

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 108

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11 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

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AN ACT

RELATING TO TAXATION; EXTENDING THE THREE PERCENT LIMIT ON ANNUAL VALUATION INCREASES TO RESIDENTIAL PROPERTIES REGARDLESS OF WHETHER A CHANGE IN OWNERSHIP OCCURRED IN THE PRIOR TAX YEAR; PROVIDING FOR A REDUCTION IN RESIDENTIAL PROPERTY VALUE BEGINNING IN THE YEAR THE PROPERTY HAS A CHANGE OF OWNERSHIP OR IS VALUED AS NEW CONSTRUCTION; DECLARING AN EMERGENCY.

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 PROPERTY.--

A. County assessors shall annually determine values of property for property taxation purposes in accordance with the Property Tax Code and the regulations, orders, rulings and

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1 instructions of the department. Except as limited in Section
2 7-36-21.2 NMSA 1978, they shall also implement a program of
3 updating property values so that current and correct values of
4 property are maintained and shall have sole responsibility and
5 authority at the county level for property valuation
6 maintenance, subject only to the general supervisory powers of
7 the director.

8 B. The director shall implement a program of
9 regular evaluation of county assessors' valuation activities
10 with particular emphasis on the maintenance of current and
11 correct values.

12 C. Upon request of the county assessor, the
13 director may contract with a board of county commissioners for
14 the department to assume all or part of the responsibilities,
15 functions and authority of a county assessor to establish or
16 operate a property valuation maintenance program in the county.
17 The contract shall be in writing and shall include provisions
18 for the sharing of the program costs between the county and the
19 department. The contract must include specific descriptions of
20 the objectives to be reached and the tasks to be performed by
21 the contracting parties. The initial term of any contract
22 authorized under this subsection shall not extend beyond the
23 end of the fiscal year following the fiscal year in which it is
24 executed, but contracts may be renewed for additional one-year
25 periods for succeeding years.

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1 D. The department of finance and administration
2 shall not approve the operating budget of any county in which
3 there is not an adequate allocation of funds to the county
4 assessor for the purpose of fulfilling ~~[his]~~ the county
5 assessor's responsibilities for property valuation maintenance
6 under this section. If the department of finance and
7 administration questions the adequacy of any allocation of
8 funds for this purpose, it shall consult with the department,
9 the board of county commissioners and the county assessor in
10 making its determination of adequacy.

11 E. To aid the board of county commissioners in
12 determining whether a county assessor is operating an efficient
13 program of property valuation maintenance and in determining
14 the amount to be allocated to ~~[him]~~ the county assessor for
15 this function, the county assessor shall present with ~~[his]~~ the
16 county assessor's annual budget request a written report
17 setting forth improvements of property added to valuation
18 records during the year, additions of new property to valuation
19 records during the year, increases and decreases of valuation
20 during the year, the relationship of sales prices of property
21 sold to values of the property for property taxation purposes
22 and the current status of the overall property valuation
23 maintenance program in the county. The county assessor shall
24 send a copy of this report to the department."

25 **SECTION 2.** Section 7-36-21.2 NMSA 1978 (being Laws 2000,

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1 Chapter 10, Section 2, as amended) is amended to read:

2 "7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF
3 RESIDENTIAL PROPERTY.--

4 A. Except as required in this section, residential
5 property shall be valued at its current and correct value in
6 accordance with the provisions of the Property Tax Code;
7 provided that for the ~~[2001]~~ 2011 and subsequent tax years, the
8 value of ~~[a]~~ property in any tax year shall not exceed ~~[the~~
9 ~~higher of]~~ one hundred three percent of the value in the tax
10 year prior to the tax year in which the property is being
11 valued ~~[or one hundred six and one-tenth percent of the value~~
12 ~~in the tax year two years prior to the tax year in which the~~
13 ~~property is being valued]~~. This limitation on increases in
14 value does not apply to:

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

17 (2) any physical improvements, except for
18 solar energy system installations, made to the property during
19 the year immediately prior to the tax year or omitted in a
20 prior tax year; or

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

23 ~~[(a) a change of ownership of the~~
24 ~~property occurred in the year immediately prior to the tax year~~
25 ~~for which the value of the property for property taxation~~

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1 ~~purposes is being determined; or~~

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

4 ~~[B. If a change of ownership of residential~~
 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, the value of the property shall~~
 8 ~~be its current and correct value as determined pursuant to the~~
 9 ~~general valuation provisions of the Property Tax Code.]~~

10 B. Residential property in the first tax year that
 11 it is valued for property taxation purposes shall be valued by
 12 multiplying the sales price of the property by the presales
 13 assessment ratio generated for the tax year.

