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HOUSE BILL 601

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TAXATION; AMENDING PROVISIONS OF THE PROPERTY TAX
CODE RELATING TO THE DISCLOSURE AFFIDAVIT REQUIRED UPON
TRANSFER OF RESIDENTIAL PROPERTY.

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, as amended) is amended to read:

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

A. After January 1, 2004, a transferor or the
transferor's authorized agent or a transferee or the
transferee's authorized agent presenting for recording with a
county clerk a deed, real estate contract or memorandum of real
estate contract transferring an interest in real property
classified as residential property for property taxation

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

5 B. The affidavit required for submission shall be
6 in a form approved by the department and signed by the
7 transferors or their authorized agents or the transferees or
8 their authorized agents of any interest in residential real
9 property transferred by deed or real estate contract. The
10 affidavit shall contain only the following information [~~to be~~
11 ~~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 the terms of the sale, including any amount of seller
22 incentives; and

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

25 C. Upon receipt of the affidavit required by

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

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

14 (1) a deed transferring nonresidential
15 property;

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

19 (3) a lease of or easement on real property,
20 regardless of the length of term;

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

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1 (5) a quitclaim deed to quiet title or clear
2 boundary disputes;

3 (6) a conveyance of real property executed
4 pursuant to court order;

5 (7) a deed to an unpatented mining claim;

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

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

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

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

15 (12) an instrument accomplishing a court-
16 ordered partition;

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

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

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

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

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

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

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

12 Section 2. Section 7-38-12.2 NMSA 1978 (being Laws
13 2003, Chapter 118, Section 3) is amended to read:

14 "7-38-12.2. [~~PENALTIES~~] PENALTY.--~~[A.]~~ A person who
15 intentionally refuses to make a required report within the
16 time period specified under the provisions of Section
17 7-38-12.1 NMSA 1978 or who knowingly makes a false statement
18 on an affidavit required under the provisions of Section
19 7-38-12.1 NMSA 1978 is guilty of a misdemeanor and upon
20 conviction shall be punished by the imposition of a fine of
21 not more than one thousand dollars (\$1,000).

22 [~~B. The secretary, any employee or any former~~
23 ~~employee of the department or any other person subject to the~~
24 ~~provisions of Section 7-38-12.1 NMSA 1978 who willfully~~
25 ~~releases information in violation of that section, except as~~

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1 ~~provided in Section 7-38-4 NMSA 1978 or as part of a protest~~
2 ~~proceeding as defined in Section 7-38-24 NMSA 1978, is guilty~~
3 ~~of a misdemeanor and shall be fined not more than one~~
4 ~~thousand dollars (\$1,000).]"~~

5 Section 3. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2006.

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