

House Bill 429

Changes to the Low Income Valuation Freeze

Section 7-36-21.3 NMSA 1978

Concerns of the New Mexico Assessor's Affiliate:

- The original intent of this legislation was to help property owners on a **fixed low income**. Some elderly and disabled property owners were losing their property due to the increase in value every year to their property which in turn increased their property taxes.
- This change in the legislation is getting farther and farther away from the original intent of the bill.
- With both an increase in the modified gross income requirement and the increase in the CPI base to 35,000 in this bill, the income qualifier will continue to increase year after year.
- This will allow more property owners to freeze their property values every year. If the legislation were to remain as passed, in ten years the income qualifier would be estimated at \$42,670.00 and could increase even more.
- The Assessors were not against raising the income qualifier to 35,000 but it is the increase to the base CPI multiplier that is the issue which allows the amount to grow well beyond low income. For example, in Torrance County the median income is 35,543.
- This legislation as passed will have unintended consequences and will eventually hurt local governments, schools & entities that rely on property tax in smaller counties where the average income is lower and the population is aging.
- It will shift the burden of tax to other property owners through a higher mil levy.
- This legislation was never intended to allow all senior citizens to freeze their value but in its current form that is what will happen. Senior citizens with high dollar homes and above average income will be able to freeze the value of their homes shifting more of the tax burden to others.
- The Assessor's Affiliate would like to see the removal of the CPI calculation requirement which will increase the income qualifier each year.

Clean up issues to the legislation:

- When the bill was drafted, they removed all the year requirements. This legislation was passed in 2001 originally and there were restrictions on the value year that the properties could be frozen. The legislation was very confusing and we are very thankful for simplifying the process. But without a limitation in the value year, the property could be frozen at 20 year old values if that is when the property owner turned 65.
- Since the limit was increased in 2018 to 35,000 I would suggest using the latest freeze year of 2009. The year should be put back into the legislation as a 3rd option under paragraph "A".
- This would prevent a value from 15 to 20 years ago from being used. They would only be able to go back to the 2009 tax year for the value to use for the freeze.

1 AN ACT

2 RELATING TO TAXATION; INCREASING THE INCOME LIMIT FOR
3 ELIGIBILITY FOR A LIMITATION ON PROPERTY TAX VALUATION OF A
4 DWELLING OCCUPIED BY A PERSON WHO IS SIXTY-FIVE YEARS OF AGE
5 OR OLDER OR DISABLED.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 SECTION 1. Section 7-36-21.3 NMSA 1978 (being Laws
9 2000, Chapter 21, Section 1, as amended) is amended to read:

10 "7-36-21.3. LIMITATION ON INCREASE IN VALUE FOR SINGLE-
11 FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS WHO ARE SIXTY-
12 FIVE YEARS OF AGE OR OLDER OR DISABLED--REQUIREMENTS--
13 PENALTIES.--

14 A. The valuation for property taxation purposes of
15 a single-family dwelling owned and occupied by a person who
16 is sixty-five years of age or older or disabled and whose
17 modified gross income for the prior taxable year did not
18 exceed the greater of thirty-five thousand dollars (\$35,000)
19 or the amount calculated pursuant to Subsection F of this
20 section shall not be greater than the valuation of the
21 property for property taxation purposes in the:

22 (1) tax year in which the owner's sixty-
23 fifth birthday occurs, if the owner owns and occupies that
24 property; or

25 (2) tax year following the tax year in which

1 an owner who is sixty-five years of age or older first owns
2 and occupies the property.

3 B. The limitation provided by this section may be
4 claimed by filing proof of eligibility with the county
5 assessor on an application form furnished by the assessor.
6 The application form shall be designed by the department and
7 shall provide for proof of age or disability, occupancy and
8 income eligibility. An owner who applies for the limitation
9 of value specified in this section and files proof of income
10 eligibility for the three consecutive years immediately prior
11 to the tax year for which the application is made need not
12 claim the limitation for subsequent tax years if there is no
13 change in eligibility. The county assessor shall apply the
14 limitation automatically in subsequent tax years until a
15 change in eligibility occurs.

