
21 TWO YEARS--TREASURER TO PREPARE DELINQUENCY LIST--NOTATION ON  
22 PROPERTY TAX SCHEDULE. --

23 A. By July 1 of each year, the county treasurer  
24 shall prepare a property tax delinquency list of all real  
25 property for which taxes have been delinquent for more than



1 two years. The tax delinquency list shall contain the  
 2 information and be in a form prescribed and submitted by the  
 3 date required by department regulations. The county treasurer  
 4 shall record the tax delinquency list in the office of the  
 5 county clerk. There shall be no recording fee for recordation  
 6 of the tax delinquency list. The updated final property tax  
 7 sale list shall be recorded with the office of the county  
 8 clerk the day following the sale of the property. There shall  
 9 be no recording fee for recordation of the final property tax  
 10 sale list.

11 B. Except for accounts referred for collection  
 12 pursuant to Section 7-38-61.1 NMSA 1978, and not returned, the  
 13 county treasurer shall make a notation on the property tax  
 14 schedule indicating that the account has been transferred to  
 15 the department for collection at the time the tax delinquency  
 16 list is mailed to the department. "

17 Section 8. A new section of the Property Tax Code,  
 18 Section 7-38-61.1 NMSA 1978, is enacted to read:

19 "7-38-61.1. [NEW MATERIAL] COUNTY ELECTION TO COLLECT  
 20 DELINQUENT TAXES ON REAL PROPERTY--AUTHORITY TO CONTRACT FOR  
 21 THE COLLECTION OF DELINQUENT TAXES.--

22 A. Commencing in the 2002 tax year, a county may  
 23 elect to assume authority for collection of delinquent  
 24 property taxes due on real property in the county, including  
 25 authority to sell the property pursuant to the provisions of

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1 Sections 7-38-65 and 7-38-66 NMSA 1978. In the absence of  
2 that election by a county, the department retains authority to  
3 collect delinquent taxes, penalties, interest and costs on  
4 property submitted on a tax delinquency list until the taxes,  
5 penalties, interest and costs are collected or the property is  
6 sold pursuant to Sections 7-38-65 and 7-38-66 NMSA 1978. To  
7 make the election, the board of county commissioners, with the  
8 express concurrence in writing of the county treasurer, shall  
9 adopt a resolution to assume the authority and shall deliver  
10 or mail a copy of the resolution to the department no later  
11 than thirty days after its adoption and at least thirty days  
12 prior to July 1 of the tax year to which the resolution first  
13 applies.

14 B. A county that has assumed authority under  
15 Subsection A of this section is authorized to request  
16 competitive proposals pursuant to the applicable provisions of  
17 the Procurement Code from qualified attorneys and may execute  
18 a professional services contract with a successful offeror for  
19 the collection of delinquent taxes, penalties and interest due  
20 thereon that are owed to the county or taxing jurisdictions  
21 for which the county collects the taxes.

22 C. Having assumed authority to collect delinquent  
23 taxes due on real property, the county may elect to return  
24 that authority to the department. To make this election, the  
25 board of county commissioners shall adopt a resolution

1 returning the authority and shall deliver or mail a copy of  
2 the resolution to the department at least eighteen months  
3 prior to the beginning of the tax year to which the return of  
4 authority is to apply.

5 D. The department may prepare and require the use  
6 of model resolutions for use of the counties in assuming and  
7 returning authority as provided in this section.

8 E. As used in this section, "qualified attorney"  
9 means an attorney licensed to practice in New Mexico and who  
10 carries professional liability insurance in an amount  
11 determined adequate by a board of county commissioners, which  
12 amount shall be specified in the request for proposals. "

13 Section 9. A new section of the Property Tax Code,  
14 Section 7-38-61.2 NMSA 1978, is enacted to read:

15 "7-38-61.2. [NEW MATERIAL] SUIT TO COLLECT DELINQUENT  
16 TAXES AND INTEREST AND PENALTIES.--At any time after a tax on  
17 property becomes delinquent, a county or its retained attorney  
18 may file suit seeking a personal judgment against the  
19 taxpayer. The suit shall be filed in a court of competent  
20 jurisdiction for the county in which the tax was or is  
21 imposed. "

