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HOUSE BILL 570

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Ben Lujan

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING AND ENACTING PROVISIONS  
OF THE PROPERTY TAX CODE.

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 by Laws 1994, Chapter 9,  
Section 1 and by Laws 1994, Chapter 9, Section 2) is amended to  
read:

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

A. "department" or "division" means the taxation  
and revenue department, the secretary [~~of taxation and revenue~~]  
or any employee of the department exercising authority lawfully  
delegated to that employee by the secretary;

B. "director" means the secretary;

C. "livestock" means cattle, buffalo, horses,

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1 mules, sheep, goats, swine, ratites, alpacas and other domestic  
2 animals useful to man;

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

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

9 F. "nonresidential property" means property that is  
10 not residential property;

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

13 H. "person" means an individual or any other legal  
14 entity;

15 I. "property" means tangible property, real or  
16 personal;

17 J. "residential property" means property consisting  
18 of one or more dwellings together with appurtenant structures,  
19 the land underlying both the dwellings and the appurtenant  
20 structures and a quantity of land reasonably necessary for  
21 parking and other uses that facilitate the use of the dwellings  
22 and appurtenant structures. As used in this subsection,  
23 "dwellings" includes both manufactured homes and other  
24 structures when used primarily for permanent human habitation,  
25 but the term does not include structures when used primarily

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1 for temporary or transient human habitation such as hotels,  
2 motels and similar structures;

3 K. "secretary" means the secretary of taxation and  
4 revenue and, except for purposes of Section 7-35-6 NMSA 1978  
5 ~~[and Paragraphs (1) and (2) of Subsection B of Section 7-38-90~~  
6 ~~NMSA 1978]~~, also includes the deputy secretary or a division  
7 director or deputy division director delegated by the  
8 secretary;

9 L. "tax" means the property tax imposed under the  
10 Property Tax Code;

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

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

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

21 P. "tax year" means the calendar year. "

22 Section 2. Section 7-35-4 NMSA 1978 (being Laws 1973,  
23 Chapter 258, Section 7) is amended to read:

24 "7-35-4. DEPARTMENT TO PROVIDE MANUALS AND OTHER  
25 MATERIALS. --The department shall ~~[prepare, issue and~~

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1 ~~periodically revise~~ provide valuation manuals, cost and  
2 valuation schedules, bulletins and annotated digests of  
3 property tax laws and regulations in handbook form for the use  
4 of its employees, the county assessors and their employees and  
5 other persons involved in the administration and collection of  
6 the property tax. The department shall make the foregoing  
7 materials available to members of the public and may charge a  
8 fee for the materials to offset the cost of physical  
9 preparation. Any amounts collected are appropriated to the  
10 department for its operation. "

11 Section 3. Section 7-36-21.3 NMSA 1978 (being Laws 2000,  
12 Chapter 21, Section 1, as amended) is amended to read:

13 "7-36-21.3. LIMITATION ON INCREASE IN VALUE FOR SINGLE-  
14 FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS SIXTY-FIVE YEARS  
15 OF AGE OR OLDER OR DISABLED. --

16 A. For the 2001 and subsequent tax years, the  
17 valuation for property taxation purposes of a single-family  
18 dwelling owned and occupied by a person who is sixty-five years  
19 of age or older and whose modified gross income, as defined in  
20 the Income Tax Act, for the prior taxable year did not exceed  
21 the greater of eighteen thousand dollars (\$18,000) or the  
22 amount calculated pursuant to Subsection [E] D of this section  
23 shall not be greater than the valuation of the property for  
24 property taxation purposes in the:

- 25 (1) 2001 tax year;

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1 (2) year in which the owner has his sixty-  
2 fifth birthday, if that is after 2001; or

3 (3) tax year following the tax year in which  
4 an owner who turns sixty-five or is sixty-five years of age or  
5 older first owns and occupies the property, if that is after  
6 2001.

7 B. For the 2003 and subsequent tax years, the  
8 valuation for property taxation purposes of a single-family  
9 dwelling owned and occupied by a person who is disabled and  
10 whose modified gross income, as defined in the Income Tax Act,  
11 for the prior taxable year did not exceed the greater of  
12 eighteen thousand dollars (\$18,000) or the amount calculated  
13 pursuant to Subsection [E] D of this section shall not be  
14 greater than the valuation of the property for property  
15 taxation purposes in the:

16 (1) 2003 tax year;

17 (2) year in which the owner is determined to  
18 be disabled, if that is after 2003; or

19 (3) tax year following the tax year in which  
20 an owner who is disabled or who is determined in that year to  
21 be disabled first owns and occupies the property, if that is  
22 after 2003.

