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HOUSE BILL 264

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Ben Lujan

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO PROPERTY TAXATION; ALLOWING THE RELEASE OF
RESIDENTIAL PROPERTY TRANSFER AFFIDAVITS USED TO VALUE THE
PROPERTY OF A PROPERTY OWNER WHO HAS FILED A PROTEST BEFORE A
COUNTY VALUATION PROTEST BOARD; 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, 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

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

6 B. The affidavit required for submission shall:

7 (1) be in a form approved by the department
8 and signed by the transferors or their authorized agents or the
9 transferees or their authorized agents of any interest in
10 residential real property transferred by deed or real estate
11 contract; ~~[The affidavit shall contain only the following~~
12 ~~information to]~~

13 (2) be used only for:

14 (a) analytical and statistical purposes
15 in the application of appraisal methods; or

16 (b) a county valuation protest board
17 hearing held pursuant to Section 7-38-39 NMSA 1978 in which the
18 information is material to resolving the dispute; and

19 (3) contain only the following information:

20 ~~[(1)]~~ (a) the complete names of all
21 transferors and transferees;

22 ~~[(2)]~~ (b) the current mailing addresses
23 of all transferors and transferees;

24 ~~[(3)]~~ (c) the legal description of the
25 real property interest transferred as it appears in the

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[bracketed material] = delete

1 document of transfer;

2 [~~(4)~~] (d) the full consideration,
3 including money or any other thing of value, paid or exchanged
4 for the transfer and the terms of the sale, including any
5 amount of seller incentives; and

6 [~~(5)~~] (e) the value and a description of
7 personal property that is included in the sale price.

8 C. Upon receipt of the affidavit required by
9 Subsection A of this section, the county assessor shall place
10 the date of receipt on the original affidavit and on a copy of
11 the affidavit. The county assessor shall retain the original
12 affidavit as a confidential record and as proof of compliance
13 and shall return the copy marked with the date of receipt to
14 the person presenting the affidavit. The assessor shall index
15 the affidavits in a manner that permits cross-referencing to
16 other records in the assessor's office pertaining to the
17 specific property described in the affidavit. The affidavit
18 and its contents are not part of the valuation record of the
19 assessor.

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

22 (1) a deed transferring nonresidential
23 property;

24 (2) a deed that results from the payment in
25 full or forfeiture by a transferee under a recorded real estate

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1 contract or recorded memorandum of real estate contract;

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

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

9 (5) a quitclaim deed to quiet title or clear
10 boundary disputes;

11 (6) a conveyance of real property executed
12 pursuant to court order;

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

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

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

18 (10) an instrument between husband and wife or
19 parent and child with only nominal actual consideration
20 therefor;

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

23 (12) an instrument accomplishing a court-
24 ordered partition;

25 (13) an instrument arising out of a merger or

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1 incorporation;

2 (14) an instrument by a subsidiary corporation
3 to its parent corporation for no consideration, nominal
4 consideration or in sole consideration of the cancellation or
5 surrender of the subsidiary's stock;

6 (15) an instrument from a person to a trustee
7 or from a trustee to a trust beneficiary with only nominal
8 actual consideration therefor;

9 (16) an instrument to or from an intermediary
10 for the purpose of creating a joint tenancy estate or some
11 other form of ownership; or

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

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

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

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