22 Section 10. A new section of the Property Tax Code,  
23 Section 7-38-61.3 NMSA 1978, is enacted to read:

24 "7-38-61.3. [NEW MATERIAL] RECOVERY OF COSTS AND  
25 EXPENSES IN COLLECTION SUIT.--

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1           A. In addition to other costs authorized by law, a  
2 county or its retained attorney is entitled to recover from  
3 the delinquent taxpayer the following costs and expenses if  
4 successful in a suit to collect a delinquent tax:

5                   (1) court costs;

6                   (2) costs of filing for record any notice of  
7 lis pendens against property;

8                   (3) expenses of a tax sale; and

9                   (4) reasonable expenses that are incurred by  
10 the county or its retained attorney in determining the name,  
11 identity and location of necessary parties and in procuring  
12 necessary legal descriptions of the property on which a  
13 delinquent tax is due.

14           B. Each item specified by Subsection A of this  
15 section is a charge against the property and a personal  
16 obligation of the property owner and shall be collectible in  
17 the same manner as the taxes, penalties, interest and costs  
18 due by him."

19           Section 11. A new section of the Property Tax Code,  
20 Section 7-38-61.4 NMSA 1978, is enacted to read:

21           "7-38-61.4. [NEW MATERIAL] COSTS OF PUBLICATION. --

22 A county shall pay the cost of publishing notices of sale or  
23 other notices necessary in a suit to collect delinquent taxes.  
24 The county is entitled to reimbursement from other taxing  
25 units that are parties to the suit for their proportionate

1 share of the publication costs on satisfaction of any portion  
 2 of the tax indebtedness before further distribution of the  
 3 proceeds. A county shall not be required to pay a word or  
 4 line rate for publication of citation or other required notice  
 5 that exceeds the rate that the newspaper publishing the notice  
 6 charges private entities for similar classes of advertising. "

7 Section 12. Section 7-38-62 NMSA 1978 (being Laws 1973,  
 8 Chapter 258, Section 102, as amended) is amended to read:

9 "7-38-62. AUTHORITY OF DEPARTMENT AND COUNTY TO COLLECT  
 10 DELINQUENT PROPERTY TAXES [AFTER RECEIPT OF TAX DELINQUENCY  
 11 LIST]--USE OF PENALTIES, INTEREST AND COSTS.--

12 A. After the receipt of the tax delinquency list,  
 13 the department has the responsibility and exclusive authority  
 14 to take all action necessary to collect delinquent taxes shown  
 15 on the list unless the county has assumed authority pursuant  
 16 to Section 7-38-61.1 NMSA 1978 to collect delinquent taxes due  
 17 on real property. In that case, the county or its retained  
 18 attorney has the same authority as that granted to the  
 19 department in Subsection B of this section.

20 B. This authority includes bringing collection  
 21 actions in the district courts based upon the personal  
 22 liability of the property owner for taxes as well as the  
 23 actions authorized in the Property Tax Code for proceeding  
 24 against the property subject to the tax for collection of  
 25 delinquent taxes.

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1                    C. For delinquent taxes being collected by the  
 2 department, payment of delinquent taxes listed and any  
 3 penalty, interest or costs due in connection with those taxes  
 4 shall be made to the department if occurring after the receipt  
 5 by the department of the tax delinquency list; however, the  
 6 department may authorize county treasurers to act as its  
 7 agents in accepting payments of taxes, penalties, interest or  
 8 costs due.

9                    D. Penalties, interest and costs due received by  
 10 the department under this section shall be retained by the  
 11 department for use, subject to appropriation by the  
 12 legislature, in the administration of the Property Tax Code. "

13                    Section 13. Section 7-38-65 NMSA 1978 (being Laws 1973,  
 14 Chapter 258, Section 105, as amended) is amended to read:

15                    "7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL  
 16 PROPERTY--SALE OF REAL PROPERTY. --