23 C. The limitation of value specified in Subsections  
24 A and B of this section shall be applied in a tax year in which  
25 the owner claiming entitlement files with the county assessor

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1 an application for the limitation on a form furnished to him by  
2 the assessor. The application shall be filed with the assessor  
3 within thirty days after the mailing of the assessor's notice  
4 of valuation, pursuant to Section 7-38-20 NMSA 1978. The  
5 application form shall be designed by the department and shall  
6 provide for proof of age or disability, occupancy and income  
7 eligibility for the tax year for which application is made.

8 D. For the 2002 tax year and each subsequent tax  
9 year, the maximum amount of modified gross income in  
10 Subsections A and B of this section shall be adjusted to  
11 account for inflation. The department shall make the  
12 adjustment by multiplying the maximum amount for tax year 2000  
13 by a fraction, the numerator of which is the consumer price  
14 index ending during the prior tax year and the denominator of  
15 which is the consumer price index ending in tax year 2000. The  
16 result of the multiplication shall be rounded down to the  
17 nearest one hundred dollars (\$100), except that if the result  
18 would be an amount less than the corresponding amount for the  
19 preceding tax year, then no adjustment shall be made. For  
20 purposes of this subsection, "consumer price index" means the  
21 consumer price index for all urban consumers published by the  
22 United States department of labor for the month ending  
23 September 30. The department shall publish annually the amount  
24 determined by the calculation and distribute it to each county  
25 assessor no later than December 1 of each tax year.

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1 E. The limitation of value specified in Subsections  
2 A and B of this section does not apply to:

3 (1) a change in valuation resulting from any  
4 physical improvements made to the property during the year  
5 immediately prior to the tax year or a change in the permitted  
6 use or zoning of the property during the year immediately prior  
7 to the tax year; or

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

10 F. As used in this section, "disabled" means a  
11 person who has been determined to be blind or permanently  
12 disabled with medical improvement not expected pursuant to 42  
13 USCA 421 for purposes of the federal Social Security Act or is  
14 determined to have a permanent total disability pursuant to the  
15 Workers' Compensation Act. "

16 Section 4. Section 7-38-12.1 NMSA 1978 (being Laws 2003,  
17 Chapter 118, Section 2) is amended to read:

18 "7-38-12.1. RESIDENTIAL PROPERTY TRANSFERS--AFFIDAVIT TO  
19 BE FILED WITH ASSESSOR. --

20 A. After January 1, 2004, a ~~[person]~~ transferor or  
21 its authorized agent or a transferee or its authorized agent  
22 presenting for recording with a county clerk a deed, real  
23 estate contract or memorandum of real estate contract [~~for~~  
24 ~~recording with a county clerk~~] transferring an interest in real  
25 property classified as residential property for property

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1 taxation purposes shall also file with the county assessor  
2 within thirty days of the date of filing with the county clerk  
3 an affidavit signed and completed in accordance with the  
4 provisions of Subsection B of this section.

5 B. The affidavit required for submission shall be  
6 in a form ~~[developed]~~ approved by the ~~[property tax division]~~  
7 department and signed by the transferors or their authorized  
8 agents or the transferees or their authorized agents of any  
9 interest in residential real property transferred by deed or  
10 real estate contract. The affidavit shall contain ~~[at least]~~  
11 the following information to be used only for analytical and  
12 statistical purposes in the application of appraisal methods:

13 (1) the complete names of all transferors and  
14 transferees;

15 (2) the current mailing addresses of all  
16 transferors and transferees;

17 (3) the legal description of the real property  
18 interest transferred as it appears in the document of transfer;

19 (4) the full consideration, including money or  
20 any other thing of value, paid or exchanged for the transfer  
21 and the terms of the sale; and

22 (5) the value and a description of personal  
23 property that is included in the sale price.

