

1 HOUSE BILL 163

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PROPERTY TAX; CREATING A SPECIAL METHOD OF
12 VALUATION FOR UNIMPROVED LAND; PROVIDING FOR A RECAPTURE OF TAX
13 SAVINGS IF THE USE OF THE LAND IS CHANGED; ALLOWING A COUNTY
14 ASSESSOR TO CHANGE A PROPERTY TAX SCHEDULE IF THERE WAS A
15 CHANGE OF USE OF THE LAND; REQUIRING DISCLOSURE.
16

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

18 SECTION 1. A new section of the Property Tax Code,
19 Section 7-36-20.1 NMSA 1978, is enacted to read:

20 "7-36-20.1. [NEW MATERIAL] SPECIAL METHOD OF VALUATION--
21 CONSERVATION OF UNIMPROVED LAND--RECAPTURE.--

22 A. The value of unimproved land used primarily to
23 conserve the unimproved land pursuant to a qualified
24 conservation management plan shall be valued at five percent of
25 the current and correct value. Eligibility for the method of

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1 valuation provided by this section is limited to unimproved
2 land that had been valued pursuant to Section 7-36-20 NMSA 1978
3 in the previous property tax year but is no longer eligible to
4 be valued pursuant to that section and is unimproved land that
5 is:

6 (1) greater than ten acres; or

7 (2) ten acres or less with a water right for
8 agricultural purposes appurtenant to the land.

9 B. Improvements on land, other than those specified
10 in Subsection C of Section 7-36-15 NMSA 1978 or for purposes
11 other than for agricultural or conservation management
12 purposes, create a presumption that the land is not used
13 primarily to conserve the unimproved land. Land used for a
14 residential or commercial purpose is not eligible for valuation
15 pursuant to this section.

16 C. The department shall promulgate rules for
17 determining whether land is used primarily to conserve the
18 unimproved land pursuant to a qualified conservation management
19 plan. The rules shall:

20 (1) ensure that management practices are
21 appropriate to conserve and maintain the unimproved land; and

22 (2) require that qualified conservation
23 management plans shall:

24 (a) at a minimum, maintain or increase
25 the productivity of the land, rangeland, watershed and forest

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1 health, wildlife habitat or soil and water conservation; and

2 (b) include an annual implementation
3 plan and periodic progress report certified by a person that
4 meets qualifications established by the soil and water
5 conservation commission.

6 D. All improvements on land, other than those
7 specified in Subsection C of Section 7-36-15 NMSA 1978, shall
8 be valued separately for property taxation purposes, and the
9 value of the improvements shall be added to the value of the
10 land determined pursuant to this section.

11 E. The special method of valuation pursuant to this
12 section shall be claimed in order to be allowed. The owner of
13 the land shall make application to the county assessor in a tax
14 year in which the valuation method of this section is first
15 claimed to be applicable to the land or in a tax year
16 immediately subsequent to a tax year in which the land was not
17 valued under this section. Application shall be made under
18 oath and shall be in a form, and contain the information,
19 required by department rules. The application shall be made no
20 later than thirty days after the date of mailing by the
21 assessor of the notice of valuation. Once land is valued under
22 this section, an application shall be resubmitted and claimed:

23 (1) in a tax year immediately subsequent to a
24 tax year in which a change of use or a change in ownership
25 occurs; or

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1 (2) five years after the tax year in which the
2 last application was made and granted.

3 F. The owner of land valued pursuant to this
4 section shall report to the county assessor whenever a change
5 of ownership or the use of the land changes so that it is no
6 longer being used primarily to conserve the unimproved land
7 pursuant to a qualified conservation management plan. The
8 report shall be made by the last day of February of the tax
9 year immediately following the year in which the change of
10 ownership or change in the use of the land occurs.

11 G. Any person who is required to make a report
12 under the provisions of Subsection F of this section and who
13 fails to do so is personally liable for a civil penalty in an
14 amount equal to the greater of twenty-five dollars (\$25.00) or
15 twenty-five percent of the difference between the property
16 taxes ultimately determined to be due and the property taxes
17 originally paid for the tax years for which the person failed
18 to make the required report.

