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HOUSE BILL 239

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Rob Burpo

AN ACT

RELATING TO TAXATION; ENACTING A METHOD FOR DETERMINING THE
VALUE OF RESIDENTIAL PROPERTY FOR PROPERTY TAXATION PURPOSES;
LIMITING VALUATION INCREASES.

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. 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. Except as provided in
Sections 7-36-21.2 and 7-36-21.3 NMSA 1978, they shall also
implement a program of updating property values so that

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1 current and correct values of property are maintained and
2 shall have sole responsibility and authority at the county
3 level for property valuation maintenance, subject only to the
4 general supervisory powers of the director.

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

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

24 D. The department of finance and administration
25 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

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1 for property valuation maintenance under this section. If
2 the department of finance and administration questions the
3 adequacy of any allocation of funds for this purpose, it
4 shall consult with the department, the board of county
5 commissioners and the county assessor in making its
6 determination of adequacy.

7 E. To aid the board of county commissioners in
8 determining whether a county assessor is operating an
9 efficient program of property valuation maintenance and in
10 determining the amount to be allocated to him for this
11 function, the county assessor ~~[must]~~ shall present with his
12 annual budget request a written report setting forth
13 improvements of property added to valuation records during
14 the year, additions of new property to valuation records
15 during the year, increases and decreases of valuation during
16 the year, the relationship of sales prices of property sold
17 to values of the property for property taxation purposes and
18 the current status of the overall property valuation
19 maintenance program in the county. The county assessor shall
20 send a copy of this report to the department."

21 Section 2. A new section of the Property Tax Code,
22 Section 7-36-21.2 NMSA 1978, is enacted to read:

23 "7-36-21.2. [NEW MATERIAL] SPECIAL METHOD OF VALUATION
24 FOR RESIDENTIAL PROPERTY.--

25 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

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1 transferor's legal or equitable ownership interest in
2 residential property except for a transfer:

3 (a) to a trustee for the beneficial use
4 of the spouse of the transferor or the surviving spouse of a
5 deceased transferor;

6 (b) to the spouse of the transferor
7 that takes effect upon the death of the transferor, if the
8 property is the spouse's principal place of residence;

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

11 (d) to a child of the transferor, if
12 the property is the child's principal place of residence;

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

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

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

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

(2) "percent change P" means the annual
percentage change, not to exceed five percent and not less

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1 than zero, in one of the following indexes or measures
2 approved for use by the secretary pursuant to Subsection C of
3 this section:

4 (a) the repeat sales house price index
5 for New Mexico published annually by the office of federal
6 housing enterprise oversight;

7 (b) the consumer price index for all
8 urban consumers for all items, as published by the bureau of
9 labor statistics of the United States department of labor;

10 (c) the annual implicit price deflator
11 index for state and local government purchases of goods and
12 services, as published in the United States department of
13 commerce monthly publication entitled "Survey of Current
14 Business" or any successor publication;

15 (d) the average annual weekly earnings
16 for private sector employees in the county as reported in
17 "Covered Employment and Wages" or any successor document
18 published by the New Mexico labor department; or

19 (e) any other measure developed or
20 proposed by a county that appears to reflect the average rate
21 of change in housing values in the county more accurately
22 than any of the indexes in Subparagraphs (a) through (d) of
23 this paragraph.

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

(1) if no change of ownership of the

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1 property occurred in the year immediately prior to the year
2 for which the value of the property for property taxation
3 purposes is being determined, the value determined in the
4 immediately prior year multiplied by percent change P, plus
5 the value of any physical improvements made to the property
6 during the immediately preceding tax year and minus the
7 decrease in value of the property from the immediately
8 preceding tax year determined pursuant to Section 7-38-13
9 NMSA 1978;

10 (2) if a change of ownership of the property
11 occurred in the year immediately prior to the year for which
12 the value of the property for property taxation purposes is
13 being determined, the value of the property for property
14 taxation purposes as determined pursuant to the general
15 valuation provisions applicable to residential property in
16 the Property Tax Code; or

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

20 C. If a county has a sales-ratio determined
21 pursuant to Sections 7-36-16 and 7-36-18 NMSA 1978, of less
22 than eighty-five hundredths, the assessor shall value
23 residential property for the 2001 property tax year pursuant
24 to Section 7-36-15 NMSA 1978. For subsequent years the
25 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

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1 tax year after a county's sales-ratio has reached or exceeded
2 eighty-five hundredths and for all property tax years
3 subsequent to that year, the county assessor shall value
4 residential property pursuant to Subsection B of this
5 section.

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

13 E. The county assessor shall enter on the
14 valuation records the valuations determined in accordance
15 with Subsection B of this section.

16 F. No later than August 1, 2000, the county
17 assessor, with the approval of the board of county
18 commissioners, shall determine the index or measure pursuant
19 to Paragraph (2) of Subsection A of this section that would
20 appear to most accurately reflect the average rate of change
21 in housing values in the county for tax years 2001 through
22 2005 and make application to the secretary of taxation and
23 revenue in the form and manner required by the secretary for
24 approval to use that index or measure. No later than October
25 1, 2000, the secretary shall approve or disapprove in writing
the index or measure proposed for use in the county. If
disapproved, the county assessor shall work with the

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1 secretary to determine, no later than December 1, 2000, the
2 appropriate index or measure to be used. For each succeeding
3 five-year period, the same procedures and monthly deadlines
4 shall apply, beginning August 1, 2005."

5 Section 3. A new section of the Property Tax Code,
6 Section 7-36-21.3 NMSA 1978, is enacted to read:

7 "7-36-21.3. [NEW MATERIAL] ADJUSTMENT OF VALUATION OF
8 RESIDENTIAL PROPERTY UNDER CERTAIN CIRCUMSTANCES.--

9 A. Except as provided in Subsection C of Section
10 7-36-21.2 NMSA 1978, if a county assessor determines that the
11 total valuation of residential property for property taxation
12 purposes in the county exceeds the valuation that would have
13 resulted in the absence of the application of Section
14 7-36-21.2 NMSA 1978, he shall apply to the secretary for an
15 order authorizing the assessor to reassess all residential
16 property in the county or to apply a percentage adjustment of
17 valuation to all residential property in the county. This
18 percentage shall be calculated to reduce the valuation of
19 residential property to the value that would have resulted in
20 the absence of the application of Section 7-36-21.2 NMSA
21 1978.

22 B. Except as provided in Subsection C of Section
23 7-36-21.2 NMSA 1978, if a county assessor determines that
24 special and unusual circumstances have occurred that have
25 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

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1 immediately preceding tax year, he shall apply to the
2 secretary for an order authorizing the assessor to reassess
3 all residential property in the county or to apply a
4 percentage adjustment of valuation to all residential
5 property in the county. This percentage shall be calculated
6 to reduce or increase the valuation of residential property
7 in the county to the value that would have resulted in the
8 absence of the application of Section 7-36-21.2 NMSA 1978."

9 Section 4. APPLICABILITY.--The provisions of this act
10 apply to the 2001 and subsequent property tax years.