24 C. Upon receipt of the affidavit required by  
25 Subsection A of this section, the county assessor shall place

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1 the date of receipt on the original affidavit and on a copy of  
2 the affidavit. The county assessor shall retain the original  
3 affidavit as a [~~permanent~~] confidential record and as proof of  
4 compliance and shall return the copy marked with the date of  
5 receipt to the person presenting the affidavit. The assessor  
6 shall index the affidavits in a manner that permits cross-  
7 referencing to other records in the assessor's office  
8 pertaining to the specific property described in the affidavit.  
9 The affidavit and its contents are not part of the valuation  
10 record of the assessor.

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

13 (1) a deed transferring nonresidential  
14 property;

15 [~~(1)~~] (2) a deed that results from the payment  
16 in full or forfeiture by a transferee under a recorded real  
17 estate contract or recorded memorandum of real estate contract;

18 [~~(2)~~] (3) a lease of or easement on real  
19 property, regardless of the length of term;

20 [~~(3)~~] (4) a deed, patent or contract for sale  
21 or transfer of real property in which an agency or  
22 representative of the United States, New Mexico or any  
23 political subdivision of the state is the named grantor or  
24 grantee and authorized transferor or transferee;

25 [~~(4)~~] (5) a quitclaim deed to quiet title or

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1 clear boundary disputes;

2 [~~(5)~~] (6) a conveyance of real property  
3 executed pursuant to court order;

4 [~~(6)~~] (7) a deed to an unpatented mining  
5 claim;

6 [~~(7)~~] (8) an instrument solely to provide or  
7 release security for a debt or obligation;

8 [~~(8)~~] (9) an instrument that confirms or  
9 corrects a deed previously recorded;

10 [~~(9)~~] (10) an instrument between husband and  
11 wife or parent and child with only nominal actual consideration  
12 therefor;

13 [~~(10)~~] (11) an instrument arising out of a  
14 sale for delinquent taxes or assessments;

15 [~~(11)~~] (12) an instrument accomplishing a  
16 court-ordered partition;

17 [~~(12)~~] (13) an instrument arising out of a  
18 merger or incorporation;

19 [~~(13)~~] (14) an instrument by a subsidiary  
20 corporation to its parent corporation for no consideration,  
21 nominal consideration or in sole consideration of the  
22 cancellation or surrender of the subsidiary's stock;

23 [~~(14)~~] (15) an instrument from a person to a  
24 trustee or from a trustee to a trust beneficiary with only  
25 nominal actual consideration therefor;

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1                    [~~(15)~~] (16) an instrument to or from an  
2 intermediary for the purpose of creating a joint tenancy estate  
3 or some other form of ownership; or

4                    [~~(16)~~] (17) an instrument delivered to  
5 establish a gift or a distribution from an estate of a decedent  
6 or trust.

7                    E. The affidavit required by Subsection A of this  
8 section shall not be construed to be a valuation record  
9 pursuant to Section 7-38-19 NMSA 1978.

10                    F. Prior to November 1, 2003, the department shall  
11 print and distribute to each county assessor affidavit forms  
12 for distribution to the public upon request. "

13                    Section 5. Section 7-38-49 NMSA 1978 (being Laws 1973,  
14 Chapter 258, Section 89) is amended to read:

15                    "7-38-49. UNPAID PROPERTY TAXES--IMPOSITION OF  
16 INTEREST.--If property taxes are not paid for any reason within  
17 thirty days after the date they are due, interest on the unpaid  
18 taxes shall accrue from the thirtieth day after they are due  
19 until the date they are paid. Interest shall accrue at the  
20 rate of one percent a month or any fraction of a month.  
21 Interest shall accrue whether or not protests have been  
22 resolved. However, in the case of a timely protest, interest  
23 payable shall be computed on a principal amount equal to the  
24 unpaid taxes finally determined to be due upon resolution of  
25 the protest. Interest shall not be imposed on interest or on

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1 any penalty. Interest accrued pursuant to the provisions of  
2 this section shall not be waived by the state or by a political  
3 subdivision of the state."

4 Section 6. Section 7-38-50 NMSA 1978 (being Laws 1973,  
5 Chapter 258, Section 90, as amended) is amended to read:

6 "7-38-50. DELINQUENT TAXES--CIVIL PENALTIES. --

7 A. If property taxes become delinquent, a penalty  
8 of one percent of the delinquent taxes for each month or any  
9 portion of a month they remain unpaid shall be imposed, but the  
10 total penalty shall not exceed five percent of the delinquent  
11 taxes except that, when the penalty determined under the  
12 foregoing provisions of this subsection is less than five  
13 dollars (\$5.00), the penalty to be imposed shall be five  
14 dollars (\$5.00).

