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HOUSE BILL 366

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Ben Lujan

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; LIMITING INCREASES IN THE VALUE OF
RESIDENTIAL PROPERTY FOR PROPERTY TAXATION PURPOSES;
REQUIRING DISCLOSURE OF SALES PRICE INFORMATION FOR PROPERTY
CLASSIFIED AS RESIDENTIAL PROPERTY FOR PROPERTY TAXATION
PURPOSES.

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

Section 1. Section 7-36-16 NMSA 1978 (being Laws 1973,
Chapter 258, Section 18) is amended to read:

"7-36-16. RESPONSIBILITY OF COUNTY ASSESSORS TO
DETERMINE AND MAINTAIN CURRENT AND CORRECT VALUES OF
PROPERTY.--

A. County assessors shall determine values of
property for property taxation purposes in accordance with
the Property Tax Code and the regulations, orders, rulings
and instructions of the department. Except as limited in

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1 Section 7-36-21.2 NMSA 1978, they shall also implement a
2 program of updating property values so that current and
3 correct values of property are maintained and shall have sole
4 responsibility and authority at the county level for property
5 valuation maintenance, subject only to the general
6 supervisory powers of the director.

7 B. The director shall implement a program of
8 regular evaluation of county assessors' valuation activities
9 with particular emphasis on the maintenance of current and
10 correct values.

11 C. Upon request of the county assessor, the
12 director may contract with a board of county commissioners
13 for the department to assume all or part of the
14 responsibilities, functions and authority of a county
15 assessor to establish or operate a property valuation
16 maintenance program in the county. The contract shall be in
17 writing and shall include provisions for the sharing of the
18 program costs between the county and the department. The
19 contract must include specific descriptions of the objectives
20 to be reached and the tasks to be performed by the
21 contracting parties. The initial term of any contract
22 authorized under this subsection shall not extend beyond the
23 end of the fiscal year following the fiscal year in which it
24 is executed, but contracts may be renewed for additional one-
25 year periods for succeeding years.

D. The department of finance and administration
shall not approve the operating budget of any county in which

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1 there is not an adequate allocation of funds to the county
2 assessor for the purpose of fulfilling his responsibilities
3 for property valuation maintenance under this section. If
4 the department of finance and administration questions the
5 adequacy of any allocation of funds for this purpose, it
6 shall consult with the department, the board of county
7 commissioners and the county assessor in making its
8 determination of adequacy.

9 E. To aid the board of county commissioners in
10 determining whether a county assessor is operating an
11 efficient program of property valuation maintenance and in
12 determining the amount to be allocated to him for this
13 function, the county assessor ~~[must]~~ shall present with his
14 annual budget request a written report setting forth
15 improvements of property added to valuation records during
16 the year, additions of new property to valuation records
17 during the year, increases and decreases of valuation during
18 the year, the relationship of sales prices of property sold
19 to values of the property for property taxation purposes and
20 the current status of the overall property valuation
21 maintenance program in the county. The county assessor shall
22 send a copy of this report to the department."

23 Section 2. A new section of the Property Tax Code,
24 Section 7-36-21.2 NMSA 1978, is enacted to read:

25 "7-36-21.2. [NEW MATERIAL] LIMITATION ON INCREASES IN
VALUATION OF RESIDENTIAL PROPERTY.--

A. Residential property shall be valued at its

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1 current and correct value in accordance with the provisions
2 of the Property Tax Code; provided that for the 2001 and
3 subsequent tax years, the value of a property in any tax year
4 shall not exceed the higher of one hundred three percent of
5 the value in the tax year prior to the tax year in which the
6 property is being valued or one hundred six and one-tenth
7 percent of the value in the tax year two years prior to the
8 tax year in which the property is being valued. This
9 limitation on increases in value does not apply to:

10 (1) a residential property in the first tax
11 year that it is valued for property taxation purposes;

12 (2) any physical improvements made to the
13 property during the year immediately prior to the tax year;
14 or

15 (3) valuation of a residential property in
16 any tax year in which:

17 (a) a change of ownership of the
18 property occurred in the year immediately prior to the tax
19 year for which the value of the property for property
20 taxation purposes is being determined; or

21 (b) the use or zoning of the property
22 has changed in the year prior to the tax year.

23 B. If a change of ownership of residential
24 property occurred in the year immediately prior to the tax
25 year for which the value of the property for property
taxation purposes is being determined, the value of the
property shall be:

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1 (1) the full consideration received by the
2 transferor as disclosed pursuant to Section 7-38-12.1 NMSA
3 1978, plus the value of any physical improvements made to the
4 property during the immediately preceding tax year; or

5 (2) the current and correct value set by the
6 county assessor upon his determination pursuant to the
7 general valuation provisions of the Property Tax Code that
8 the consideration received does not represent the fair market
9 value of the property.

10 C. To assure that the values of residential
11 property for property taxation purposes are at current and
12 correct values in all counties prior to application of the
13 limitation in Subsection A of this section, a county for
14 which a sales ratio may be determined pursuant to Section 7-
15 36-18 NMSA 1978 shall not be subject to the limitations of
16 Subsection A of this section if the sales ratio for that
17 county for the 2000 tax year is less than eighty-five, as
18 measured by the median ratio of value for property taxation
19 purposes to sales price. Such a county shall conduct a
20 reassessment of residential property in the county and may
21 increase valuations for property taxation purposes, as
22 necessary to meet the current and correct valuation
23 requirement, in amounts that do not increase in any tax year
24 more than the sum of three percent of the prior year value of
25 residential property in the county plus the net new value of
residential property and do not increase the value of a
residential property in any tax year more than the sum of

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1 five percent of the prior year value of that property plus
2 any applicable net new value. Such reassessment shall
3 continue until the tax year following the first tax year in
4 which the sales ratio for the county is eighty-five or
5 greater.

