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SENATE BILL 173

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

INTRODUCED BY
Dede Feldman

AN ACT

RELATING TO PROPERTY TAXATION; PROVIDING FOR PERSONS SEVENTY
YEARS OF AGE OR OLDER TO DEFER THE DATE THAT CERTAIN PROPERTY
TAXES ARE DUE; PROVIDING PENALTIES; AMENDING AND ENACTING
CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-38-20 NMSA 1978 (being Laws 1973,
Chapter 258, Section 60, as amended) is amended to read:

"7-38-20. COUNTY ASSESSOR AND DEPARTMENT TO MAIL
NOTICES OF VALUATION.--

A. By April 1 of each year, the county assessor
shall mail a notice to each property owner informing him of
the net taxable value of his property that has been valued
for property taxation purposes by the assessor.

B. By May 1 of each year, the department shall
mail a notice to each property owner informing him of the net

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1 taxable value of his property that has been valued for
2 property taxation purposes by the department.

3 C. Failure to receive the notice required by this
4 section does not invalidate the value set on the property,
5 any property tax based on that value or any subsequent
6 procedure or proceeding instituted for the collection of the
7 tax.

8 D. The notice required by this section shall
9 state:

- 10 (1) the property owner's name and address;
- 11 (2) the description or identification of the
12 property valued;
- 13 (3) the classification of the property
14 valued;
- 15 (4) the value set on the property for
16 property taxation purposes;
- 17 (5) the tax ratio;
- 18 (6) the taxable value of the property;
- 19 (7) the amount of any exemptions allowed and
20 a statement of the net taxable value of the property after
21 deducting the exemptions;
- 22 (8) the allocations of net taxable values to
23 the governmental units; ~~and~~
- 24 (9) briefly, the procedures for protesting
25 the value determined for property taxation purposes,
classification, allocation of values to governmental units or
denial of a claim for an exemption; and

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1 (10) in large type and placed conspicuously
2 on the form or attached to the form, the eligibility
3 requirements, procedures and deadline for applying for a
4 deferral of the date certain residential property taxes are
5 due, and shall include the following notice:

6 "NOTICE TO TAXPAYERS

7 OPTION TO DEFER PAYMENT OF PROPERTY TAXES

8 If you are seventy years of age or older and meet income
9 limitations and other requirements, New Mexico law entitles
10 you to DEFER PAYMENT of a portion of property taxes imposed
11 on your home. To get more information or apply for a tax
12 deferral, see the information below.

13 WARNING: DEFERRING TAXES WILL RESULT IN TAXES
14 BECOMING DUE UPON SALE OR TRANSFER OF YOUR HOME OR UPON YOUR
15 DEATH."

16 E. The county assessor may mail the valuation
17 notice required pursuant to Subsection A of this section to
18 taxpayers with the preceding tax year's property tax bills if
19 the net taxable value of the property has not changed since
20 the preceding taxable year. In this early mailing, the
21 county assessor shall provide clear notice to the taxpayer
22 that the valuation notice is for the succeeding tax year and
23 that the deadlines for protest of the value or classification
24 of the property apply to this mailing date."

25 Section 2. Section 7-38-31 NMSA 1978 (being Laws 1973,
Chapter 258, Section 71) is amended to read:

 "7-38-31. COUNTY ASSESSOR TO CERTIFY NET TAXABLE VALUES

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1 TO THE DEPARTMENT.--After receiving the values for property
2 taxation purposes certified to him by the department, the
3 county assessor shall determine the net taxable value for all
4 property allocated to governmental units in the county and
5 subject to valuation for property taxation purposes, whether
6 valued by him or by the department. No later than June 15 of
7 each year, the county assessor shall certify to the
8 department the net taxable values for all property allocated
9 to governmental units in the county and subject to property
10 taxation. The net taxable values of property shall be
11 certified according to governmental units within the county.
12 The assessor's certification shall include a statement of all
13 property valuations that are the subject of a pending
14 protest, whether protested locally or to the department,
15 [~~and~~] a statement of the uncontroverted valuation in the
16 pending protests and the amounts of property valuation
17 increases that were used to calculate an amount of taxes for
18 deferral of the due date pursuant to Section 7-38-38.3 NMSA
19 1978."

