

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 350

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO PROPERTY TAX; CREATING A SPECIAL METHOD OF
VALUATION FOR UNIMPROVED LAND; PROVIDING FOR A RECAPTURE OF TAX
SAVINGS IF THE USE OF THE LAND IS CHANGED; ALLOWING A COUNTY
ASSESSOR TO CHANGE A PROPERTY TAX SCHEDULE IF THERE WAS A
CHANGE OF USE OF THE LAND; REQUIRING DISCLOSURE.

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

SECTION 1. A new section of the Property Tax Code,
Section 7-36-20.1 NMSA 1978, is enacted to read:

"7-36-20.1. [NEW MATERIAL] SPECIAL METHOD OF VALUATION--
CONSERVATION OF UNIMPROVED LAND--RECAPTURE.--

A. The value of unimproved land used primarily to
conserve the unimproved land pursuant to a qualified
conservation management plan shall be valued at twenty-five
percent of the current and correct value. Land used for a

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underscoring material = new
[bracketed material] = delete

1 residential or commercial purpose is not eligible for valuation
2 pursuant to this section.

3 B. Evidence of a qualified conservation management
4 plan for the tax year preceding the year for which
5 determination is made of eligibility for the land to be valued
6 pursuant to this section creates a presumption that the land is
7 used primarily to conserve the unimproved land during the tax
8 year in which the determination is made. Improvements on the
9 land, other than those specified in Subsection C of Section
10 7-36-15 NMSA 1978 or for purposes other than for agricultural
11 or conservation management purposes, create a presumption that
12 the land is not used primarily to conserve the unimproved land.

13 C. The department shall promulgate rules for
14 determining whether land is used primarily to conserve the
15 unimproved land pursuant to a qualified conservation management
16 plan. The rules shall:

17 (1) ensure that management practices are
18 appropriate to conserve and maintain the unimproved land; and

19 (2) require that qualified conservation
20 management plans shall:

21 (a) at a minimum, maintain or increase
22 the productivity of the land, rangeland, watershed and forest
23 health, wildlife habitat or soil and water conservation; and

24 (b) include an annual implementation
25 plan and progress report.

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1 D. All improvements on land, other than those
2 specified in Subsection C of Section 7-36-15 NMSA 1978, shall
3 be valued separately for property taxation purposes, and the
4 value of the improvements shall be added to the value of the
5 land determined pursuant to this section.

6 E. The special method of valuation pursuant to this
7 section shall be claimed in order to be allowed. The owner of
8 the land shall make application to the county assessor in a tax
9 year in which the valuation method of this section is first
10 claimed to be applicable to the land or in a tax year
11 immediately subsequent to a tax year in which the land was not
12 valued under this section. Application shall be made under
13 oath and shall be in a form, and contain the information,
14 required by department rules. The application shall be made no
15 later than thirty days after the date of mailing by the
16 assessor of the notice of valuation. Once land is valued under
17 this section, an application shall be resubmitted and claimed:

18 (1) in a tax year immediately subsequent to a
19 tax year in which a change of use or a change in ownership
20 occurs; or

21 (2) five years after the tax year in which the
22 last application was made and granted.

23 F. The owner of land valued pursuant to this
24 section shall report to the county assessor whenever a change
25 of ownership or the use of the land changes so that it is no

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1 longer being used primarily to conserve the unimproved land
2 pursuant to a qualified conservation management plan. The
3 report shall be made by the last day of February of the tax
4 year immediately following the year in which the change of
5 ownership or change in the use of the land occurs.

6 G. Any person who is required to make a report
7 under the provisions of Subsection F of this section and who
8 fails to do so is personally liable for a civil penalty in an
9 amount equal to the greater of twenty-five dollars (\$25.00) or
10 twenty-five percent of the difference between the property
11 taxes ultimately determined to be due and the property taxes
12 originally paid for the tax years for which the person failed
13 to make the required report.

14 H. An owner of land valued pursuant to this section
15 who divides the land or builds physical improvements on the
16 land for purposes other than for agricultural use or to
17 conserve the unimproved land, and who is the owner of record at
18 the time the division occurs or the improvements are made,
19 shall be personally liable for the difference between the taxes
20 assessed against the land and the taxes that would otherwise
21 have been assessed against the land at the current and correct
22 value for each of the number of years the land was valued
23 pursuant to this section, up to a maximum of the five most
24 recent years, to be collected and distributed in the same
25 manner as other ad valorem levies.

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1 I. As used in this section, "qualified conservation
 2 management plan" means a land management plan approved by the
 3 soil and water conservation commission that includes
 4 conservation and management practices that are appropriate to
 5 conserve and maintain the unimproved land; to maintain or
 6 increase the productivity of the land; and to support
 7 rangeland, watershed and forest health, wildlife habitat or
 8 soil and water conservation."

