

AN ACT

RELATING TO TAXATION; ENACTING A METHOD FOR DETERMINING THE VALUE OF RESIDENTIAL PROPERTY FOR PROPERTY TAXATION PURPOSES; LIMITING VALUATION INCREASES; REQUIRING DISCLOSURE OF SALES PRICE INFORMATION.

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. Except as provided in Sections 7-36-21.2 and 7-36-21.3 NMSA 1978 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. They shall also implement a program of updating property values so that current and correct values of property are maintained and shall have sole responsibility and authority at the county level for property valuation maintenance, subject only to the general supervisory powers of the director.

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

correct values.

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

D. The department of finance and administration shall not approve the operating budget of any county in which there is not an adequate allocation of funds to the county assessor for the purpose of fulfilling his responsibilities for property valuation maintenance under this section. If the department of finance and administration questions the adequacy of any allocation of funds for this purpose, it shall consult with the department, the board of county commissioners and the county assessor in making its

determination of adequacy.

E. To aid the board of county commissioners in determining whether a county assessor is operating an efficient program of property valuation maintenance and in determining the amount to be allocated to him for this function, the county assessor shall present with his annual budget request a written report setting forth improvements of property added to valuation records during the year, additions of new property to valuation records during the year, increases and decreases of valuation during the year, the relationship of sales prices of property sold to values of the property for property taxation purposes and the current status of the overall property valuation maintenance program in the county. The county assessor shall send a copy of this report to the department."

Section 2. A new Section 7-36-21.2 NMSA 1978 is enacted to read:

"7-36-21.2. SPECIAL METHOD OF VALUATION FOR RESIDENTIAL PROPERTY.--

A. As used in this section:

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

(a) to a trustee for the beneficial

use of the spouse of the transferor or the surviving spouse of a deceased transferor;

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

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

(d) to a child of the transferor;

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

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

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

(h) from a revocable trust described in Subparagraph (g) of this paragraph back to the settlor or trustor or to the beneficiaries of the trust; and

(2) "percent change P" means a percent equal to the annual percentage change in the repeat sales house price index for New Mexico published annually by the office of federal housing enterprise oversight. If the annual figure for the index is not available when the calculation is

made, the most recently available four quarters indices shall be averaged and compared to the average of the same four quarters for the preceding year.

B. Except as provided in Subsection C of this section, the value of residential property for property taxation purposes is:

(1) if no change of ownership of the property occurred in the year immediately prior to the year for which the value of the property for property taxation purposes is being determined, the value determined for property taxation purposes in the immediately prior year:

(a) plus or minus an increment of value determined by multiplying the immediately prior year's value for property taxation purposes by percent change P for the year for which valuation is being determined;

(b) plus the value of any physical improvements made to the property during the immediately preceding tax year; and

(c) minus the decrease in value of the property from the immediately preceding tax year determined pursuant to Section 7-38-13 NMSA 1978;

(2) if a change of ownership of the property occurred in the year immediately prior to the year for which the value of the property for property taxation purposes is being determined, the full consideration received by the

transferor as disclosed pursuant to Section 7-38-12.1 NMSA 1978, plus the value of any physical improvements made to the property during the immediately preceding tax year less any decrease in value occurring during that year; or

(3) the value determined pursuant to Paragraph (1) or (2) of this subsection, adjusted pursuant to Section 7-36-21.3 NMSA 1978, if that provision is applicable.

C. If a county has a sales-ratio determined pursuant to Sections 7-36-16 and 7-36-18 NMSA 1978, of less than eighty-five hundredths, the assessor shall value residential property for the 2001 property tax year pursuant to Section 7-36-15 NMSA 1978. For subsequent years the assessor shall value residential property pursuant to Subsection B of this section unless the county's sales ratio remains below eighty-five hundredths. In the first property tax year after a county's sales-ratio has reached or exceeded eighty-five hundredths and for all property tax years subsequent to that year, the assessor shall value residential property pursuant to Subsection B of this section.

D. If the method of valuation specified in this section is applied to an owner's residential property, the owner may protest the valuation on the basis that the value determined exceeds fair market value of the property based on evidence presented by the owner. The procedures specified in Sections 7-38-21 through 7-38-29 NMSA 1978 shall apply to

protests filed pursuant to this subsection.

E. The county assessor shall enter on the valuation records the valuations determined in accordance with Paragraphs (1) and (2) of Subsection B of this section."

Section 3. A new Section 7-36-21.3 NMSA 1978 is enacted to read:

"7-36-21.3. ADJUSTMENT OF VALUATION OF RESIDENTIAL PROPERTY UNDER CERTAIN CIRCUMSTANCES.--

A. Except as provided in Subsection C of Section 7-36-21.2 NMSA 1978, if a county assessor determines that the total valuation of residential property for property taxation purposes in the county exceeds the valuation that would have resulted in the absence of the application of Section 7-36-21.2 NMSA 1978, he shall apply to the secretary for an order authorizing the assessor to reassess all residential property in the county or to apply a percentage adjustment of valuation to all residential property in the county. This percentage shall be calculated to reduce the valuation of residential property to the value that would have resulted in the absence of the application of Section 7-36-21.2 NMSA 1978.

B. Except as provided in Subsection C of Section 7-36-21.2 NMSA 1978, if a county assessor determines that special and unusual circumstances have occurred that have caused residential property values for property taxation

purposes in the county to increase or decrease to an average level markedly above or below the average level in the immediately preceding tax year, he shall apply to the secretary for an order authorizing the assessor to reassess all residential property in the county or to apply a percentage adjustment of valuation to all residential property in the county. This percentage shall be calculated to reduce or increase the valuation of residential property in the county to the value that would have resulted in the absence of the application of Section 7-36-21.2 NMSA 1978."

Section 4. A new Section 7-38-12.1 NMSA 1978 is enacted to read:

"7-38-12.1. PROPERTY TRANSFERS--AFFIDAVIT TO BE FILED WITH ASSESSOR.--

A. After January 1, 2000, a county clerk and his employees shall neither accept for recording nor record any deed, real estate contract or memorandum of real estate contract transferring or evidencing the transfer of any interest in real property unless the person presenting 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 Subsection B of this section.

B. The affidavit required for submission at the time of recording a deed, real estate contract or memorandum

of real estate contract shall be in a form approved by the department and signed by the transferors and transferees of any interest in real property transferred by deed or real estate contract. The affidavit shall contain at least the following information:

- (1) the complete names of all transferors and transferees;
- (2) the current mailing addresses of the transferors and transferees;
- (3) the legal description of the real property interest transferred as it appears in the document of transfer; and
- (4) the full consideration, including money or any other thing of value, paid or exchanged for the transfer.

C. Upon receipt of the affidavit required by Subsection A of this section, the county clerk shall place the date of receipt on the original affidavit. The county clerk shall send the original affidavit to the county assessor to be retained as a permanent record and shall keep a copy for proof of compliance. The assessor shall index the 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 and its contents are part of the valuation record of the

assessor.

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

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

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

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

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

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

(6) a deed to an unpatented mining claim;

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

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

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

therefor;

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

(11) an instrument accomplishing a partition;

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

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

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

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

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

E. Prior to November 1, 1999, the department shall print and distribute to each county clerk affidavit forms for distribution to the public upon request."

Section 5. APPLICABILITY.--The provisions of Sections 1 through 3 of this act apply to the 2001 and subsequent property tax years.

Section 6. EFFECTIVE DATE.--The effective date of the

provisions of this act is July 1, 1999. _____