15 B. A county may suspend for a particular tax year  
16 application of the minimum penalty requirements of [~~this~~]  
17 Subsection A of this section by resolution of its county  
18 commissioners adopted not later than September 1 of that tax  
19 year. A copy of any such resolution shall be forwarded to the  
20 county treasurer.

21 C. Except as provided in Subsection B of this  
22 section, penalties imposed pursuant to Subsection A of this  
23 section shall not be waived by the state or by a political  
24 subdivision of the state.

25 [~~B-~~] D. If property taxes become delinquent because

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1 of an intent to defraud by the property owner, fifty percent of  
2 the property taxes due or fifty dollars (\$50.00), whichever is  
3 greater, shall be added as a penalty. "

4 Section 7. A new section of the Property Tax Code is  
5 enacted to read:

6 "[NEW MATERIAL] RECEIPT FOR PAYMENT OF DELINQUENT TAXES--  
7 DISTRIBUTION.--At the time a county treasurer receives payment  
8 of delinquent taxes, penalties, interest and costs, the county  
9 treasurer shall issue a receipt to the property owner. The  
10 county treasurer shall note the payment of the property taxes,  
11 penalties, interest and costs on the property tax schedule and  
12 shall distribute the property taxes to the appropriate  
13 governmental units according to rules of the department of  
14 finance and administration. "

15 Section 8. A new section of the Property Tax Code is  
16 enacted to read:

17 "[NEW MATERIAL] COUNTY TREASURER TO PREPARE PAYMENT  
18 REPORT.--A county treasurer shall prepare a monthly report of  
19 all payments of property taxes, penalties, interest and costs  
20 received on properties listed on the tax delinquency list and  
21 shall submit the report to the department together with the  
22 distribution of the penalties, interest and costs pursuant to  
23 Section 7 of this 2004 act. The report shall be in a form  
24 prescribed by the department and shall contain the following  
25 information:

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- 1           A. the name of the county;
- 2           B. the account number reflected on the tax
- 3 delinquency list to which payment was applied;
- 4           C. the base amount of property taxes paid;
- 5           D. the amount of penalty paid;
- 6           E. the amount of interest paid; and
- 7           F. the amount of costs paid. "

8           Section 9. Section 7-38-65 NMSA 1978 (being Laws 1973,  
9 Chapter 258, Section 105, as amended) is amended to read:

10           "7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL  
11 PROPERTY--SALE OF REAL PROPERTY. --

12           A. If a lien exists by the operation of Section  
13 7-38-48 NMSA 1978, the department may collect delinquent taxes  
14 on real property by selling the real property on which the  
15 taxes have become delinquent. The sale of real property for  
16 delinquent taxes shall be in accordance with the provisions of  
17 the Property Tax Code. Real property may be sold for  
18 delinquent taxes at any time after the expiration of three  
19 years from the first date shown on the tax delinquency list on  
20 which the taxes became delinquent. Real property shall be  
21 offered for sale for delinquent taxes either within four years  
22 after the first date shown on the tax delinquency list on which  
23 the taxes became delinquent or, if the department is barred by  
24 operation of law or by order of a court of competent  
25 jurisdiction from offering the property for sale for delinquent

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1 taxes within four years after the first date shown on the tax  
2 delinquency list on which the taxes became delinquent, within  
3 one year from the time the department determines that it is no  
4 longer barred from selling the property, unless:

5 (1) all delinquent taxes, penalties, interest  
6 and costs due are paid by [~~5:00 p.m. of the day prior to~~] the  
7 date [~~of~~] and time the sale is scheduled to begin; or

8 (2) an installment agreement pursuant to  
9 Section 7-38-68 NMSA 1978 for payment of all delinquent taxes,  
10 penalties, [~~interests~~] interest and costs due is entered into  
11 with the department by [~~5:00 p.m. of the day prior to~~] the date  
12 [~~of~~] and time the sale [~~pursuant to Section 7-38-68 NMSA 1978~~]  
13 is scheduled to begin.