9 SECTION 2. Section 7-38-44.1 NMSA 1978 (being Laws 2013,
 10 Chapter 119, Section 1) is amended to read:

11 "7-38-44.1. SPECIAL PROCEDURES FOR ADMINISTRATION OF
 12 TAXES ON REAL PROPERTY DIVIDED OR COMBINED.--

13 A. For real property, subject to valuation for
 14 property taxation purposes in a taxable year, that is divided
 15 or combined, a county shall proceed to determine the taxes due
 16 on the property by using the prior year's tax rate, if the
 17 current tax rates have not been set, and the prior year's
 18 value, if the current year value has not been set, and proceed
 19 to immediately collect the taxes, penalties, interest and fees
 20 through the taxable year in which the property is divided or
 21 combined.

22 B. For real property, subject to valuation for
 23 property taxation purposes pursuant to Section 7-36-20.1 NMSA
 24 1978 in a taxable year, that is divided, a county shall proceed
 25 to determine the taxes due on the property, if any, pursuant to

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1 Subsection H of Section 7-36-20.1 NMSA 1978 and proceed to
2 immediately collect the taxes, penalties, interest and fees
3 through the taxable year in which the property is divided.

4 [B-] C. A taxpayer shall pay the taxes, penalties,
5 interest and fees due on real property divided or combined
6 through the taxable year in which the property is divided or
7 combined prior to filing a plat."

8 SECTION 3. Section 7-38-77 NMSA 1978 (being Laws 1973,
9 Chapter 258, Section 117, as amended) is amended to read:

10 "7-38-77. AUTHORITY TO MAKE CHANGES IN PROPERTY TAX
11 SCHEDULE AFTER ITS DELIVERY TO THE COUNTY TREASURER.--

12 A. After delivery of the property tax schedule to
13 the county treasurer, the amounts shown on the schedule as
14 taxes due and other information on the schedule shall not be
15 changed except:

16 (1) by the county treasurer to correct obvious
17 errors in the mathematical computation of taxes;

18 (2) by the county treasurer to correct obvious
19 errors by the county assessor in:

20 (a) the name or address of the property
21 owner or other persons shown on the schedule;

22 (b) the description of the property
23 subject to property taxation, even if the correction results in
24 a change in the amount shown on the schedule as taxes due;

25 (c) the data entry of the value,

1 classification, allocation of value and limitation on increases
2 in value pursuant to Sections 7-36-21.2 and 7-36-21.3 NMSA 1978
3 of property subject to property taxation by the county
4 assessor; or

5 (d) the application of eligible,
6 documented and qualified exemptions;

7 (3) by the county treasurer to cancel multiple
8 valuations for property taxation purposes of the same property
9 in a single tax year, but only if:

10 (a) a taxpayer presents tax receipts
11 showing the payment of taxes by the taxpayer for any year in
12 which multiple valuations for property taxation purposes are
13 claimed to have been made;

14 (b) a taxpayer presents evidence of
15 ownership of the property, satisfactory to the treasurer, as of
16 January 1 of the year in which multiple valuations for property
17 taxation purposes are claimed to have been made; and

18 (c) there is no dispute concerning
19 ownership of the property called to the attention of the
20 treasurer and the treasurer has no actual knowledge of any
21 dispute concerning ownership of the property;

22 (4) by the county treasurer, to correct the
23 tax schedule so that it no longer contains personal property
24 that is deemed to be unlocatable, unidentifiable or
25 uncollectable, after thorough research with verification by the

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1 county assessor or appraiser, with notification to the
2 department and the county clerk;

3 (5) as a result of a protest, including a
4 claim for refund, in accordance with the Property Tax Code, of
5 values, classification, allocations of values determined for
6 property taxation purposes or a denial of a claim for an
7 exemption;

8 (6) by the department or the order of a court
9 as a result of any proceeding by the department to collect
10 delinquent property taxes under the Property Tax Code;

11 (7) by a court order entered in an action
12 commenced by a property owner [~~under~~] pursuant to Section
13 7-38-78 NMSA 1978;

14 (8) by the department as authorized [~~under~~]
15 pursuant to Section 7-38-79 NMSA 1978;

16 (9) by the department of finance and
17 administration as authorized [~~under~~] pursuant to Section
18 7-38-77.1 NMSA 1978; [~~or~~]

19 (10) by the county assessor due to a change of
20 use of land that had been valued pursuant to Section 7-36-20.1
21 NMSA 1978; or

22 [~~(10)~~] (11) as specifically otherwise
23 authorized in the Property Tax Code.

24 B. As used in this section, "obvious errors" does
25 not include the method used to determine the valuation for, or

1 a difference of opinion in the value of, the property subject
2 to property taxation."

