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SENATE BILL 217

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO TAXATION; CONTINUING CURRENT AND CORRECT VALUATION OF NONRESIDENTIAL PROPERTY; PROVIDING FOR RESIDENTIAL PROPERTY VALUE LIMITS TO CONTINUE REGARDLESS OF OCCURRENCE OF A CHANGE IN OWNERSHIP OF THE PROPERTY; AUTHORIZING COUNTIES TO ADOPT A LOCAL OPTION RESIDENTIAL PROPERTY VALUE LIMIT BASED ON PROPERTY TAXABLE VALUES IN 2001; PROVIDING FOR VALUATION OF NEW CONSTRUCTION.

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, as amended) is amended to read:

"7-36-16. RESPONSIBILITY OF COUNTY ASSESSORS TO DETERMINE AND MAINTAIN CURRENT AND CORRECT VALUES OF NONRESIDENTIAL PROPERTY AND TO VALUE RESIDENTIAL PROPERTY.--

A. County assessors shall determine values of

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1 property for property taxation purposes in accordance with the
2 Property Tax Code and the regulations, orders, rulings and
3 instructions of the department. [~~Except as limited in Section~~
4 ~~7-36-21.2 NMSA 1978, they~~] County assessors shall [~~also~~]
5 implement a program of updating nonresidential property values
6 so that current and correct values of property are maintained
7 and shall have sole responsibility and authority at the county
8 level for property valuation maintenance, subject only to the
9 general supervisory powers of the [~~director~~] secretary.

10 B. A county assessor shall implement a program of
11 updating residential property values so that the values reflect
12 the provisions and limitations set forth in Section 7-36-21.2
13 NMSA 1978.

14 [~~B.~~] C. The [~~director~~] secretary shall implement a
15 program of regular evaluation of county assessors' valuation
16 activities with particular emphasis on the maintenance of
17 current and correct values and the accurate implementation of
18 Section 7-36-21.2 NMSA 1978.

19 [~~C.~~] D. Upon request of the county assessor, the
20 [~~director~~] secretary may contract with a board of county
21 commissioners for the department to assume all or part of the
22 responsibilities, functions and authority of a county assessor
23 to establish or operate a property valuation maintenance
24 program in the county. The contract shall be in writing and
25 shall include provisions for the sharing of the program costs

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1 between the county and the department. The contract must
2 include specific descriptions of the objectives to be reached
3 and the tasks to be performed by the contracting parties. The
4 initial term of any contract authorized under this subsection
5 shall not extend beyond the end of the fiscal year following
6 the fiscal year in which it is executed, but contracts may be
7 renewed for additional one-year periods for succeeding years.

8 ~~[D.]~~ E. The department of finance and
9 administration shall not approve the operating budget of any
10 county in which there is not an adequate allocation of funds to
11 the county assessor for the purpose of fulfilling ~~[his]~~ the
12 county assessor's responsibilities for property valuation
13 maintenance under this section. If the department of finance
14 and administration questions the adequacy of any allocation of
15 funds for this purpose, it shall consult with the department,
16 the board of county commissioners and the county assessor in
17 making its determination of adequacy.

18 ~~[E.]~~ F. To aid the board of county commissioners in
19 determining whether a county assessor is operating an efficient
20 program of property valuation maintenance and in determining
21 the amount to be allocated to ~~[him]~~ the county assessor for
22 this function, the county assessor shall present with ~~[his]~~ the
23 county assessor's annual budget request a written report
24 setting forth improvements of property added to valuation
25 records during the year, additions of new property to valuation

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1 records during the year, increases and decreases of valuation
2 during the year, the relationship of sales prices of property
3 sold to values of the property for property taxation purposes
4 and the current status of the overall property valuation
5 maintenance program in the county. The county assessor shall
6 send a copy of this report to the department."