20 Section 3. Section 7-38-32 NMSA 1978 (being Laws 1973,
21 Chapter 258, Section 72, as amended) is amended to read:

22 "7-38-32. DEPARTMENT TO PREPARE A COMPILATION OF NET
23 TAXABLE VALUES TO BE USED FOR BUDGET-MAKING AND RATE-
24 SETTING.--

25 A. No later than June 30 of each year, the
department shall prepare a compilation of all net taxable
values certified to it by the county assessors and shall

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1 include in the compilation the information regarding
2 protested values required to be furnished by the assessors to
3 the department and the amounts of the increases in net
4 taxable value that were used to calculate an amount of taxes
5 for deferral of the due date pursuant to Section 7-38-38.3
6 NMSA 1978. The compilation shall be prepared in a form
7 appropriate for use and shall be used for the purpose of
8 making budgets. The compilation of net taxable values shall
9 be sent immediately to the secretary of finance and
10 administration.

11 B. No later than August 1 of each year, the
12 department shall prepare an amended compilation of net
13 taxable values and send it immediately to the secretary of
14 finance and administration. This amended compilation shall
15 include final valuations resulting from completed protests,
16 [~~and~~] information on pending protests and deletion of the
17 amounts of increases in net taxable value that were used to
18 calculate an amount of taxes for deferral of the due date
19 pursuant to Section 7-38-38.3 NMSA 1978. It shall be used by
20 the department of finance and administration in setting
21 property tax rates.

22 C. In the budget-making process for local units of
23 government including school districts, the net taxable values
24 from the immediately preceding tax year may be considered for
25 the purpose of estimating available revenue from the current
tax year when the compilation of net taxable values certified
under Subsection A of this section is incomplete or

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1 indefinite due to pending protests."

2 Section 4. Section 7-38-35 NMSA 1978 (being Laws 1973,
3 Chapter 258, Section 75, as amended) is amended to read:

4 "7-38-35. PREPARATION OF PROPERTY TAX SCHEDULE BY
5 ASSESSOR.--

6 A. After receipt of the rate-setting order and the
7 order imposing the tax, but no later than October 1 of each
8 tax year, the county assessor shall prepare a property tax
9 schedule for all property subject to property taxation in the
10 county. This schedule shall be in a form and contain the
11 information required by ~~[regulations]~~ rules of the ~~[division]~~
12 department and shall contain at least the following
13 information:

14 (1) the description of the property taxed
15 and, if the property is personal property, its location;

16 (2) the property owner's name and address
17 and the name and address of any person other than the owner
18 to whom the tax bill is to be sent;

19 (3) the classification of the property;

20 (4) the value of the property determined for
21 property taxation purposes;

22 (5) the tax ratio;

23 (6) the taxable value of the property;

24 (7) the amount of any exemption allowed and
25 a statement of the net taxable value of the property after
deducting the exemption;

(8) the allocations of net taxable value to

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1 the governmental units;

2 (9) the tax rate in dollars per thousand of
3 net taxable value for all taxes imposed on the property;

4 (10) the amount of taxes due on the
5 described property; ~~and~~

6 (11) the amount of any penalties and
7 interest already imposed and due on the described property;
8 and

9 (12) the amount of taxes deferred, if any.

10 B. The property tax schedule is a public record
11 and a part of the valuation records."

12 Section 5. Section 7-38-37 NMSA 1978 (being Laws 1973,
13 Chapter 258, Section 77, as amended) is amended to read:

14 "7-38-37. CONTENTS OF PROPERTY TAX BILL.--Each property
15 tax bill shall be in a form and contain the information
16 required by ~~[regulations]~~ rules of the department and shall
17 contain at least the following:

18 A. all of the information required to be contained
19 in the property tax schedule;

20 B. the amount of property taxes due on each
21 installment, the due dates of the installments and the dates
22 on which taxes become delinquent;

23 C. a brief statement of the option available to
24 make prepayments of the property tax due pursuant to Section
25 7-38-38.2 NMSA 1978;

D. a brief statement of the procedure under
Section 7-38-39 NMSA 1978 for protesting values for property

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1 taxation purposes, classification, allocation of values to
2 governmental units or a denial of a claim for an exemption;

3 E. a statement of the interest and penalties
4 imposed by law for delinquency in the payment of property
5 taxes and the remedies available against the taxpayer and the
6 property for nonpayment of the amount due;

7 F. a statement advising the property owner that
8 the property tax bill is the only notice he will receive for
9 payment of both installments of the tax if no separate notice
10 will be sent with respect to the second installment; ~~and~~

11 G. the amount of any prepayment of the first
12 installment made pursuant to Section 7-38-38.2 NMSA 1978; and

13 H. the actual amount of property taxes deferred
14 pursuant to Section 7-38-38.3 NMSA 1978 for the current tax
15 year and the accrued amount of all property taxes deferred
16 from all tax years."