14 C. In 2011, all residential property that had a
 15 change of ownership in or after the 2004 tax year and before
 16 the 2011 tax year shall be valued at the value of the property
 17 in the year immediately preceding the year the change of
 18 ownership occurred and that value shall be increased by no more
 19 than three percent for each year following the transfer through
 20 the 2010 tax year; provided that the value of the property for
 21 the 2011 tax year shall not exceed its current and correct
 22 value.

23 D. In 2011, all residential property that had been
 24 valued as new construction in or after the 2004 tax year and
 25 before the 2011 tax year shall be valued by multiplying the

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1 sales price of the property in the first tax year that the new
2 construction is valued for property taxation purposes by the
3 presales assessment ratio for the tax year for the county in
4 which the new construction is located and that value shall be
5 increased by no more than the three percent for each year
6 following the transfer through the 2010 tax year; provided that
7 the value of the property for the 2011 tax year shall not
8 exceed its current and correct value.

9 ~~[G.]~~ E. To assure that the values of residential
10 property for property taxation purposes are at current and
11 correct values in all counties prior to application of the
12 limitation in Subsection A of this section, the department
13 shall determine for the 2000 tax year the sales ratio pursuant
14 to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be
15 determined pursuant to that section, conduct a sales-ratio
16 analysis using both independent appraisals by the department
17 and sales. If the sales ratio for a county for the 2000 tax
18 year is less than eighty-five, as measured by the median ratio
19 of value for property taxation purposes to sales price or
20 independent appraisal by the department, the county shall not
21 be subject to the limitations of Subsection A of this section
22 and shall conduct a reassessment of residential property in the
23 county so that by the 2003 tax year, the sales ratio is at
24 least eighty-five. After such reassessment, the limitation on
25 increases in valuation in this section shall apply in those

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1 counties in the earlier of the 2004 tax year or the first tax
 2 year following the tax year that the county has a sales ratio
 3 of eighty-five or higher, as measured by the median ratio of
 4 value for property taxation purposes to sales value or
 5 independent appraisal by the department. Thereafter, the
 6 limitation on increases in valuation of residential property
 7 for property taxation purposes in this section shall apply to
 8 subsequent tax years in all counties.

9 ~~[D.]~~ F. The provisions of this section do not apply
 10 to residential property for any tax year in which the property
 11 is subject to the valuation limitation in Section 7-36-21.3
 12 NMSA 1978.

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

14 (1) "change of ownership" means a transfer to
 15 a transferee by a transferor of all or any part of the
 16 transferor's legal or equitable ownership interest in
 17 residential property except for a transfer:

18 ~~[(1)]~~ (a) to a trustee for the
 19 beneficial use of the spouse of the transferor or the surviving
 20 spouse of a deceased transferor;

21 ~~[(2)]~~ (b) to the spouse of the
 22 transferor that takes effect upon the death of the transferor;

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

25 ~~[(4)]~~ (d) to a child of the transferor,

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1 who occupies the property as that person's principal residence
2 at the time of transfer; provided that the first subsequent tax
3 year in which that person does not qualify for the head of
4 household exemption on that property, a change of ownership
5 shall be deemed to have occurred;

6 [~~(5)~~] (e) that confirms or corrects a
7 previous transfer made by a document that was recorded in the
8 real estate records of the county in which the real property is
9 located;

10 [~~(6)~~] (f) for the purpose of quieting
11 the title to real property or resolving a disputed location of
12 a real property boundary;

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

16 [~~(8)~~] (h) from a revocable trust
17 described in [~~Paragraph (7)~~] Subparagraph (g) of this
18 [~~subsection~~] paragraph back to the settlor or trustor or to the
19 beneficiaries of the trust;

20 (2) "presales assessment ratio" means a ratio
21 generated annually by the department for each county and found
22 in the annual sales ratio study of the property tax division of
23 the department derived by dividing current year property
24 assessments by current and correct values generated from arm's
25 length sales transactions; and

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1 [~~F. As used in this section~~] (3) "solar
2 energy system installation" means an installation that is used
3 to provide space heat, hot water or electricity to the property
4 in which it is installed and is:

5 [~~(1)~~] (a) an installation that uses
6 solar panels that are not also windows;

7 [~~(2)~~] (b) a dark-colored water tank
8 exposed to sunlight; or

9 [~~(3)~~] (c) a non-vented trombe wall."

10 SECTION 3. APPLICABILITY.--

11 A. The provisions of Section 1 of this act apply to
12 property tax years beginning on or after January 1, 2011.

13 B. The provisions of this act apply to valuation of
14 residential property for tax year 2011 or succeeding tax years.

15 SECTION 4. EFFECTIVE DATE.--The effective date of the
16 provisions of Section 1 of this act is January 1, 2012.

17 SECTION 5. EMERGENCY.--It is necessary for the public
18 peace, health and safety that this act take effect immediately.

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