14 B. Failure to offer property for sale within the  
15 time prescribed by Subsection A of this section shall not  
16 impair the validity or effect of any sale [~~which~~] that does  
17 take place.

18 C. The time requirements of this section are  
19 subject to the provisions of Section 7-38-83 NMSA 1978. "

20 Section 10. Section 7-38-66 NMSA 1978 (being Laws 1973,  
21 Chapter 258, Section 106, as amended by Laws 2001, Chapter 253,  
22 Section 2 and by Laws 2001, Chapter 254, Section 2) is amended  
23 to read:

24 "7-38-66. SALE OF REAL PROPERTY FOR DELINQUENT TAXES--  
25 NOTICE OF SALE. --

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1           A. At least twenty days but not more than thirty  
2 days before the date of the sale of real property for  
3 delinquent taxes, the department shall notify by certified  
4 mail, return receipt requested, ~~[to the address as shown]~~ the  
5 current assessed owner of the real property whose name appears  
6 on the most recent property tax schedule ~~[each property owner~~  
7 ~~whose real property will be sold]~~ that the ~~[owner's]~~ real  
8 property will be sold to satisfy delinquent taxes, unless:

9                   (1) all delinquent taxes, penalties, interest  
10 and costs due are paid by ~~[5:00 p.m. of the day prior to]~~ the  
11 date ~~[of]~~ and time the sale is scheduled to begin; or

12                   (2) an installment agreement pursuant to  
13 Section 7-38-68 NMSA 1978 for payment of all delinquent taxes,  
14 penalties, interest and costs due is entered into with the  
15 department by ~~[5:00 p.m. of the day prior to]~~ the date ~~[of]~~ and  
16 time the sale ~~[in accordance with Section 7-38-68 NMSA 1978]~~ is  
17 scheduled to begin.

18           B. The notice shall also:

19                   (1) state the total amount of taxes,  
20 penalties, interest and costs due;

21                   (2) state the date, time and place of the  
22 sale;

23                   (3) describe the real property that will be  
24 sold;

25                   (4) inform the property owner of his right to



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1 enter into an installment agreement with the department for  
2 payment of delinquent taxes, penalties, interest and costs, in  
3 accordance with Section 7-38-68 NMSA 1978;

4 (5) provide information on the name and phone  
5 number of the individual in the department the ~~[taxpayer]~~ owner  
6 can contact to arrange for an installment agreement in  
7 accordance with Section 7-38-68 NMSA 1978; and

8 (6) contain any other information that the  
9 department may require by regulation.

10 C. At the same time a notice required by Subsection  
11 A of this section is sent ~~[to the owner of the property]~~, a  
12 notice containing the information set out in Subsection B of  
13 this section shall also be sent to:

14 (1) the delinquent owner as reflected on the  
15 tax delinquency list;

16 (2) the owner of record as recorded on the  
17 deed with the county clerk's office in the county in which the  
18 property is located; and

19 (3) each person holding a lien or security  
20 interest ~~[of record]~~ in the property as recorded on the lien,  
21 mortgage or real estate contract with the county clerk's office  
22 in the county in which the property is located if an address  
23 for such person is reasonably ascertainable through a search of  
24 the property records of the county ~~[in which the property is~~  
25 ~~located]~~ clerk's office.

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1           D. Failure of the department to mail a required  
2 notice by certified mail, return receipt requested, shall  
3 invalidate the sale; provided, however, that return to the  
4 department of the [~~notice of the~~] return receipt or certified  
5 notice shall be deemed adequate notice and shall not invalidate  
6 the sale.

7           E. Proof by the taxpayer that all delinquent taxes,  
8 penalties, interest and costs had been paid by [~~5:00 p.m. of~~  
9 ~~the day prior to~~] the date [~~of~~] and time the sale is scheduled  
10 to begin shall prevent or invalidate the sale.

11           F. Proof by the taxpayer that the taxpayer has, by  
12 [~~5:00 p.m. of the day prior to~~] the date [~~of~~] and time the sale  
13 is scheduled to begin, entered into an installment agreement to  
14 pay all delinquent taxes, penalties, interest and costs as  
15 provided in Section 7-38-68 NMSA 1978 and that timely payments  
16 under such agreement are being made shall prevent or invalidate  
17 the sale.