19 H. An owner of land valued pursuant to this section
20 who divides the land or builds physical improvements on the
21 land for purposes other than for agricultural use or to
22 conserve the unimproved land, and who is the owner of record at
23 the time the division occurs or the improvements are made,
24 shall be personally liable for the difference between the taxes
25 assessed against the land and the taxes that would otherwise

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1 have been assessed against the land at the current and correct
2 value for each of the number of years the land was valued
3 pursuant to this section, up to a maximum of the five most
4 recent years, to be collected and distributed in the same
5 manner as other ad valorem levies.

6 I. As used in this section, "qualified conservation
7 management plan" means a ten-year land management plan:

8 (1) developed in accordance with guidelines
9 provided by the soil and water conservation commission that
10 includes conservation and management practices that are
11 appropriate to conserve and maintain the unimproved land; to
12 maintain or increase the productivity of the land; and to
13 support rangeland, watershed and forest health, wildlife
14 habitat or soil and water conservation; and

15 (2) that includes ownership and parcel
16 information; relevant maps; soil, water, wildlife and
17 vegetation inventories; resource concerns, including noxious
18 weeds, erosion and forest conditions; landowner objectives for
19 conserving the unimproved land; and an annual schedule for
20 implementing the qualified conservation management plan."

21 SECTION 2. Section 7-38-44.1 NMSA 1978 (being Laws 2013,
22 Chapter 119, Section 1) is amended to read:

23 "7-38-44.1. SPECIAL PROCEDURES FOR ADMINISTRATION OF
24 TAXES ON REAL PROPERTY DIVIDED OR COMBINED.--

25 A. For real property, subject to valuation for

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1 property taxation purposes in a taxable year, that is divided
2 or combined, a county shall proceed to determine the taxes due
3 on the property by using the prior year's tax rate, if the
4 current tax rates have not been set, and the prior year's
5 value, if the current year value has not been set, and proceed
6 to immediately collect the taxes, penalties, interest and fees
7 through the taxable year in which the property is divided or
8 combined.

9 B. For real property, subject to valuation for
10 property taxation purposes pursuant to Section 7-36-20.1 NMSA
11 1978 in a taxable year, that is divided, a county shall proceed
12 to determine the taxes due on the property, if any, pursuant to
13 Subsection H of Section 7-36-20.1 NMSA 1978 and proceed to
14 immediately collect the taxes, penalties, interest and fees
15 through the taxable year in which the property is divided.

16 [~~B-~~] C. A taxpayer shall pay the taxes, penalties,
17 interest and fees due on real property divided or combined
18 through the taxable year in which the property is divided or
19 combined prior to filing a plat."

20 SECTION 3. Section 7-38-77 NMSA 1978 (being Laws 1973,
21 Chapter 258, Section 117, as amended) is amended to read:

22 "7-38-77. AUTHORITY TO MAKE CHANGES IN PROPERTY TAX
23 SCHEDULE AFTER ITS DELIVERY TO THE COUNTY TREASURER.--

24 A. After delivery of the property tax schedule to
25 the county treasurer, the amounts shown on the schedule as

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1 taxes due and other information on the schedule shall not be
2 changed except:

3 (1) by the county treasurer to correct obvious
4 errors in the mathematical computation of taxes;

5 (2) by the county treasurer to correct obvious
6 errors by the county assessor in:

7 (a) the name or address of the property
8 owner or other persons shown on the schedule;

9 (b) the description of the property
10 subject to property taxation, even if the correction results in
11 a change in the amount shown on the schedule as taxes due;

12 (c) the data entry of the value,
13 classification, allocation of value and limitation on increases
14 in value pursuant to Sections 7-36-21.2 and 7-36-21.3 NMSA 1978
15 of property subject to property taxation by the county
16 assessor; or

17 (d) the application of eligible,
18 documented and qualified exemptions;

19 (3) by the county treasurer to cancel multiple
20 valuations for property taxation purposes of the same property
21 in a single tax year, but only if:

22 (a) a taxpayer presents tax receipts
23 showing the payment of taxes by the taxpayer for any year in
24 which multiple valuations for property taxation purposes are
25 claimed to have been made;