17 Section 6. A new section of the Property Tax Code,
18 Section 7-38-38.3 NMSA 1978, is enacted to read:

19 "7-38-38.3. [NEW MATERIAL] DEFERRAL OF PROPERTY TAX DUE
20 DATE--ELIGIBILITY.--

21 A. Each property tax year a claimant is entitled
22 to apply for and the county treasurer may grant a deferral of
23 the date on which some portion of the property taxes are due
24 on the residential property that is the claimant's principal
25 residence. A claimant may defer that portion of the property
tax due on the claimant's principal residence equal to the
amount obtained by applying the current year's tax rates to

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1 the increase in valuation of the property for property
2 taxation purposes from the prior tax year to the current
3 year.

4 B. When two or more individuals are qualified as
5 claimants for one principal residence, they shall determine
6 who the claimant shall be. The department shall prescribe
7 the manner in which a claimant, who for any reason is
8 incapacitated, may appoint the claimant's spouse or an
9 authorized agent or have any such person appointed for the
10 claimant, for the purpose of claiming a deferral of the date
11 property taxes are due pursuant to this section.

12 C. Property taxes deferred pursuant to this
13 section shall be due on November 10 of the year in which the
14 first of any of the following events occurs, unless the event
15 occurs after October 1, and in that case the deferred
16 property taxes shall be due on April 10 of the following
17 year:

18 (1) the claimant ceases to occupy the
19 residential property as his principal residence or sells or
20 otherwise disposes of that principal residence;

21 (2) the claimant dies; provided that if the
22 surviving spouse or a joint tenant with rights of
23 survivorship owning and occupying the principal residence and
24 eligible to defer property taxes due pursuant to this section
25 continues to own and occupy the residential property as that
person's principal residence and chooses to claim a deferral
of the date the deferred property taxes are due, then the

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1 deferred amounts shall not be due until that claimant dies or
2 ceases to occupy the principal residence; or

3 (3) the county treasurer determines that
4 deferral was erroneously allowed because eligibility
5 requirements were not met.

6 D. No initial or additional tax deferral shall be
7 granted if the total amount of deferred taxes plus the total
8 amount of unpaid indebtedness secured by a security interest
9 in the claimant's principal residence and all other
10 encumbrances on the claimant's principal residence exceeds
11 eighty-five percent of the value of the property for property
12 taxation purposes for the tax year for which the claimant
13 seeks deferral.

14 E. As used in this section, "claimant" means an
15 individual who:

16 (1) is seventy years of age or older on the
17 last day of the applicable tax year;

18 (2) is an owner and occupant of residential
19 property that is his principal residence on the last day of
20 the applicable tax year; and

21 (3) qualifies for the maximum exemption
22 allowable pursuant to Section 7-2-5.2 NMSA for the taxable
23 year beginning in the year prior to the tax year."

24 Section 7. A new section of the Property Tax Code,
25 Section 7-38-38.4 NMSA 1978, is enacted to read:

"7-38-38.4. [NEW MATERIAL] PROPERTY TAX DEFERRAL--
APPLICATION--CERTIFICATION--COLLECTION OF TAXES.--

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1 A. To make application for a property tax deferral
2 authorized pursuant to Section 7-38-38.3 NMSA 1978, a
3 claimant shall file an application for deferral on or before
4 June 1 of the tax year in which the property taxes are
5 imposed. Application shall be made at the office of the
6 county treasurer. The department shall provide for uniform
7 application forms and procedures.

8 B. If deferral is granted by the county treasurer,
9 the county treasurer shall issue to the claimant a
10 certificate of deferral. The certificate of deferral shall
11 state that the exact amount of tax deferred will be stated on
12 the property tax bill mailed after October 1 of the tax year
13 to the claimant or to the lender holding an escrow or similar
14 account from which the claimant's property taxes are paid.

15 C. All or part of the taxes deferred pursuant to
16 Section 7-38-38.3 NMSA 1978 may be paid at any time prior to
17 the due date to the county treasurer by the claimant or any
18 person on behalf of the claimant.

19 D. When any taxes deferred pursuant to Section
20 7-38-38.3 NMSA 1978 are collected, the county treasurer shall
21 maintain a record of the payment, a description of the
22 property and the amount of taxes collected for the property.
23 The county treasurer shall apportion and distribute the
24 receipts from the property taxes collected in the same manner
25 as the current property taxes on that property are
apportioned and distributed to the applicable governmental
units as provided by law and in accordance with the

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1 provisions of the Property Tax Code."

