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SENATE BILL 8

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

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO TAXATION; AMENDING PROVISIONS RELATING TO
AFFIDAVITS REQUIRED FOR THE TRANSFER OF RESIDENTIAL REAL
PROPERTY; DECLARING AN EMERGENCY.

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

Section 1. Section 7-38-12.1 NMSA 1978 (being Laws 2003,
Chapter 118, Section 2) is amended to read:

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

A. After January 1, 2004, a ~~[person]~~ transferor or
its authorized agent or a transferee or its authorized agent
presenting for recording with a county clerk a deed, real
estate contract or memorandum of real estate contract ~~[for
recording with a county clerk]~~ transferring any interest in
real 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 by the property tax division and signed by
7 the transferors or their authorized agents or the transferees
8 or their authorized agents of any interest in residential real
9 property transferred by deed or real estate contract. The
10 affidavit shall contain at least the following information [~~to~~
11 ~~be used only for analytical and statistical purposes in the~~
12 ~~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

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

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

11 (1) a deed that results from the payment in
12 full or forfeiture by a transferee under a recorded real estate
13 contract or recorded memorandum of real estate contract;

14 (2) a lease of or easement on real property,
15 regardless of the length of term;

16 (3) a deed, patent or contract for sale or
17 transfer of real property in which an agency or representative
18 of the United States, New Mexico or any political subdivision
19 of the state is the named grantor or grantee and authorized
20 transferor or transferee;

21 (4) a quitclaim deed to quiet title or clear
22 boundary disputes;

23 (5) a conveyance of real property executed
24 pursuant to court order;

25 (6) a deed to an unpatented mining claim;

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1 (7) an instrument solely to provide or release
2 security for a debt or obligation;

3 (8) an instrument that confirms or corrects a
4 deed previously recorded;

5 (9) an instrument between husband and wife or
6 parent and child with only nominal actual consideration
7 therefor;

8 (10) an instrument arising out of a sale for
9 delinquent taxes or assessments;

10 (11) an instrument accomplishing a court-
11 ordered partition;

12 (12) an instrument arising out of a merger or
13 incorporation;

14 (13) an instrument by a subsidiary corporation
15 to its parent corporation for no consideration, nominal
16 consideration or in sole consideration of the cancellation or
17 surrender of the subsidiary's stock;

18 (14) an instrument from a person to a trustee
19 or from a trustee to a trust beneficiary with only nominal
20 actual consideration therefor;

21 (15) an instrument to or from an intermediary
22 for the purpose of creating a joint tenancy estate or some
23 other form of ownership; or

24 (16) an instrument delivered to establish a
25 gift or a distribution from an estate of a decedent or trust.

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

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

Section 2. ~~EMERGENCY~~.--It is necessary for the public peace, health and safety that this act take effect immediately.

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