18           G. The time requirements of this section are  
19 subject to the provisions of Section 7-38-83 NMSA 1978. "

20           Section 11. Section 7-38-67 NMSA 1978 (being Laws 1973,  
21 Chapter 258, Section 107, as amended by Laws 2001, Chapter 253,  
22 Section 3 and by Laws 2001, Chapter 254, Section 3) is amended  
23 to read:

24           "7-38-67. REAL PROPERTY SALE REQUIREMENTS. --

25           A. Real property may not be sold for delinquent

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1 taxes before the expiration of three years from the first date  
2 shown on the tax delinquency list on which the taxes on the  
3 real property became delinquent.

4 B. Notice of the sale shall be published in a local  
5 newspaper within the county where the real property is located  
6 or, if there is no local county or municipal newspaper, then a  
7 newspaper published in a county contiguous to or near the  
8 county in which the real property is located, at least once a  
9 week for the three weeks immediately preceding the week of the  
10 sale. For more generalized notice, the department may choose  
11 to publish notice of the sale also in a newspaper not published  
12 within the county and of more general circulation. The notice  
13 shall state the date, time and place ~~[of]~~ where the sale is to  
14 be conducted and shall include ~~[a description]~~:

15 (1) the delinquent owner's name as reflected  
16 on the tax delinquency list;

17 (2) the legal description of the real property  
18 as reflected on the tax delinquency list;

19 (3) the minimum sale price; and

20 (4) the approximate location of the real  
21 property sufficient to permit its identification and location  
22 by potential purchasers.

23 C. Real property shall be sold at public auction  
24 either by the department or an auctioneer hired by the  
25 department. The auction shall be held in the county where the

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1 real property is located at a time and place designated by the  
2 department.

3 ~~[D. If the real property can be divided so as to~~  
4 ~~enable the department to sell only part of it and pay all~~  
5 ~~delinquent taxes, penalties, interest and costs, the department~~  
6 ~~may, with the consent of the owner, sell only a part of the~~  
7 ~~real property.~~

8 ~~E.]~~ D. Before the sale, the department shall  
9 determine a minimum sale price for the real property. [~~In~~  
10 ~~determining the minimum price, the department shall consider~~  
11 ~~the value of the property owner's interest in the real~~  
12 ~~property]~~ The minimum sale price shall include the amount of  
13 [~~all delinquent taxes, penalties and interest for which it is~~  
14 ~~being sold and the costs. The minimum price shall not be less~~  
15 ~~than the total of]~~ all delinquent taxes, penalties, interest  
16 and costs. Real property may not be sold for less than the  
17 minimum price unless no offer met the minimum price [~~when it~~  
18 ~~was offered]~~ at an earlier public auction. A sale properly  
19 made under the authority of and in accordance with the  
20 requirements of this section constitutes full payment of all  
21 delinquent taxes, penalties and interest that are a lien  
22 against the property at the time of sale, and the sale  
23 extinguishes the lien.

24 ~~[F.]~~ E. Payment shall be made in full by the close  
25 of the public auction [~~before an offer may be deemed accepted~~

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1 ~~by the department]~~.

2 F. If a successful bidder fails to make payment in  
3 full by the close of the public auction, the department may  
4 preclude the bidder from bidding at future auctions, and the  
5 bidder will be responsible for all costs, expenses and attorney  
6 fees expended in the attempt to collect the bid.

7 G. Real property not offered for sale may be  
8 offered for sale at a later sale, but the requirements of this  
9 section and Section 7-38-66 NMSA 1978 shall be met in  
10 connection with each sale. "

11 Section 12. Section 7-38-68 NMSA 1978 (being Laws 1973,  
12 Chapter 258, Section 108, as amended) is amended to read:

13 "7-38-68. INSTALLMENT AGREEMENTS. --

14 A. The ~~[division]~~ department may enter into an  
15 installment agreement for the payment of all delinquent  
16 property taxes, penalties, interest and costs due with respect  
17 to ~~[either]~~ real property ~~[or a manufactured home]~~ on the tax  
18 delinquency list with the owner of record of the real property  
19 ~~[or manufactured home whose taxes have become delinquent and~~  
20 ~~whose account for all or part of the delinquent taxes has been~~  
21 ~~transferred for collection to the division]~~ as recorded on the  
22 deed with the county clerk's office in the county in which the  
23 real property is located. Execution of an installment  
24 agreement under this section by a property owner is an  
25 irrevocable admission of liability for all taxes that are the