6 D. As used in this section:

7 (1) "change of ownership" means a transfer
8 to a transferee by a transferor of all or any part of the
9 transferor's legal or equitable ownership interest in
10 residential property except for a transfer:

11 (a) to a trustee for the beneficial use
12 of the spouse of the transferor or the surviving spouse of a
13 deceased transferor;

14 (b) to the spouse of the transferor
15 that takes effect upon the death of the transferor;

16 (c) that creates, transfers or
17 terminates, solely between spouses, any co-owner's interest;

18 (d) to a child of the transferor, who
19 occupies the property as his principal residence at the time
20 of transfer; provided that the first subsequent tax year in
21 which that person does not qualify for the head of household
22 exemption on that property, a change of ownership shall be
23 deemed to have occurred;

24 (e) that confirms or corrects a
25 previous transfer made by a document that was recorded in the
real estate records of the county in which the real property
is located;

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1 (f) for the purpose of quieting the
2 title to real property or resolving a disputed location of a
3 real property boundary;

4 (g) to a revocable trust by the
5 transferor with the transferor, the transferor's spouse or a
6 child of the transferor as beneficiary; or

7 (h) from a revocable trust described in
8 Subparagraph (g) of this subsection back to the settlor or
9 trustor or to the beneficiaries of the trust;

10 (2) "net new value" means "net new value" as
11 defined in Section 7-37-7.1 NMSA 1978; and

12 (3) "prior year value" means the value for
13 property taxation purposes of residential property subject to
14 valuation under the Property Tax Code in the prior tax year."

15 Section 3. A new Section 7-38-12.1 NMSA 1978 is enacted
16 to read:

17 "7-38-12.1. [NEW MATERIAL] PROPERTY TRANSFERS--
18 AFFIDAVIT TO BE FILED WITH ASSESSOR.--

19 A. After January 1, 2001, a county clerk and his
20 employees shall neither accept for recording nor record any
21 deed, real estate contract or memorandum of real estate
22 contract transferring or evidencing the transfer of any
23 interest in real property classified as residential property
24 for property taxation purposes, unless the person presenting
25 the deed, real estate contract or memorandum of real estate
contract for recording presents at the same time an affidavit
signed and completed in accordance with the provisions of

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1 Subsection B of this section.

2 B. The affidavit required for submission at the
3 time of recording a deed, real estate contract or memorandum
4 of real estate contract shall be in a form approved by the
5 department and signed by the transferors and transferees of
6 any interest in real property transferred by deed or real
7 estate contract. The affidavit shall contain at least the
8 following information:

9 (1) the complete names of all transferors
10 and transferees;

11 (2) the current mailing addresses of the
12 transferors and transferees;

13 (3) the legal description of the real
14 property interest transferred as it appears in the document
15 of transfer; and

16 (4) the full consideration, including money
17 or any other thing of value, paid or exchanged for the
18 transfer.

19 C. Upon receipt of the affidavit required by
20 Subsection A of this section, the county clerk shall place
21 the date of receipt on the original affidavit. The county
22 clerk shall send the original affidavit to the county
23 assessor to be retained as a permanent record and shall keep
24 a copy for proof of compliance. The assessor shall index the
25 affidavits in a manner that permits cross-referencing to
other records in the assessor's office pertaining to the
specific property described in the affidavit. The affidavit

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1 and its contents are part of the valuation record of the
2 assessor.

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

5 (1) a deed that results from the payment in
6 full or forfeiture by a transferee under a recorded real
7 estate contract or recorded memorandum of real estate
8 contract;

9 (2) a lease of or easement on real property,
10 regardless of the length of term;

11 (3) a deed, patent or contract for sale or
12 transfer of real property in which an agency or
13 representative of the United States, New Mexico or any
14 political subdivision of the state is the named grantor or
15 grantee and authorized transferor or transferee;

16 (4) a quitclaim deed to quiet title or clear
17 boundary disputes;

18 (5) a conveyance of real property executed
19 pursuant to court order;

20 (6) a deed to an unpatented mining claim;

21 (7) an instrument solely to provide or
22 release security for a debt or obligation;

23 (8) an instrument that confirms or corrects
24 a deed previously recorded;

25 (9) an instrument between husband, wife or
parent and child with only nominal actual consideration
therefor;

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1 (10) an instrument arising out of a sale for
2 delinquent taxes or assessments;

3 (11) an instrument accomplishing a court-
4 ordered partition;

5 (12) an instrument arising out of a merger
6 or incorporation;

7 (13) an instrument by a subsidiary
8 corporation to its parent corporation for no consideration,
9 nominal consideration or in sole consideration of the
10 cancellation or surrender of the subsidiary's stock;

11 (14) an instrument from a person to a
12 trustee or from a trustee to a trust beneficiary with only
13 nominal actual consideration therefor;

14 (15) an instrument to or from an
15 intermediary for the purpose of creating a joint tenancy
16 estate or some other form of ownership; or

17 (16) an instrument delivered to establish a
18 gift or a distribution from an estate of a decedent or trust.

19 E. Prior to November 1, 2000, the department shall
20 print and distribute to each county clerk affidavit forms for
21 distribution to the public upon request."

22 Section 4. APPLICABILITY.--The provisions of Sections 1
23 and 2 of this act apply to the 2001 and subsequent property
24 tax years.

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