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1 (b) a taxpayer presents evidence of
2 ownership of the property, satisfactory to the treasurer, as of
3 January 1 of the year in which multiple valuations for property
4 taxation purposes are claimed to have been made; and

5 (c) there is no dispute concerning
6 ownership of the property called to the attention of the
7 treasurer and the treasurer has no actual knowledge of any
8 dispute concerning ownership of the property;

9 (4) by the county treasurer, to correct the
10 tax schedule so that it no longer contains personal property
11 that is deemed to be unlocatable, unidentifiable or
12 uncollectable, after thorough research with verification by the
13 county assessor or appraiser, with notification to the
14 department and the county clerk;

15 (5) as a result of a protest, including a
16 claim for refund, in accordance with the Property Tax Code, of
17 values, classification, allocations of values determined for
18 property taxation purposes or a denial of a claim for an
19 exemption;

20 (6) by the department or the order of a court
21 as a result of any proceeding by the department to collect
22 delinquent property taxes under the Property Tax Code;

23 (7) by a court order entered in an action
24 commenced by a property owner [~~under~~] pursuant to Section
25 7-38-78 NMSA 1978;

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1 (8) by the department as authorized [~~under~~]
2 pursuant to Section 7-38-79 NMSA 1978;

3 (9) by the department of finance and
4 administration as authorized [~~under~~] pursuant to Section
5 7-38-77.1 NMSA 1978; [~~or~~]

6 (10) by the county assessor due to a change of
7 use of land that had been valued pursuant to Section 7-36-20.1
8 NMSA 1978; or

9 [~~(10)~~] (11) as specifically otherwise
10 authorized in the Property Tax Code.

11 B. As used in this section, "obvious errors" does
12 not include the method used to determine the valuation for, or
13 a difference of opinion in the value of, the property subject
14 to property taxation."

15 SECTION 4. Section 47-13-4 NMSA 1978 (being Laws 2009,
16 Chapter 165, Section 3) is amended to read:

17 "47-13-4. [~~FINDING~~] DISCLOSURE OF INFORMATION REQUIRED IN
18 CERTAIN REAL ESTATE TRANSACTIONS.--

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

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1 ~~B.]~~ A. Prior to accepting an offer to purchase, the
2 property seller or the seller's broker shall:

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

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

10 B. Prior to accepting an offer to purchase land
11 valued pursuant to Section 7-36-20.1 NMSA 1978, the property
12 seller or the seller's broker shall:

13 (1) request from the county assessor the
14 estimated amount of property tax levy, with respect to the
15 difference between the taxes assessed against the land and the
16 taxes that would otherwise have been assessed against the land
17 for current and correct value, for each of the number of years
18 the land was valued pursuant to Section 7-36-20.1 NMSA 1978;
19 and

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

23 C. A buyer's broker shall provide to the
24 prospective buyer the county assessor's estimated amount of
25 property tax levy immediately upon receiving it from the

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1 property seller or the seller's broker. The prospective buyer
2 shall acknowledge in writing the receipt of the estimated
3 amount of property tax levy.

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

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

23 (1) the actual amount of property tax levied
24 for the property for the current calendar year if the tax rates
25 for the current year have been imposed in accordance with

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1 Section 7-38-34 NMSA 1978 for the county in which the property
2 is located or, in all other cases, the amount of property tax
3 levied with respect to the property for the prior calendar
4 year;

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

9 (3) a disclaimer substantially similar to the
10 following:

11 "The estimated amount of property tax levy is calculated
12 using the stated price and estimates of the applicable tax
13 rates. The county assessor is required by law to value
14 the property at its "current and correct" value, which may
15 differ from the listed price. Further, the estimated tax
16 rates may be higher or lower than those that will actually
17 be imposed. Accordingly, the actual tax levy may be
18 higher or lower than the estimated amount. New Mexico law
19 requires your real estate broker or agent to provide you
20 an estimate of the property tax levy on the property on
21 which you have submitted or intend to submit an offer to
22 purchase. All real estate brokers and agents who have
23 complied with these disclosure requirements shall be
24 immune from suit and liability arising from suit relating
25 to the estimated amount of property tax levy."

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

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

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

16 **SECTION 5. APPLICABILITY.**--The provisions of this act
17 apply to the 2019 and subsequent property tax years.