2 Section 8. A new section of the Property Tax Code,
3 Section 7-38-38.5 NMSA 1978, is enacted to read:

4 "7-38-38.5. [NEW MATERIAL] PROPERTY TAX DEFERRAL--
5 EFFECT OF DEFERRAL ON OBLIGATION OF BORROWER TO LENDER--
6 EXCEPTIONS--REFUND.--

7 A. The deferral of property taxes pursuant to
8 Section 7-38-38.3 NMSA 1978 shall not affect the obligation
9 of a borrower to continue to make payments to a lender for
10 deposit in an escrow account or other similar account that is
11 established for payment of property taxes prior to January 1,
12 2002.

13 B. Once a borrower has elected to defer the date
14 that some property taxes are due and has submitted to the
15 lender the certificate of that deferral pursuant to Sections
16 7-38-38.3 and 7-38-38.4 NMSA 1978, the lender shall not
17 require the borrower to maintain an escrow account or similar
18 type of account with regard to those taxes, except where
19 required by federal law or regulation or in the case of a
20 loan that is made, guaranteed or insured by a federal
21 government lending or insuring agency requiring a borrower to
22 make payments to a lender for deposit in an escrow account or
23 other similar account or where the provisions of Sections 7-
24 38-38.3 and 7-38-38.4 NMSA 1978 would impair the obligations
25 of a loan agreement executed prior to January 1, 2002. Any
payments made by the borrower to such a trust or other
similar type of account with regard to taxes for the tax year

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1 prior to the time of submission of the certificate of
2 deferral to the lender, if not previously used in payment or
3 partial payment of such taxes, shall be refunded to the
4 borrower within thirty days after receipt of notice of the
5 tax due date deferral."

6 Section 9. A new section of the Property Tax Code,
7 Section 7-38-38.6 NMSA 1978, is enacted to read:

8 "7-38-38.6. [NEW MATERIAL] PROPERTY TAX DEFERRAL--
9 NOTICE--PENALTIES.--

10 A. The claimant or the claimant's agent shall
11 notify the county treasurer within thirty days of the date of
12 a change in the claimant's principal place of residence or
13 the sale of the claimant's principal place of residence.

14 B. Upon the death of a claimant, the personal
15 representative of the claimant shall notify the county
16 treasurer of the death no later than ninety days after the
17 claimant's death.

18 C. Any person who intentionally refuses to provide
19 notice as required under Subsection A or B of this section is
20 guilty of a misdemeanor and shall be punished by the
21 imposition of a fine of not more than one thousand dollars
22 (\$1,000).

23 D. Any person who intentionally refuses to provide
24 notice as required under Subsection A or B of this section
25 with the intent to defraud is liable for a civil penalty in
an amount equal to twenty-five percent of the deferred
property taxes due or two thousand dollars (\$2,000),

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1 whichever is greater.

2 E. Any person who fails to provide notice as
3 required under Subsection A or B of this section is liable
4 for a civil penalty in an amount equal to five percent of the
5 deferred property taxes due or twenty-five dollars (\$25.00),
6 whichever is greater.

7 F. The civil penalties authorized under this
8 section shall be imposed and collected at the time and in the
9 manner the deferred property taxes are collected."

10 Section 10. A new section of the Property Tax Code,
11 Section 7-38-38.7 NMSA 1978, is enacted to read:

12 "7-38-38.7. [NEW MATERIAL] PROPERTY TAX DEFERRAL--
13 PROTEST--REMEDY.--

14 A. After receiving his property tax bill and
15 making payment prior to the delinquency date of all property
16 taxes due and not deferred in accordance with the bill, a
17 claimant may protest to the county treasurer the stated
18 amount of property tax deferred for that tax year or the
19 stated total amount of accrued property taxes deferred if the
20 claimant believes either stated amount is incorrect.

21 B. Upon the due date of deferred property taxes
22 and payment prior to the delinquency date of the amount of
23 deferred property taxes due as stated on the property tax
24 bill, a claimant or the claimant's agent or personal
25 representative may protest the amount of deferred property
taxes due if the claimant, the claimant's agent or personal
representative believes the amount is incorrect.

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C. Upon filing of a protest pursuant to Subsection A or B of this section, the county treasurer shall review the protest and take appropriate action to determine if there is any error in the amount of taxes deferred or the amount of deferred taxes due and to correct that error. If the person protesting is not satisfied with the county treasurer's action, he may bring an action in district court on the grounds that there was an error in the computation of deferred taxes or an error in the property tax schedule relating to the payment or nonpayment of deferred taxes. The action shall be brought in the district court for the county in which the property is located."

Section 11. APPLICABILITY.--The provisions of this act apply to the 2002 and subsequent property tax years.