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HOUSE BILL 130

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Ben Lujan

AN ACT

**RELATING TO TAXATION; 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 7-36-21.2 NMSA 1978 (being Laws 2000,
Chapter 10, Section 2, as amended) is amended to read:**

**"7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF
RESIDENTIAL PROPERTY. --**

**A. Residential property shall be valued at its
current and correct value in accordance with the provisions of
the Property Tax Code; provided that for the 2001 and
subsequent tax years, the value of a property in any tax year
shall not exceed the higher of one hundred three percent of
the value in the tax year prior to the tax year in which the**

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1 property is being valued or one hundred six and one-tenth
2 percent of the value in the tax year two years prior to the
3 tax year in which the property is being valued. This
4 limitation on increases in value does not apply to:

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

7 (2) any physical improvements made to the
8 property during the year immediately prior to the tax year or
9 omitted in a prior tax year; or

10 (3) valuation of a residential property in
11 any tax year in which:

12 (a) a change of ownership of the
13 property occurred in the year immediately prior to the tax
14 year for which the value of the property for property taxation
15 purposes is being determined; or

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

18 B. If a change of ownership of residential
19 property occurred in the year immediately prior to the tax
20 year for which the value of the property for property taxation
21 purposes is being determined, the value of the property shall
22 be: ~~[its current and correct value as determined pursuant to~~
23 ~~the general valuation provisions of the Property Tax Code]~~

24 (1) the full consideration received by the
25 transferor as disclosed pursuant to Section 7-38-12.1 NMSA

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1 1978, plus the value of any physical improvements made to the
2 property during the immediately preceding tax year; or

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

8 C. To assure that the values of residential
9 property for property taxation purposes are at current and
10 correct values in all counties prior to application of the
11 limitation in Subsection A of this section, the department
12 shall determine for the 2000 tax year the sales ratio pursuant
13 to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be
14 determined pursuant to that section, conduct a sales-ratio
15 analysis using both independent appraisals by the department
16 and sales. If the sales ratio for a county for the 2000 tax
17 year is less than eighty-five, as measured by the median ratio
18 of value for property taxation purposes to sales price or
19 independent appraisal by the department, the county shall not
20 be subject to the limitations of Subsection A of this section
21 and shall conduct a reassessment of residential property in
22 the county so that by the 2003 tax year, the sales ratio is at
23 least eighty-five. After such reassessment, the limitation on
24 increases in valuation in this section shall apply in those
25 counties in the earlier of the 2004 tax year or the first tax

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1 year following the tax year that the county has a sales ratio
2 of eighty-five or higher, as measured by the median ratio of
3 value for property taxation purposes to sales value or
4 independent appraisal by the department. Thereafter, the
5 limitation on increases in valuation of residential property
6 for property taxation purposes in this section shall apply to
7 subsequent tax years in all counties.

8 D. The provisions of this section do not apply to
9 residential property for any tax year in which the property is
10 subject to the valuation limitation in Section 7-36-21.3 NMSA
11 1978.

12 E. As used in this section, [~~(1)~~] "change of
13 ownership" means a transfer to a transferee by a transferor of
14 all or any part of the transferor's legal or equitable
15 ownership interest in residential property except for a
16 transfer:

17 [~~(a)~~] (1) to a trustee for the beneficial use
18 of the spouse of the transferor or the surviving spouse of a
19 deceased transferor;

20 [~~(b)~~] (2) to the spouse of the transferor
21 that takes effect upon the death of the transferor;

22 [~~(c)~~] (3) that creates, transfers or
23 terminates, solely between spouses, any co-owner's interest;

24 [~~(d)~~] (4) to a child of the transferor, who
25 occupies the property as his principal residence at the time

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1 of transfer; provided that the first subsequent tax year in
2 which that person does not qualify for the head of household
3 exemption on that property, a change of ownership shall be
4 deemed to have occurred;

5 [~~(e)~~] (5) that confirms or corrects a
6 previous transfer made by a document that was recorded in the
7 real estate records of the county in which the real property
8 is located;

9 [~~(f)~~] (6) for the purpose of quieting the
10 title to real property or resolving a disputed location of a
11 real property boundary;

12 [~~(g)~~] (7) to a revocable trust by the
13 transferor with the transferor, the transferor's spouse or a
14 child of the transferor as beneficiary; or

15 [~~(h)~~] (8) from a revocable trust described in
16 [~~Subparagraph (g) of this paragraph~~] Paragraph (7) of this
17 subsection back to the settlor or trustor or to the
18 beneficiaries of the trust

19 [~~(2)~~] "~~net new value~~" means "~~net new value~~" as
20 defined in Section 7-37-7.1 NMSA 1978; and

21 ~~(3)~~ "~~prior year value~~" means the value for
22 property taxation purposes of residential property subject to
23 valuation under the Property Tax Code in the prior tax year]. "

24 Section 2. A new Section 7-38-12.1 NMSA 1978 is enacted
25 to read:

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1 "7-38-12.1. [NEW MATERIAL] PROPERTY TRANSFERS-- AFFIDAVIT
2 TO BE FILED WITH ASSESSOR. --

3 A. After January 1, 2003, a county clerk and his
4 employees shall neither accept for recording nor record any
5 deed, real estate contract or memorandum of real estate
6 contract transferring or evidencing the transfer of any
7 interest in real property classified as residential property
8 for property taxation purposes, unless the person presenting
9 the deed, real estate contract or memorandum of real estate
10 contract for recording presents at the same time an affidavit
11 signed and completed in accordance with the provisions of
12 Subsection B of this section.

13 B. The affidavit required for submission at the
14 time of recording a deed, real estate contract or memorandum
15 of real estate contract shall be in a form approved by the
16 department and signed by the transferors and transferees of
17 any interest in real property transferred by deed or real
18 estate contract. The affidavit shall contain at least the
19 following information:

- 20 (1) the complete names of all transferors and
21 transferees;
- 22 (2) the current mailing addresses of all
23 transferors and transferees;
- 24 (3) the legal description of the real
25 property interest transferred as it appears in the document of

1 transfer; and

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

5 C. Upon receipt of the affidavit required by
6 Subsection A of this section, the county clerk shall place the
7 date of receipt on the original affidavit. The county clerk
8 shall send the original affidavit to the county assessor to be
9 retained as a permanent record and shall keep a copy for proof
10 of compliance. The assessor shall index the affidavits in a
11 manner that permits cross-referencing to other records in the
12 assessor's office pertaining to the specific property
13 described in the affidavit. The affidavit and its contents
14 are part of the valuation record of the assessor.

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

17 (1) a deed that results from the payment in
18 full or forfeiture by a transferee under a recorded real
19 estate contract or recorded memorandum of real estate
20 contract;

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

23 (3) a deed, patent or contract for sale or
24 transfer of real property in which an agency or representative
25 of the United States, New Mexico or any political subdivision

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1 of the state is the named grantor or grantee and authorized
2 transferor or transferee;

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

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

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

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

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

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

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

17 (11) an instrument accomplishing a court-
18 ordered partition;

19 (12) an instrument arising out of a merger or
20 incorporation;

21 (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 (14) an instrument from a person to a trustee

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

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

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

8 E. Prior to November 1, 2002, the department shall
9 print and distribute to each county clerk affidavit forms for
10 distribution to the public upon request. "

11 Section 3. APPLICABILITY. -- The provisions of this act
12 apply to the 2003 and subsequent property tax years.