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1 subject of the agreement. The installment agreement shall be  
2 in writing and shall not extend for a period of more than  
3 thirty-six months. Interest shall accrue on the unpaid  
4 ~~[balance]~~ principal during the period of the installment  
5 agreement. The rate of interest shall be one percent a month,  
6 and no other interest or penalty on that portion of the  
7 principal representing unpaid taxes shall accrue while an  
8 installment agreement is in effect. The ~~[division]~~ department  
9 shall not enter into an installment agreement with a property  
10 owner ~~[on or after the date of the initial sale of real~~  
11 ~~property or manufactured home for delinquent taxes whether or~~  
12 ~~not the real property or manufactured home is sold and a deed~~  
13 ~~issued as a result of that sale. The division]~~ after  
14 commencement of the scheduled sale of the real property for  
15 delinquent taxes. The real property shall not be removed from  
16 the sale list unless the requirements to enter into an  
17 installment agreement are met prior to the commencement of the  
18 scheduled sale of the real property. The department shall  
19 promulgate regulations establishing requirements for ~~[a minimum~~  
20 ~~down payment and substantially equal monthly payments for]~~  
21 entering into installment agreements.

22 B. An installment agreement prevents any further  
23 action to collect the delinquent taxes stated in the agreement  
24 as long as the terms of the agreement are met.

25 C. The ~~[division]~~ department may proceed under the

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1 Property Tax Code to collect the property taxes, penalties,  
2 interest and costs due and unpaid if:

3 (1) installment payments are not made on or  
4 before the dates specified in the agreement;

5 (2) the property owner fails to pay other  
6 property taxes when required; or

7 (3) any other condition contained in the  
8 agreement is not met.

9 D. For the purpose of computing the time when real  
10 property [~~or a manufactured home~~] may be sold for delinquent  
11 taxes, the date of original delinquency shall be used when the  
12 delinquent taxes have been the subject of an installment  
13 agreement that was subsequently breached by the property owner.

14 E. If an owner of real property [~~or a manufactured~~  
15 ~~home~~] enters into an installment agreement and subsequently  
16 breaches the agreement under this section, the [~~division~~]  
17 department shall not enter into another installment agreement  
18 with that property owner for the payment of the delinquent  
19 taxes that were the subject of the installment agreement.

20 F. [~~Alphabetically indexed and serially numbered~~  
21 ~~records of installment agreements must be kept~~] Installment  
22 agreements shall be indexed by installment agreement number and  
23 name and retained in the office of the director and made  
24 available for public inspection. "

25 Section 13. Section 7-38-70 NMSA 1978 (being Laws 1973,

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1 Chapter 258, Section 110, as amended) is amended to read:

2 "7-38-70. ISSUANCE OF DEEDS AS RESULT OF SALE OF REAL  
3 PROPERTY FOR DELINQUENT TAXES--EFFECT OF DEEDS--LIMITATION OF  
4 ACTION TO CHALLENGE CONVEYANCE. --

5 A. Upon receiving payment for real property sold  
6 for delinquent taxes, the ~~[division]~~ department shall ~~[execute~~  
7 ~~and deliver a deed]~~ issue a receipt to the purchaser. The  
8 purchaser has no property rights or right of entry to the  
9 property purchased until the department delivers to the  
10 purchaser a deed consummating the sale.

11 B. ~~[If the real property was sold substantially in~~  
12 ~~accordance with the Property Tax Code]~~ No later than six weeks  
13 after the date of the sale, after determining that the sale  
14 substantially complied with the Property Tax Code, the  
15 department shall execute and mail a deed to the purchaser. The  
16 deed conveys all of the former property owner's interest in the  
17 real property as of the date the state's lien for real property  
18 taxes arose in accordance with the Property Tax Code, subject  
19 only to perfected interests ~~[in the real property existing~~  
20 ~~before the date the property tax lien arose]~~. The state deed  
21 issued for real property sold for delinquent taxes has the same  
22 effect as a quitclaim deed and does not warrant title.

23 C. After two years from the date of sale, neither  
24 the former real property owner ~~[shown on the property tax~~  
25 ~~schedule as the delinquent taxpayer]~~ of record as recorded on

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1 the deed with the county clerk's office in the county in which  
2 the real property is located nor anyone claiming through him  
3 may bring an action challenging the conveyance.