17                    A. The department or a county having authority  
 18 pursuant to Section 7-38-61.1 NMSA 1978 may collect delinquent  
 19 taxes on real property by selling the real property on which  
 20 the taxes have become delinquent. The sale of real property  
 21 for delinquent taxes shall be in accordance with the  
 22 provisions of the Property Tax Code. Real property may be  
 23 sold for delinquent taxes at any time after the expiration of  
 24 three years from the first date shown on the tax delinquency  
 25 list on which the taxes became delinquent. Real property

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1 shall be offered for sale for delinquent taxes either within  
2 four years after the first date shown on the tax delinquency  
3 list on which the taxes became delinquent or, if the  
4 department or county is barred by operation of law or by order  
5 of a court of competent jurisdiction from offering the  
6 property for sale for delinquent taxes within four years after  
7 the first date shown on the tax delinquency list on which the  
8 taxes became delinquent, within one year from the time the  
9 department or county determines that it is no longer barred  
10 from selling the property, unless:

11 (1) all delinquent taxes, penalties, interest  
12 and costs due are paid by the date of the sale; or

13 (2) an installment agreement for payment of  
14 all delinquent taxes, penalties, interests and costs due is  
15 entered into with the department or county by the date of the  
16 sale pursuant to Section 7-38-68 NMSA 1978.

17 B. Failure to offer property for sale within the  
18 time prescribed by Subsection A of this section shall not  
19 impair the validity or effect of any sale which does take  
20 place. "

21 Section 14. Section 7-38-68 NMSA 1978 (being Laws 1973,  
22 Chapter 258, Section 108, as amended) is amended to read:

23 "7-38-68. INSTALLMENT AGREEMENTS. --

24 A. The ~~[division]~~ department or a county that has  
25 authority to collect delinquent taxes pursuant to Section

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1 7-38-61.1 NMSA 1978 may enter into an installment agreement  
2 for the payment of all delinquent property taxes, penalties,  
3 interest and costs due with respect to either real property or  
4 a manufactured home with the owner of the real property or  
5 manufactured home whose taxes have become delinquent and whose  
6 account for all or part of the delinquent taxes has been  
7 transferred for collection to the ~~[division]~~ department or  
8 retained for collection by the county. Execution of an  
9 installment agreement under this section by a property owner  
10 is an irrevocable admission of liability for all taxes that  
11 are the subject of the agreement. The installment agreement  
12 shall be in writing and shall not extend for a period of more  
13 than thirty-six months. Interest shall accrue on the unpaid  
14 balance during the period of the installment agreement. The  
15 rate of interest shall be one percent a month, and no other  
16 interest on that portion of the principal representing unpaid  
17 taxes shall accrue while an installment agreement is in  
18 effect. ~~[The division shall not enter into]~~ An installment  
19 agreement with a property owner shall not be entered into on  
20 or after the date of the initial sale of real property or  
21 manufactured home for delinquent taxes whether or not the real  
22 property or manufactured home is sold and a deed issued as a  
23 result of that sale. Unless a county has authority to collect  
24 delinquent taxes pursuant to Section 7-38-61.1 NMSA 1978, the  
25 ~~[division]~~ department shall promulgate regulations



1 establishing requirements for a minimum down payment and  
2 substantially equal monthly payments for installment  
3 agreements.

4 B. An installment agreement prevents any further  
5 action to collect the delinquent taxes stated in the agreement  
6 as long as the terms of the agreement are met.

7 C. The ~~[division]~~ department or a county having  
8 authority to collect delinquent taxes pursuant to Section  
9 7-38-61.1 NMSA 1978 may proceed under the Property Tax Code to  
10 collect the property taxes, penalties, interest and costs due  
11 and unpaid if:

12 (1) installment payments are not made on or  
13 before the dates specified in the agreement;

14 (2) the property owner fails to pay other  
15 property taxes when required; or

16 (3) any other condition contained in the  
17 agreement is not met.

18 D. For the purpose of computing the time when real  
19 property or a manufactured home may be sold for delinquent  
20 taxes, the date of original delinquency shall be used when the  
21 delinquent taxes have been the subject of an installment  
22 agreement that was subsequently breached by the property  
23 owner.