7 Section 2. Section 7-36-21.2 NMSA 1978 (being Laws 2000,
8 Chapter 10, Section 2, as amended) is amended to read:

9 "7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF
10 RESIDENTIAL PROPERTY--LOCAL OPTION VALUE ROLLBACK.--

11 A. Except as provided in Subsections D through F of
12 this section, residential property shall be valued at its
13 current and correct value in accordance with the provisions of
14 the Property Tax Code; provided that for the 2001 and
15 subsequent tax years, the value of a property in any tax year
16 shall not exceed the higher of one hundred three percent of the
17 value in the tax year prior to the tax year in which the
18 property is being valued or one hundred six and one-tenth
19 percent of the value in the tax year two years prior to the tax
20 year in which the property is being valued. This limitation on
21 increases in value does not apply to:

22 (1) a residential property in the first tax
23 year that it is valued for property taxation purposes;

24 (2) any physical improvements made to the
25 property during the year immediately prior to the tax year or

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1 omitted in a prior tax year; or

2 (3) valuation of a residential property in any
3 tax year in which

4 [~~(a) a change of ownership of the~~
5 ~~property occurred in the year immediately prior to the tax year~~
6 ~~for which the value of the property for property taxation~~
7 ~~purposes is being determined; or~~

8 ~~(b)]~~ the use or zoning of the property
9 has changed in the year prior to the tax year.

10 B. If a change of ownership of residential property
11 occurred in the year immediately prior to the tax year for
12 which the value of the property for property taxation purposes
13 is being determined, the value of the property shall ~~[be its~~
14 ~~current and correct value as determined pursuant to the general~~
15 ~~valuation provisions of the Property Tax Code]~~ not exceed the
16 higher of one hundred three percent of the value in the tax
17 year prior to the tax year in which the property is being
18 valued or one hundred six and one-tenth percent of the value in
19 the tax year two years prior to the tax year in which the
20 property is being valued; provided that the increase shall not
21 result in a valuation greater than the current and correct
22 value for the tax year in which the property is being valued.

23 [~~C. To assure that the values of residential~~
24 ~~property for property taxation purposes are at current and~~
25 ~~correct values in all counties prior to application of the~~

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1 ~~limitation in Subsection A of this section, the department~~
2 ~~shall determine for the 2000 tax year the sales ratio pursuant~~
3 ~~to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be~~
4 ~~determined pursuant to that section, conduct a sales-ratio~~
5 ~~analysis using both independent appraisals by the department~~
6 ~~and sales. If the sales ratio for a county for the 2000 tax~~
7 ~~year is less than eighty-five, as measured by the median ratio~~
8 ~~of value for property taxation purposes to sales price or~~
9 ~~independent appraisal by the department, the county shall not~~
10 ~~be subject to the limitations of Subsection A of this section~~
11 ~~and shall conduct a reassessment of residential property in the~~
12 ~~county so that by the 2003 tax year, the sales ratio is at~~
13 ~~least eighty-five. After such reassessment, the limitation on~~
14 ~~increases in valuation in this section shall apply in those~~
15 ~~counties in the earlier of the 2004 tax year or the first tax~~
16 ~~year following the tax year that the county has a sales ratio~~
17 ~~of eighty-five or higher, as measured by the median ratio of~~
18 ~~value for property taxation purposes to sales value or~~
19 ~~independent appraisal by the department. Thereafter, the~~
20 ~~limitation on increases in valuation of residential property~~
21 ~~for property taxation purposes in this section shall apply to~~
22 ~~subsequent tax years in all counties.~~

23 D.] C. The provisions of this section do not apply
24 to residential property for any tax year in which the property
25 is subject to the valuation limitation in Section 7-36-21.3

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1 NMSA 1978.

2 D. The board of county commissioners of a county
3 may adopt an ordinance requiring the county assessor:

4 (1) for the tax year beginning January 1,
5 2011, to value all residential property in the county, except
6 for new construction of residential property that was first
7 valued after 2001, at its taxable value in the 2001 tax year
8 and increase the value of each property by no more than three
9 percent per year through the tax year for which values are
10 being calculated in the current calendar year; provided that
11 the increase shall not result in a valuation greater than the
12 current and correct value for the tax year in which the
13 property is being valued; and

14 (2) for tax years beginning on or after:

15 (a) January 1, 2012, to limit the
16 increases in residential property values of property valued at
17 the property's current and correct value, except for new
18 construction, to no more than three percent of the taxable
19 value of the property in the tax year one year prior to the tax
20 year in which the property is being valued; or

21 (b) January 1, 2013, to limit the
22 increases in residential property values of property valued at
23 the property's current and correct value, except for new
24 construction, to no more than six and one-tenth percent of the
25 taxable value of the property in the tax year two years prior

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1 to the tax year in which the property is being valued.

