

1 SENATE BILL 338

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Steven P. Neville

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10 AN ACT

11 RELATING TO REAL PROPERTY; REQUIRING AN AFFIDAVIT TO BE FILED
12 WITH THE COUNTY ASSESSOR FOR THE TRANSFER OF ALL REAL PROPERTY;
13 INCLUDING ADDITIONAL INSTRUMENTS THAT DO NOT REQUIRE AN
14 AFFIDAVIT TO BE FILED.

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

17 SECTION 1. Section 7-38-12.1 NMSA 1978 (being Laws 2003,
18 Chapter 118, Section 2, as amended) is amended to read:

19 "7-38-12.1. [~~RESIDENTIAL~~] REAL PROPERTY TRANSFERS--
20 AFFIDAVIT TO BE FILED WITH ASSESSOR.--

21 A. [~~After January 1, 2004~~] A transferor or the
22 transferor's authorized agent or a transferee or the
23 transferee's authorized agent presenting for recording with a
24 county clerk a deed, real estate contract or memorandum of real
25 estate contract transferring an interest in real property

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1 ~~[classified as residential property]~~ for property taxation
2 purposes shall also file with the county assessor within thirty
3 days of the date of filing with the county clerk an affidavit
4 signed and completed in accordance with the provisions of
5 Subsection B of this section.

6 B. The affidavit required for submission shall be
7 in a form approved by the department and signed by the
8 transferors or their authorized agents or the transferees or
9 their authorized agents of any interest in ~~[residential]~~ real
10 property transferred by deed or real estate contract. The
11 affidavit shall contain only the following information to be
12 used only for analytical and statistical purposes in the
13 application of appraisal methods:

14 (1) the complete names of all transferors and
15 transferees;

16 (2) the current mailing addresses of all
17 transferors and transferees;

18 (3) the legal description of the real property
19 interest transferred as it appears in the document of transfer;

20 (4) the full consideration, including money or
21 any other thing of value, paid or exchanged for the transfer
22 and the terms of the sale, including any amount of seller
23 incentives; and

24 (5) the value and a description of personal
25 property that is included in the sale price.

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1 C. Upon receipt of the affidavit required by
2 Subsection A of this section, the county assessor shall place
3 the date of receipt on the original affidavit and on a copy of
4 the affidavit. The county assessor shall retain the original
5 affidavit as a confidential record and as proof of compliance
6 and shall return the copy marked with the date of receipt to
7 the person presenting the affidavit. The assessor shall index
8 the affidavits in a manner that permits cross-referencing to
9 other records in the assessor's office pertaining to the
10 specific property described in the affidavit. The affidavit
11 and its contents are not part of the valuation record of the
12 assessor.

13 D. The affidavit required by Subsection A of this
14 section shall not be required for:

- 15 ~~[(1)]~~ a deed transferring nonresidential
16 property;
- 17 ~~(2)]~~ (1) a deed that results from the payment
18 in full or forfeiture by a transferee under a recorded real
19 estate contract or recorded memorandum of real estate contract;
- 20 ~~[(3)]~~ (2) a lease of or easement on real
21 property, regardless of the length of term;
- 22 ~~[(4)]~~ (3) a deed, patent or contract for sale
23 or transfer of real property in which an agency or
24 representative of the United States or New Mexico or any
25 political subdivision of the state is the named grantor or

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1 grantee and authorized transferor or transferee;

2 ~~[(5)]~~ (4) a quitclaim deed to quiet title or
3 clear boundary disputes;

4 ~~[(6)]~~ (5) a conveyance of real property
5 executed pursuant to court order;

6 ~~[(7)]~~ (6) a deed to an unpatented mining
7 claim;

8 ~~[(8)]~~ (7) an instrument solely to provide or
9 release security for a debt or obligation;

10 ~~[(9)]~~ (8) an instrument that confirms or
11 corrects a deed previously recorded;

12 ~~[(10)]~~ (9) an instrument between husband and
13 wife or parent and child with only nominal actual consideration
14 therefor;

15 ~~[(11)]~~ (10) an instrument arising out of a
16 sale for delinquent taxes or assessments;

17 ~~[(12)]~~ (11) an instrument accomplishing a
18 court-ordered partition;

19 ~~[(13)]~~ (12) an instrument arising out of a
20 merger or incorporation;

21 ~~[(14)]~~ (13) an instrument by a subsidiary
22 corporation to its parent corporation for no consideration,
23 nominal consideration or in sole consideration of the
24 cancellation or surrender of the subsidiary's stock;

25 ~~[(15)]~~ (14) an instrument from a person to a

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1 trustee or from a trustee to a trust beneficiary with only
2 nominal actual consideration therefor;

3 [~~(16)~~] (15) an instrument to or from an
4 intermediary for the purpose of creating a joint tenancy estate
5 or some other form of ownership; [~~or~~]

6 [~~(17)~~] (16) an instrument delivered to
7 establish a gift or a distribution from an estate of a decedent
8 or trust;

9 (17) a deed, patent or contract for sale or
10 transfer of real property in which the property was valued
11 pursuant to Section 7-36-20 NMSA 1978 in the prior tax year; or

12 (18) an instrument delivered to convey solely
13 the mineral or subsurface estate of real property.

14 E. The affidavit required by Subsection A of this
15 section shall not be construed to be a valuation record
16 pursuant to Section 7-38-19 NMSA 1978.

17 [~~F. Prior to November 1, 2003, the department shall~~
18 ~~print and distribute to each county assessor affidavit forms~~
19 ~~for distribution to the public upon request.]"~~

20 SECTION 2. TEMPORARY PROVISION.--Prior to November 1,
21 2023, the taxation and revenue department shall print and
22 distribute to each county assessor affidavit forms that comply
23 with Section 7-38-12.1 NMSA 1978 for distribution to the public
24 upon request.

25 SECTION 3. EFFECTIVE DATE.--The effective date of the
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provisions of Section 1 of this act is January 1, 2024.