16 C. An owner who has claimed and been allowed the
17 limitation of value specified in this section for the three
18 consecutive tax years immediately prior to the 2020 tax year
19 is not required to claim the limitation for subsequent tax
20 years if there is no change in eligibility, unless the county
21 assessor requests updated information on the owner's modified
22 gross income. The county assessor shall apply the limitation
23 automatically in subsequent tax years until a change in
24 eligibility occurs.

25 D. A person who has had a limitation applied to a

1 tax year and subsequently becomes ineligible for the
2 limitation because of a change in the person's status or
3 income or a change in the ownership of the property against
4 which the limitation was applied shall notify the county
5 assessor of the loss of eligibility for the limitation by the
6 last day of February of the tax year immediately following
7 the year in which loss of eligibility occurs.

8 E. A person who knowingly violates the provisions
9 of this section by intentionally claiming and receiving the
10 benefit of a limitation to which the person is not entitled
11 or who fails to comply with the provisions of Subsection D of
12 this section shall be liable for all taxes due, interest and
13 a civil penalty of one thousand dollars (\$1,000).

14 F. For the 2020 tax year and each subsequent tax
15 year, the maximum amount of modified gross income in
16 Subsection A of this section shall be adjusted to account for
17 inflation. The department shall make the adjustment by
18 multiplying thirty-five thousand dollars (\$35,000) by a
19 fraction, the numerator of which is the consumer price index
20 ending during the prior tax year and the denominator of which
21 is the consumer price index ending in tax year 2019. The
22 result of the multiplication shall be rounded down to the
23 nearest one hundred dollars (\$100), except that if the result
24 would be an amount less than the corresponding amount for the
25 preceding tax year, then no adjustment shall be made.

1 G. The department shall publish annually the
2 amount determined by the calculation made pursuant to
3 Subsection F of this section and provide the calculated
4 amount to each county assessor no later than December 1 of
5 each tax year.

6 H. The limitation of value specified in Subsection
7 A of this section does not apply to:

8 (1) a change in valuation resulting from any
9 physical improvements made to the property during the year
10 immediately prior to the tax year or a change in the
11 permitted use or zoning of the property during the year
12 immediately prior to the tax year; or

13 (2) a residential property in the first tax
14 year that is valued for property taxation purposes.

15 I. As used in this section:

16 (1) "consumer price index" means the
17 consumer price index for all urban consumers published by the
18 United States department of labor for the month ending
19 September 30;

20 (2) "disabled" means a person who has been
21 determined to be blind or permanently disabled with medical
22 improvement not expected pursuant to 42 USCA 421 for purposes
23 of the federal Social Security Act or is determined to have a
24 permanent total disability pursuant to the Workers'
25 Compensation Act; and

1 (3) "modified gross income" means "modified
2 gross income" as used in the Income Tax Act."

3 **SECTION 2. APPLICABILITY.**--The provisions of this act
4 apply to the 2020 and subsequent property tax years.=====

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For purposes of this subsection, "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending **September 30**.

Equation
$$\text{Amount for 2002} \times \frac{\text{CPI ending during the prior tax year}}{\text{CPI ending tax year 2019}}$$

