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SENATE BILL 289

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Benny Shendo, Jr.

AN ACT

RELATING TO TAXATION; PROVIDING FOR A FIVE-YEAR AUTOMATIC APPLICATION OF THE LIMITATION ON INCREASE IN VALUE FOR SINGLE-FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED; PROVIDING FOR PENALTIES.

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

SECTION 1. Section 7-36-21.3 NMSA 1978 (being Laws 2000, Chapter 21, Section 1, as amended) is amended to read:

"7-36-21.3. LIMITATION ON INCREASE IN VALUE FOR SINGLE-FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED--REQUIREMENTS--PENALTIES.--

A. For the 2001 and subsequent tax years, the valuation for property taxation purposes of a single-family

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1 dwelling owned and occupied by a person who is sixty-five years  
2 of age or older and whose modified gross income, as defined in  
3 the Income Tax Act, for the prior taxable year did not exceed  
4 the greater of eighteen thousand dollars (\$18,000) or the  
5 amount calculated pursuant to Subsection [F] J of this section  
6 shall not be greater than the valuation of the property for  
7 property taxation purposes in the:

- 8 (1) 2001 tax year;  
9 (2) year in which the owner's sixty-fifth  
10 birthday occurs, if that is after 2001; or  
11 (3) tax year following the tax year in which  
12 an owner who turns sixty-five or is sixty-five years of age or  
13 older first owns and occupies the property, if that is after  
14 2001.

15 B. For the 2009 and subsequent tax years, the  
16 valuation for property taxation purposes of a single-family  
17 dwelling owned and occupied by a person who is sixty-five years  
18 of age or older or disabled and whose modified gross income, as  
19 defined in the Income Tax Act, for the prior taxable year did  
20 not exceed the greater of thirty-two thousand dollars (\$32,000)  
21 or the amount calculated pursuant to Subsection [F] J of this  
22 section shall not be greater than the valuation of the property  
23 for property taxation purposes in:

- 24 (1) the 2009 tax year, if the person owns and  
25 occupies the property in the 2009 tax year;

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1 (2) the tax year in which the owner's sixty-  
2 fifth birthday occurs, if that is after 2009; or

3 (3) the tax year following the tax year in  
4 which an owner who is sixty-five years of age or older first  
5 owns and occupies the property, if that is after 2009.

6 C. For the 2003 and subsequent tax years, the  
7 valuation for property taxation purposes of a single-family  
8 dwelling owned and occupied by a person who is disabled and  
9 whose modified gross income, as defined in the Income Tax Act,  
10 for the prior taxable year did not exceed the greater of  
11 eighteen thousand dollars (\$18,000) or the amount calculated  
12 pursuant to Subsection [F] J of this section shall not be  
13 greater than the valuation of the property for property  
14 taxation purposes in the:

15 (1) 2003 tax year;

16 (2) year in which the owner is determined to  
17 be disabled, if that is after 2003; or

18 (3) tax year following the tax year in which  
19 an owner who is disabled or who is determined in that year to  
20 be disabled first owns and occupies the property, if that is  
21 after 2003.

22 D. An owner who is entitled to a limitation in  
23 valuation pursuant to more than one subsection of this section  
24 may designate the subsection pursuant to which the limitation  
25 shall be applied.

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1                   ~~[E. The limitation of value specified in~~  
2                   ~~Subsections A, B and C of this section shall be applied in a~~  
3                   ~~tax year in which the owner claiming entitlement files with the~~  
4                   ~~county assessor an application for the limitation on a form~~  
5                   ~~furnished to the owner by the assessor. The application form~~  
6                   ~~shall be designed by the department and shall provide for proof~~  
7                   ~~of age or disability, occupancy and income eligibility for the~~  
8                   ~~tax year for which application is made.]~~

9                   E. The limitation of value specified in Subsections  
10                  A, B and C of this section shall be claimed in order to be  
11                  allowed. The limitations may be claimed by filing proof of  
12                  eligibility with the county assessor on an application form for  
13                  the limitation furnished by the assessor. The application form  
14                  shall be designed by the department and shall provide for proof  
15                  of age or disability, occupancy and income eligibility. Once a  
16                  limitation is claimed and allowed for a tax year, the  
17                  limitation need not be claimed for five subsequent tax years if  
18                  there is no change in eligibility. Except as provided in  
19                  Subsections F and G of this section, the limitations provided  
20                  for in this section shall be applied automatically by the  
21                  county assessor for only five subsequent tax years.

22                  F. An owner who is sixty-five years of age or older  
23                  and who applies for the limitation of value specified in  
24                  Subsection A or B of this section and files proof of income  
25                  eligibility for the three consecutive years immediately prior

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1 to the tax year for which the application is made need not  
2 claim the limitation for subsequent tax years if there is no  
3 change in eligibility. The county assessor shall apply that  
4 limitation automatically in subsequent tax years until a change  
5 in eligibility occurs.

6 G. An owner who is sixty-five years of age or older  
7 and who has claimed and been allowed the limitation of value  
8 specified in Subsection A or B of this section for the three  
9 consecutive tax years immediately prior to the 2014 tax year  
10 need not claim the limitation for subsequent tax years if there  
11 is no change in eligibility. The county assessor shall apply  
12 that limitation automatically in subsequent tax years until a  
13 change in eligibility occurs.

14 H. A person who has had a limitation applied to a  
15 tax year and subsequently becomes ineligible for the limitation  
16 because of a change in the person's status or income or a  
17 change in the ownership of the property against which the  
18 limitation was applied shall notify the county assessor of the  
19 loss of eligibility for the limitation by the last day of  
20 February of the tax year immediately following the year in  
21 which loss of eligibility occurs.

22 I. A person who violates the provisions of this  
23 section by intentionally claiming and receiving the benefit of  
24 a limitation to which the person is not entitled or who fails  
25 to comply with the provisions of Subsection H of this section

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1 is guilty of a misdemeanor and shall be punished by a fine of  
2 not more than one thousand dollars (\$1,000). A county assessor  
3 or the assessor's employee who knowingly permits an owner to  
4 receive the benefit of a limitation to which the owner is not  
5 entitled is guilty of a misdemeanor and shall be punished by a  
6 fine of not more than one thousand dollars (\$1,000) and shall  
7 also be automatically removed from office or dismissed from  
8 employment upon conviction under this subsection.

9           [F-] J. For the 2002 tax year and each subsequent  
10 tax year, the maximum amount of modified gross income in  
11 Subsections A, B and C of this section shall be adjusted to  
12 account for inflation. The department shall make the  
13 adjustment by multiplying the maximum amount for tax year 2000  
14 by a fraction, the numerator of which is the consumer price  
15 index ending during the prior tax year and the denominator of  
16 which is the consumer price index ending in tax year 2000. The  
17 result of the multiplication shall be rounded down to the  
18 nearest one hundred dollars (\$100), except that if the result  
19 would be an amount less than the corresponding amount for the  
20 preceding tax year, then no adjustment shall be made. For  
21 purposes of this subsection, "consumer price index" means the  
22 consumer price index for all urban consumers published by the  
23 United States department of labor for the month ending  
24 September 30. The department shall publish annually the amount  
25 determined by the calculation and distribute it to each county

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