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_____ BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; AMENDING THE DEFINITION OF "ABANDONED REAL PROPERTY" IN THE PROPERTY TAX CODE TO INCLUDE REAL PROPERTY LOCATED WITHIN THE HISTORICAL BOUNDARIES OF A LAND GRANT-MERCED; PROVIDING THE BOARD OF TRUSTEES OF A LAND GRANT-MERCED WITH THE RIGHT OF FIRST OFFER TO PURCHASE ABANDONED REAL PROPERTY LOCATED WITHIN THE HISTORICAL BOUNDARIES OF A LAND GRANT-MERCED.

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

SECTION 1. Section 7-35-2 NMSA 1978 (being Laws 1973, Chapter 258, Section 2, as amended) is amended to read:

"7-35-2. DEFINITIONS.--As used in the Property Tax Code:

A. "abandoned real property" means real property [(-)] that is [~~part of a subdivision where the subdivision has a minimum of five thousand lots~~] in delinquency on the

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1 department's delinquent property tax list as prepared by the
2 appropriate county treasurer pursuant to Section 7-38-61 NMSA
3 1978 as of January 1, 2019, and that meets the following
4 conditions:

5 [~~(2) of which~~] (1) the [~~subdivided lots are~~]
6 property is vacant;

7 [~~(3) that is part of a subdivision~~] (2) the
8 property was plotted on or before 1980;

9 [~~(4)~~] (3) the property taxes, penalties and
10 interest [~~of which~~] are delinquent for at least ten years; and

11 [~~(5) that~~] (4) the property does not include
12 property with existing homes, businesses or other habitable
13 structures and:

14 (a) the property is part of a
15 subdivision that has a minimum of five thousand lots; or

16 (b) the property is located within the
17 boundaries of a land grant-merced as shown in the United States
18 patent to the grant or within the historical boundaries of a
19 land grant-merced as set out within the Spanish or Mexican
20 grants;

21 B. "department" or "division" means the taxation
22 and revenue department, the secretary of taxation and revenue
23 or any employee of the department exercising authority lawfully
24 delegated to that employee by the secretary;

25 C. "director" means the secretary;

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1 D. "livestock" means cattle, buffalo, horses,
2 mules, sheep, goats, swine, ratites and other domestic animals
3 useful to humans;

4 E. "manufactured home" means a manufactured home as
5 that term is defined in Section 66-1-4.11 NMSA 1978;

6 F. "net taxable value" means the value of property
7 upon which the tax is imposed and is determined by deducting
8 from taxable value the amount of any exemption authorized by
9 the Property Tax Code;

10 G. "nonresidential property" means property that is
11 not residential property;

12 H. "owner" means the person in whom is vested any
13 title to property;

14 I. "person" means an individual or any other legal
15 entity;

16 J. "property" means tangible property, real or
17 personal;

18 K. "residential property" means property consisting
19 of one or more dwellings together with appurtenant structures,
20 the land underlying both the dwellings and the appurtenant
21 structures and a quantity of land reasonably necessary for
22 parking and other uses that facilitate the use of the dwellings
23 and appurtenant structures. As used in this subsection,
24 "dwellings" includes both manufactured homes and other
25 structures when used primarily for permanent human habitation,

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1 but the term does not include structures when used primarily
2 for temporary or transient human habitation such as hotels,
3 motels and similar structures;

4 L. "secretary" means the secretary of taxation and
5 revenue and, except for purposes of Section 7-35-6 NMSA 1978
6 and Paragraphs (1) and (2) of Subsection B of Section 9-11-6.2
7 NMSA 1978, also includes the deputy secretary or a division
8 director or deputy division director delegated by the
9 secretary;

10 M. "tax" means the property tax imposed under the
11 Property Tax Code;

12 N. "taxable value" means the value of property
13 determined by applying the tax ratio to the value of the
14 property determined for property taxation purposes;

15 O. "tax rate" means the rate of the tax expressed
16 in terms of dollars per thousand dollars of net taxable value
17 of property;

18 P. "tax ratio" means the percentage established
19 under the Property Tax Code that is applied to the value of
20 property determined for property taxation purposes in order to
21 derive taxable value; and

22 Q. "tax year" means the calendar year."

23 **SECTION 2.** Section 7-38-67.1 NMSA 1978 (being Laws 2018,
24 Chapter 50, Section 3) is amended to read:

25 "7-38-67.1. SALE OF ABANDONED REAL PROPERTY--NOTICE OF

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1 SALE--REQUIREMENTS.--

2 A. Abandoned real property may be sold by special
3 sale.

4 B. Notice of the sale shall be published in a local
5 newspaper within the county where the abandoned real property
6 is located, or in a newspaper published in a county contiguous
7 to or near the county in which the abandoned real property is
8 located, the week immediately preceding the week of the sale.
9 In cases where abandoned real property is offered for sale via
10 an online platform pursuant to Subsection D of this section,
11 the notice of the sale shall be published in a local newspaper
12 within the county where the abandoned real property is located,
13 or in a newspaper published in a county contiguous to or near
14 the county in which the abandoned real property is located, the
15 week immediately preceding the week of the beginning of the
16 continuous online sale. Online sales notices pursuant to this
17 section shall also be published on the property tax division's
18 website. The notice shall:

- 19 (1) state the time and place of the sale;
20 (2) if the sale is made via an online sale
21 pursuant to Subsection D of this section, state the date and
22 time the sale will begin and expire and the property tax
23 division's website where the property being sold will be
24 listed;

- 25 (3) include the name of the subdivision or

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1 land grant-merced in which the abandoned real property is
2 located;

3 (4) state the total minimum bid; and

4 (5) provide the phone number of the property
5 tax division and the web address where interested buyers may
6 obtain copies of the list of properties to be sold.

7 C. Abandoned real property may be sold at public
8 auction either by the department or an auctioneer hired by the
9 department. The auction shall be held in the county where the
10 abandoned real property is located at a time and place
11 designated by the department.

12 D. Abandoned real property may be offered for sale
13 via an online platform on the property tax division's website,
14 and notice shall be given pursuant to Subsection B of this
15 section. The sales of abandoned real property listed on the
16 property tax division's website may be continuous until
17 December 31 of the tax year in which the abandoned real
18 property is offered for sale. For subsequent tax years, notice
19 shall be given pursuant to Subsection B of this section before
20 the abandoned real property listed on the property tax
21 division's website can be reoffered for sale.

22 E. Before the sale, the department shall determine
23 a minimum sale price for the abandoned real property. In
24 determining the minimum price, the department shall consider
25 the amount of all delinquent taxes, penalties, interest and

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1 costs for which the abandoned real property is being sold. If
2 the department determines the total amount due is in excess of
3 the sale price that could reasonably be made through public
4 auction, the property tax division may offer the abandoned real
5 property for less than the total amount of delinquent taxes,
6 penalties, interest and costs due.

7 F. A sale properly made under the authority of and
8 in accordance with the requirements of this section constitutes
9 full payment of all delinquent taxes, penalties and interest
10 that are a lien pursuant to Section 7-38-48 NMSA 1978 against
11 the abandoned real property at the time of sale, and the sale
12 extinguishes the lien.

13 G. Payment shall be made in full by the close of
14 the public auction before an offer may be deemed accepted by
15 the department. For abandoned real property sold via an online
16 platform pursuant to Subsection D of this section, payment
17 shall be made in full within one business day of the bid being
18 accepted by the department before an offer may be deemed
19 accepted by the department. Receipt of a bid from a buyer by
20 the department is not acceptance of the bid by the department.
21 The department shall notify the buyer whose bid is accepted by
22 the department, and the one business day payment requirement
23 begins at the time the buyer received notice of acceptance to
24 the buyer whose bid was accepted by the department. Notice of
25 acceptance of a bid sent to a buyer by the department may be

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1 sent via email. Failure of a buyer whose bid was accepted by
2 the department and to whom notice was sent by the department to
3 pay the full sales price within one business day invalidates
4 the sale and the property can be reoffered for sale unless the
5 buyer receives an extension to make payment from the
6 department. Requests for time extensions and approvals of time
7 extensions can be made via email.

8 H. The board of trustees of a community land
9 grant-merced governed pursuant to the provisions of Chapter 49,
10 Article 1 NMSA 1978, or by statutes specific to the named land
11 grant-merced, shall be allowed to exercise the right of first
12 offer to purchase the abandoned real property if:

13 (1) the abandoned real property offered for
14 sale is situated within:

15 (a) the boundaries of that land
16 grant-merced as shown in the United States patent to the grant;
17 or

18 (b) the historical boundaries of a land
19 grant-merced as set out within the Spanish or Mexican grants;

20 (2) the offer covers all taxes, penalties,
21 interest and costs due on the abandoned real property unless
22 the minimum sales price is reduced below total amounts owed
23 pursuant to Subsection E of this section; and

24 (3) the land becomes part of the common lands
25 of the land grant-merced.

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1 I. In the event that there is a competing interest
2 in the abandoned real property by prior landholders, such as
3 land grant owners, pueblos or nontaxable entities, the
4 secretary shall determine who has the prevailing right of first
5 offer.

6 J. The time requirements of this section are
7 subject to the provisions of Section 7-38-83 NMSA 1978.

8 K. As used in this section, "right of first offer"
9 means the department is obliged to undergo exclusive good faith
10 negotiations with the rights holder before offering abandoned
11 real property for sale to the public."

12 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
13 provisions of this act is July 1, 2019.