2 E. A county that adopts the local option set forth
3 in Subsection D of this section shall:

4 (1) adopt an ordinance prior to January 1,
5 2011 making the provisions of Subsection D of this section
6 effective for tax years beginning on or after January 1, 2011
7 or beginning on or after the first tax year in which all
8 residential property in the county is valued at the property's
9 current and correct value but not later than the 2013 tax year;

10 (2) cease to value property pursuant to
11 Subsection A of this section for tax years beginning on or
12 after January 1, 2011, unless the county assessor is not able
13 to revalue the residential property in the entire county prior
14 to the 2012 tax year, in which case the county assessor shall
15 cease to value residential property pursuant to Subsection A of
16 this section in the first year following the revaluation of all
17 residential property in the county, but no later than tax year
18 2013; and

19 (3) provide in the ordinance implementing
20 Subsection D of this section that the limitation does not apply
21 to:

22 (a) a residential property in the first
23 tax year that the property is valued as residential property
24 for property taxation purposes;

25 (b) any physical improvements made to

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1 the property during the year immediately prior to the tax year
2 or omitted in a prior tax year; and

3 (c) valuation of a residential property
4 in any tax year in which the use or zoning of the property has
5 changed in the year prior to the tax year.

6 F. A county assessor shall:

7 (1) value new construction of residential
8 property by multiplying the sales price of the property by the
9 prior values median ratio generated annually by the department
10 for the county in which the new construction is located; and

11 (2) revalue residential property that was
12 first valued for tax purposes as residential property between
13 tax years 2002 and 2011 by adjusting the current assessed value
14 of the property to be consistent with the prior values median
15 ratio for the county in which the property being valued is
16 located.

17 ~~[E-]~~ G. As used in this section:

18 (1) "change of ownership" means a transfer to
19 a transferee by a transferor of all or any part of the
20 transferor's legal or equitable ownership interest in
21 residential property except for a transfer:

22 ~~[+1]~~ (a) to a trustee for the
23 beneficial use of the spouse of the transferor or the surviving
24 spouse of a deceased transferor;

25 ~~[+2]~~ (b) to the spouse of the

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1 transferor that takes effect upon the death of the transferor;

2 [~~(3)~~] (c) that creates, transfers or
3 terminates, solely between spouses, any co-owner's interest;

4 [~~(4)~~] (d) to a child of the transferor,
5 who occupies the property as [~~his~~] that person's principal
6 residence at the time of transfer; provided that the first
7 subsequent tax year in which that person does not qualify for
8 the head of household exemption on that property, a change of
9 ownership shall be deemed to have occurred;

10 [~~(5)~~] (e) that confirms or corrects a
11 previous transfer made by a document that was recorded in the
12 real estate records of the county in which the real property is
13 located;

14 [~~(6)~~] (f) for the purpose of quieting
15 the title to real property or resolving a disputed location of
16 a real property boundary;

17 [~~(7)~~] (g) to a revocable trust by the
18 transferor with the transferor, the transferor's spouse or a
19 child of the transferor as beneficiary; or

20 [~~(8)~~] (h) from a revocable trust
21 described in [~~Paragraph (7)~~] Subparagraph (g) of this
22 [~~subsection~~] paragraph back to the settlor or trustor or to the
23 beneficiaries of the trust; and

24 (2) "prior values median ratio" means a ratio
25 generated by the department for a county to be used to

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1 determine values of new construction set forth in the Sales
2 Ratio Statistical Summary published annually by the
3 department."

4 Section 3. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2010.

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