

AN ACT

RELATING TO REAL PROPERTY; REQUIRING DISCLOSURE OF ESTIMATED FUTURE PROPERTY TAXES AND OTHER INFORMATION TO A BUYER OF RESIDENTIAL REAL PROPERTY; PROVIDING FOR A WAIVER; GRANTING IMMUNITY FROM LIABILITY.

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

Section 1. Section 47-13-1 NMSA 1978 (being Laws 1991, Chapter 74, Section 1) is amended to read:

"47-13-1. SHORT TITLE.--Chapter 47, Article 13 NMSA 1978 may be cited as the "Real Estate Disclosure Act"."

Section 2. A new section of the Real Estate Disclosure Act, Section 47-13-1.1 NMSA 1978, is enacted to read:

"47-13-1.1. DEFINITIONS.--As used in the Real Estate Disclosure Act:

A. "estimated amount of property tax levy" means the product of one-third of the listed price of the residential real property being sold or otherwise transferred in the transaction multiplied by the current property tax rates applicable to the property if those tax rates have been imposed in accordance with Section 7-38-34 NMSA 1978 for the current year for the county in which the property is located or, in all other cases, by the tax rates for the prior year;

B. "listed price" means the current price at which the residential property is being marketed;

C. "seller's broker" means a real estate broker acting on behalf of a residential property seller; and

D. "buyer's broker" means a real estate broker acting on behalf of a prospective residential property purchaser."

Section 3. A new section of the Real Estate Disclosure Act, Section 47-13-4 NMSA 1978, is enacted to read:

"47-13-4. FINDING--DISCLOSURE OF INFORMATION REQUIRED IN CERTAIN REAL ESTATE TRANSACTIONS.--

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

B. Prior to accepting an offer to purchase, the property seller or the seller's broker shall:

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

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

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

D. Upon request, a county assessor shall furnish in writing, pursuant to the provisions of Subsection E of this section, an estimated amount of property tax levy with respect to a residential property in the county, calculated at a property value specified by the requestor. The request shall be complied with by the close of business of the business day following the day the request is received. A county may satisfy this obligation through an internet site or other automated format that allows a user to print the requested estimated amount of property tax levy. A document associated with the request or the response is not a public record or a valuation record. County assessors shall not use information provided with a request, including the specified value, to assess the valuation of the property. Neither the county nor any jurisdiction levying a tax against residential property in the county is bound in any way by the estimate given.

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

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

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

(3) a disclaimer substantially similar to the following:

"The estimated amount of property tax levy is calculated using the stated price and estimates of the applicable tax rates. The county assessor is required by law to value the property at its "current and correct" value, which may differ from the listed price. Further, the estimated tax rates may be higher or lower than those that will actually be imposed. Accordingly, the actual tax levy may be higher or lower than the estimated amount. New Mexico law requires your real estate broker or agent to provide you an estimate of the property tax levy on the property on which you have submitted or intend to submit an offer to purchase. All real estate

brokers and agents who have complied with these disclosure requirements shall be immune from suit and liability arising from suit relating to the estimated amount of property tax levy."

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

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

H. The New Mexico real estate commission shall biannually inform all New Mexico real estate licensees of the statutory requirement for disclosure of the estimated amount of property tax levy to prospective residential property purchasers."

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2009. _____