4 D. Subject to the limitation of Subsection C of  
5 this section, in all controversies and suits involving title to  
6 real property held under a deed from the state issued under  
7 this section, any person claiming title adverse to that  
8 acquired by the deed from the state [~~must~~] shall prove, in  
9 order to defeat the title, that:

10 (1) the real property was not subject to  
11 taxation for the tax years for which the delinquent taxes for  
12 which it was sold were imposed;

13 (2) the [~~division~~] department failed to mail  
14 the notice required under Section 7-38-66 NMSA 1978 or to  
15 receive any required return receipt or certified notice;

16 (3) he, or the person through whom he claims,  
17 had title to the real property that was reflected on a deed  
18 recorded with the county clerk's office in the county in which  
19 the real property is located at the time of the sale and had  
20 paid all delinquent taxes, penalties, interest and costs prior  
21 to the sale as provided in Subsection E of Section 7-38-66 NMSA  
22 1978; or

23 (4) he, or the person through whom he claims,  
24 had entered into an installment agreement to pay all delinquent  
25 taxes, penalties, interest and costs prior to the sale as

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1 provided in Section 7-38-68 NMSA 1978 and that all payments due  
2 were made timely.

3 E. In the event a deed is canceled pursuant to the  
4 requirements set forth in Subsection D of this section, only  
5 the amount paid for the real property at the sale is subject to  
6 refund. No interest or expenses shall be paid to the buyer  
7 regardless of the basis for the cancellation."

8 Section 14. Section 7-38-71 NMSA 1978 (being Laws 1973,  
9 Chapter 258, Section 111, as amended) is amended to read:

10 "7-38-71. DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE OF  
11 PROPERTY. --

12 A. Money received by the department from the sale  
13 of real or personal property for delinquent property taxes  
14 shall be deposited in a suspense fund and distributed as  
15 follows:

16 (1) first, that portion equal to the costs  
17 shall be retained by the department for use, subject to  
18 appropriation by the legislature, in administration of the  
19 Property Tax Code;

20 (2) second, that portion equal to the  
21 penalties and interest due shall be retained by the department  
22 for use, subject to appropriation by the legislature, by the  
23 department in administration of the Property Tax Code;

24 (3) third, that portion equal to the  
25 delinquent taxes due shall be remitted by the department to the

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1 appropriate county treasurer for distribution by the treasurer  
2 to the governmental units in accordance with the law and the  
3 regulations of the department of finance and administration;  
4 and

5 (4) the balance shall be paid to the former  
6 owner of ~~[the property sold]~~ record of the property sold as  
7 recorded on the deed with the county clerk's office in the  
8 county in which the property is located or to any other person  
9 designated by order directed to the department by a court of  
10 competent jurisdiction; provided that the department may first  
11 apply all or any portion of the balance to be paid against the  
12 amount of any property tax, including any penalty and interest  
13 related thereto, owed by the person to whom the balance would  
14 otherwise be paid.

15 B. As a condition precedent to payment of the  
16 balance of the sale amount received to the former owner of the  
17 property, the ~~[department may require any]~~ person claiming to  
18 be entitled to that payment ~~[to]~~ shall present sufficient  
19 evidence of proof of former ownership of the property to the  
20 department. The department shall adopt regulations providing  
21 for the procedures to be followed by persons claiming sale  
22 proceeds as former owners in those instances where conflicting  
23 claims exist or the department requires proof of ownership.

24 C. If no person claims the balance of sale  
25 proceeds, whether the property was sold under the provisions of

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1 the Property Tax Code or prior law, as the former owner of the  
2 property within two years of the date of the sale and after a  
3 reasonable search to determine the former owner is made by the  
4 department and no former owner is found, the balance of the  
5 sale proceeds shall be considered abandoned property and  
6 deposited in accordance with the provisions of the Uniform  
7 Unclaimed Property Act.

8 D. If the balance of proceeds from the sale after  
9 paying a higher priority claim under Subsection A of this  
10 section is insufficient to pay all of the next priority claim,  
11 then the complete balance shall be applied to that next  
12 priority claim as partial payment. "

13 Section 15. APPLICABILITY. --The provisions of this act  
14 apply to the 2004 and subsequent property tax years.