Tax Year	Modified Gross Income Limit			CPI Equation PY / 2000	Factor	Calculated Amount	Change From Prior	Comments
	Subsection A	Subsection B	Subsection C					
2000	\$ 18,000	\$ 18,000	\$ 18,000	173.700				
2001	\$ 18,000	\$ 18,000	\$ 18,000	173.700	1.000	\$ 18,000		*\$18,000*1 is less than \$18,000 then no change from prior year.
2008	\$ 21,600	\$ 21,600	\$ 21,600	208.490	1.20029	\$ 21,600	Increase	*\$18,000*1.20029 = \$21,600.
2009	\$ 22,600	\$ 32,000	\$ 22,600	218.783	1.25955	\$ 22,600	Increase	*18,000*1.25955 = \$22,600 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2010	\$ 22,600	\$ 32,000	\$ 22,300	215.969	1.24334	\$ 22,300	Decrease	*18,000*1.24334 = \$22,300 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2011	\$ 22,600	\$ 32,000	\$ 22,600	218.439	1.25756	\$ 22,600	Increase	*18,000*1.25756 = \$22,600 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2012	\$ 23,500	\$ 32,000	\$ 23,500	226.889	1.30621	\$ 23,500	Increase	*18,000*1.30621 = \$23,500 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2013	\$ 23,900	\$ 32,000	\$ 23,900	231.407	1.33222	\$ 23,900	Increase	*18,000*1.33222 = \$23,900 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2014	\$ 24,200	\$ 32,000	\$ 24,200	234.149	1.34801	\$ 24,200	Increase	*18,000*1.34801 = \$24,200 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2015	\$ 24,600	\$ 32,000	\$ 24,600	238.031	1.37036	\$ 24,600	Increase	*18,000*1.37036 = \$24,600 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2016	\$ 24,600	\$ 32,000	\$ 24,600	237.945	1.36986	\$ 24,600	Increase	*18,000*1.36986 = \$24,600 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2017	\$ 25,000	\$ 32,000	\$ 25,000	241.428	1.38991	\$ 25,000	Increase	*18,000*1.38991 = \$25,000 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2018	\$ 25,500	\$ 32,000	\$ 25,500	246.819	1.42095	\$ 25,500	Increase	*18,000*1.42095 = \$25,500 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2019	\$ 26,100	\$ 32,000	\$ 26,100	252.439	1.4533	\$ 26,100	Increase	*18,000*1.4533 = \$26,100 for Subsec. A and C. Statute states the greater of calculation or \$32,000 for Subsec. B.
2020	\$ 35,000	\$ 32,000	\$ 18,000	257.993	1.0000	\$ 35,000	Increase	*35,000*1.0000 = \$35,000 for Subsec. A

				257.993				
2021	\$ 35,700	\$ 32,000	\$ 18,300	263.668	1.022	\$ 35,700	Increase	*35,000*1.02200 = \$35,700 for Subsec. A
				257.993				
2022	\$ 36,500	\$ 32,000	\$ 18,800	269.469	1.04448	\$ 36,500	Increase	*35,000*1.04448 = \$36,500 for Subsec. A
				257.993				
2023	\$ 37,300	\$ 32,000	\$ 19,200	275.398	1.06746	\$ 37,300	Increase	*35,000*1.06746 = \$37,300 for Subsec. A
				257.993				

Increase of the Modified Gross Income of \$700 - \$800 per year with the adjustment to \$35,000

Average increase of \$766 per year - In 10 years the Modified Gross Income is estimated to be \$42,670.00 and will continue to increase.

Subsection A	
2001 Value	
Year of 65th birthday	
Year after purchase, if after 2001	
Example	
Year applied	2008
Prior Year MG Income	\$22,100
Value 2001	\$130,000
Tax Yr. of 65th Birthday	2004
Value 2004	\$164,000
Purchased Year	1997
Value of purchase year	\$124,000
Value Shall Not Exceed	\$164,000
2004 Value	

Subsection B	
2009 Value	
Year of 65th birthday	
Year after purchase, if after 2009	
Example	
Year applied	2011
Prior Year MG Income	\$29,350
Value 2009	\$180,000
Tax Yr. of 65th Birthday	2004
Value 2004	\$150,000
Purchased Year	2000
Value of purchase year	\$135,000
Value Shall Not Exceed	\$180,000
2009 Value	

Subsection C	
2003 Value	
Year determined disable	
Year after purchase if owner was disabled, if after 2003.	
Example	
Year applied	2010
Prior Year MG Income	\$19,000
Value 2003	\$165,000
Year Determined disabled	2004
Value 2004	\$168,000
Purchased Year	2000
Value of purchase year	\$152,000
Value Shall Not Exceed	\$168,000
2004 Value	

The value may not exceed the Valuation limitation, however, if the value decreased because of the current market conditions then it increases in future years as the real estate gets healthy again, the value may increase as long as it does not exceed the Valuation Limitation of the qualifying year.