3 SECTION 4. Section 47-13-4 NMSA 1978 (being Laws 2009,
4 Chapter 165, Section 3) is amended to read:

5 "47-13-4. ~~[FINDING]~~ DISCLOSURE OF INFORMATION REQUIRED IN
6 CERTAIN REAL ESTATE TRANSACTIONS.--

7 ~~[A. The legislature finds that property tax levied
8 on a residential property for the current year can be a
9 misleading guide to property tax levies in the years following
10 the sale of that property and that a prospective buyer needs
11 information regarding the property tax obligation in the year
12 following the property's sale to properly judge the
13 affordability of a contemplated purchase.~~

14 ~~B.]~~ A. Prior to accepting an offer to purchase, the
15 property seller or the seller's broker shall:

16 (1) request from the county assessor the
17 estimated amount of property tax levy with respect to the
18 property and shall specify the listed price as the value of the
19 property to be used in the estimate; and

20 (2) provide a copy of the assessor's response
21 pursuant to Subsection D of this section in writing to the
22 prospective buyer or the buyer's broker.

23 B. Prior to accepting an offer to purchase land
24 valued pursuant to Section 7-36-20.1 NMSA 1978, the property
25 seller or the seller's broker shall:

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1 (1) request from the county assessor the
2 estimated amount of property tax levy, with respect to the
3 difference between the taxes assessed against the land and the
4 taxes that would otherwise have been assessed against the land
5 for current and correct value, for each of the number of years
6 the land was valued pursuant to Section 7-36-20.1 NMSA 1978;
7 and

8 (2) provide a copy of the assessor's response
9 pursuant to Subsection D of this section in writing to the
10 prospective buyer or the buyer's broker.

11 C. A buyer's broker shall provide to the
12 prospective buyer the county assessor's estimated amount of
13 property tax levy immediately upon receiving it from the
14 property seller or the seller's broker. The prospective buyer
15 shall acknowledge in writing the receipt of the estimated
16 amount of property tax levy.

17 D. Upon request, a county assessor shall furnish in
18 writing, pursuant to the provisions of Subsection E of this
19 section, an estimated amount of property tax levy with respect
20 to a residential property in the county, calculated at a
21 property value specified by the requestor. The request shall
22 be complied with by the close of business of the business day
23 following the day the request is received. A county may
24 satisfy this obligation through an internet site or other
25 automated format that allows a user to print the requested

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1 estimated amount of property tax levy. A document associated
2 with the request or the response is not a public record or a
3 valuation record. County assessors shall not use information
4 provided with a request, including the specified value, to
5 assess the valuation of the property. Neither the county nor
6 any jurisdiction levying a tax against residential property in
7 the county is bound in any way by the estimate given.

8 E. A county assessor's estimated amount of property
9 tax levy with respect to a residential property in the county
10 shall contain the following:

11 (1) the actual amount of property tax levied
12 for the property for the current calendar year if the tax rates
13 for the current year have been imposed in accordance with
14 Section 7-38-34 NMSA 1978 for the county in which the property
15 is located or, in all other cases, the amount of property tax
16 levied with respect to the property for the prior calendar
17 year;

18 (2) the estimated amount of property tax levy,
19 as calculated by the county assessor, for the property for the
20 calendar year following the year in which the transaction takes
21 place; and

22 (3) a disclaimer substantially similar to the
23 following:

24 "The estimated amount of property tax levy is calculated
25 using the stated price and estimates of the applicable tax

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1 rates. The county assessor is required by law to value
2 the property at its "current and correct" value, which may
3 differ from the listed price. Further, the estimated tax
4 rates may be higher or lower than those that will actually
5 be imposed. Accordingly, the actual tax levy may be
6 higher or lower than the estimated amount. New Mexico law
7 requires your real estate broker or agent to provide you
8 an estimate of the property tax levy on the property on
9 which you have submitted or intend to submit an offer to
10 purchase. All real estate brokers and agents who have
11 complied with these disclosure requirements shall be
12 immune from suit and liability arising from suit relating
13 to the estimated amount of property tax levy."

14 F. A prospective buyer may waive the disclosure
15 requirements of this section by signing a written document
16 prior to the time the offer to purchase is to be made in which
17 the buyer acknowledges that the required estimated amount of
18 property tax levy is not readily available and waives
19 disclosure of the estimated amount of property tax levy.

20 G. All property sellers and real estate brokers and
21 agents who have complied with the provisions of this section
22 shall be immune from suit and liability arising from or
23 relating to the estimated amount of property tax levy.

24 H. The New Mexico real estate commission shall
25 biannually inform all New Mexico real estate licensees of the

1 statutory requirement for disclosure of the estimated amount of
2 property tax levy to prospective residential property
3 purchasers."

4 SECTION 5. APPLICABILITY.--The provisions of this act
5 apply to the 2019 and subsequent property tax years.

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underscoring material = new
~~[bracketed material]~~ = delete