24 E. If an owner of real property or a manufactured  
25 home enters into an installment agreement and subsequently

1 breaches the agreement under this section, neither the  
2 [~~division~~] department nor the counties shall [~~not~~] enter into  
3 another installment agreement with that property owner for the  
4 payment of the delinquent taxes that were the subject of the  
5 installment agreement.

6 F. Alphabetically indexed and serially numbered  
7 records of installment agreements must be kept in the office  
8 of the director and made available for public inspection. "

9 Section 15. Section 7-38-69 NMSA 1978 (being Laws 1973,  
10 Chapter 258, Section 109, as amended) is amended to read:

11 "7-38-69. DISTRIBUTION OF AMOUNTS COLLECTED UNDER  
12 INSTALLMENT AGREEMENTS. -- Amounts that represent delinquent  
13 taxes collected under installment agreements entered into by  
14 the department [~~that represent delinquent taxes~~] or a county  
15 pursuant to Section 7-38-68 NMSA 1978 shall be remitted to the  
16 county treasurer of the county to which the net taxable value  
17 of the property is allocated for distribution to the  
18 governmental units. Amounts collected that represent  
19 penalties, interest and costs shall be retained by the  
20 department in accordance with Section 7-38-71 NMSA 1978.  
21 Money collected shall be remitted at the times and in the  
22 manner required by applicable law and the regulations of the  
23 department of finance and administration. When the department  
24 has received payment in full of delinquent taxes, penalties,  
25 interest and costs paid under an installment agreement, the

1 department shall notify the county treasurer of that fact, and  
2 the county treasurer shall make an entry on the property tax  
3 schedule indicating that the delinquent property taxes,  
4 penalties and interest have been paid. "

5 Section 16. Section 7-38-70 NMSA 1978 (being Laws 1973,  
6 Chapter 258, Section 110, as amended) is amended to read:

7 "7-38-70. ISSUANCE OF DEEDS AS RESULT OF SALE OF REAL  
8 PROPERTY FOR DELINQUENT TAXES--EFFECT OF DEEDS--LIMITATION OF  
9 ACTION TO CHALLENGE CONVEYANCE. --

10 A. Upon receiving payment for real property sold  
11 by the department for delinquent taxes, the ~~[division]~~  
12 department shall execute and deliver a deed to the purchaser.  
13 If the property was sold by a county pursuant to its authority  
14 pursuant to Section 7-38-61.1 NMSA 1978, upon receiving  
15 payment the county treasurer shall execute and deliver a deed  
16 to the purchaser.

17 B. If the real property was sold substantially in  
18 accordance with the Property Tax Code, the deed conveys all of  
19 the former property owner's interest in the real property as  
20 of the date the state's lien for real property taxes arose in  
21 accordance with the Property Tax Code, subject only to  
22 perfected interests in the real property existing before the  
23 date the property tax lien arose.

24 C. After two years from the date of sale, neither  
25 the former real property owner shown on the property tax

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1 schedule as the delinquent taxpayer nor anyone claiming  
2 through him may bring an action challenging the conveyance.

3 D. Subject to the limitation of Subsection C of  
4 this section, in all controversies and suits involving title  
5 to real property held under a deed from the state issued under  
6 this section, any person claiming title adverse to that  
7 acquired by the deed from the state [~~must~~] or the county shall  
8 prove, in order to defeat the title, that:

9 (1) the real property was not subject to  
10 taxation for the tax years for which the delinquent taxes for  
11 which it was sold were imposed;

12 (2) the [~~division~~] department or the county  
13 failed to mail the notice required under Section 7-38-66 NMSA  
14 1978 or to receive any required return receipt;

15 (3) he, or the person through whom he claims,  
16 had title to the real property at the time of the sale and had  
17 paid all delinquent taxes, penalties, interest and costs prior  
18 to the sale as provided in Subsection E of Section 7-38-66  
19 NMSA 1978; or

20 (4) he, or the person through whom he claims,  
21 had entered into an installment agreement to pay all  
22 delinquent taxes, penalties, interest and costs prior to the  
23 sale as provided in Section 7-38-68 NMSA 1978 and that all  
24 payments due were made timely."

25 Section 17. EFFECTIVE DATE. -- The effective date of the

1 provisions of this act is July 1, 2001.

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