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AN ACT

RELATING TO TAXATION; PROVIDING PROCEDURES FOR THE SALE OF
ABANDONED REAL PROPERTY FOR WHICH DELINQUENT PROPERTY TAX IS
DUE; DEFINING "ABANDONED REAL PROPERTY" IN THE PROPERTY TAX
CODE.

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

SECTION 1. Section 7-35-2 NMSA 1978 (being Laws 1973,
Chapter 258, Section 2, as amended by Laws 1994, Chapter 9,
Section 1 and by Laws 1994, Chapter 9, Section 2) is amended
to read:

"7-35-2. DEFINITIONS.--As used in the Property Tax
Code:

A. "abandoned real property" means real property:

(1) that is part of a subdivision where the
subdivision has a minimum of five thousand lots in
delinquency on the department's delinquent property tax list
as prepared by the appropriate county treasurer pursuant to
Section 7-38-61 NMSA 1978 as of January 1, 2019;

(2) of which the subdivided lots are vacant;

(3) that is part of a subdivision plotted on
or before 1980;

(4) the property taxes, penalties and
interest of which are delinquent for at least ten years; and

(5) that does not include property with

1 existing homes, businesses or other habitable structures;

2 B. "department" or "division" means the taxation
3 and revenue department, the secretary of taxation and revenue
4 or any employee of the department exercising authority
5 lawfully delegated to that employee by the secretary;

6 C. "director" means the secretary;

7 D. "livestock" means cattle, buffalo, horses,
8 mules, sheep, goats, swine, ratites and other domestic
9 animals useful to humans;

10 E. "manufactured home" means a manufactured home
11 as that term is defined in Section 66-1-4.11 NMSA 1978;

12 F. "net taxable value" means the value of property
13 upon which the tax is imposed and is determined by deducting
14 from taxable value the amount of any exemption authorized by
15 the Property Tax Code;

16 G. "nonresidential property" means property that
17 is not residential property;

18 H. "owner" means the person in whom is vested any
19 title to property;

20 I. "person" means an individual or any other legal
21 entity;

22 J. "property" means tangible property, real or
23 personal;

24 K. "residential property" means property
25 consisting of one or more dwellings together with appurtenant

1 structures, the land underlying both the dwellings and the
2 appurtenant structures and a quantity of land reasonably
3 necessary for parking and other uses that facilitate the use
4 of the dwellings and appurtenant structures. As used in this
5 subsection, "dwellings" includes both manufactured homes and
6 other structures when used primarily for permanent human
7 habitation, but the term does not include structures when
8 used primarily for temporary or transient human habitation
9 such as hotels, motels and similar structures;

10 L. "secretary" means the secretary of taxation and
11 revenue and, except for purposes of Section 7-35-6 NMSA 1978
12 and Paragraphs (1) and (2) of Subsection B of Section
13 9-11-6.2 NMSA 1978, also includes the deputy secretary or a
14 division director or deputy division director delegated by
15 the secretary;

16 M. "tax" means the property tax imposed under the
17 Property Tax Code;

18 N. "taxable value" means the value of property
19 determined by applying the tax ratio to the value of the
20 property determined for property taxation purposes;

21 O. "tax rate" means the rate of the tax expressed
22 in terms of dollars per thousand dollars of net taxable value
23 of property;

24 P. "tax ratio" means the percentage established
25 under the Property Tax Code that is applied to the value of

1 property determined for property taxation purposes in order
2 to derive taxable value; and

3 Q. "tax year" means the calendar year."

4 SECTION 2. Section 7-38-66 NMSA 1978 (being Laws 1973,
5 Chapter 258, Section 106, as amended by Laws 2001, Chapter
6 253, Section 2 and by Laws 2001, Chapter 254, Section 2) is
7 amended to read:

8 "7-38-66. SALE OF REAL PROPERTY FOR DELINQUENT TAXES--
9 NOTICE OF SALE.--

10 A. At least twenty days but not more than thirty
11 days before the date of the sale for delinquent taxes, the
12 department shall notify by certified mail, return receipt
13 requested, and, for abandoned real property, an additional
14 letter sent by first class mail, to the address as shown on
15 the most recent property tax schedule, each property owner
16 whose real property will be sold that the owner's real
17 property will be sold to satisfy delinquent taxes, unless:

18 (1) all delinquent taxes, penalties,
19 interest and costs due are paid by 5:00 p.m. of the day prior
20 to the date of the sale, or, for abandoned real property
21 being sold via an online platform as provided in Subsection D
22 of Section 7-38-67.1 NMSA 1978, all delinquent taxes,
23 penalties, interest and costs due are paid by 5:00 p.m. of
24 the day prior to the date the property is offered on the
25 property tax division's website; or

1 (2) an installment agreement for payment of
2 all delinquent taxes, penalties, interest and costs due is
3 entered into with the department by 5:00 p.m. of the day
4 prior to the date of sale in accordance with Section 7-38-68
5 NMSA 1978, or, for abandoned real property sold via an online
6 platform as provided in Subsection D of Section 7-38-67.1
7 NMSA 1978, an installment agreement for payment of all
8 delinquent taxes, penalties, interest and costs due is
9 entered into with the department in accordance with Section
10 7-38-68 NMSA 1978 by 5:00 p.m. of the day prior to the date
11 the property is offered on the property tax division's
12 website.

13 B. The notice shall also:

14 (1) state the amount of taxes, penalties,
15 interest and costs due;

16 (2) state the time and place of the sale;

17 (3) if online, state the date and time the
18 sale begins and expires and the web address of the property
19 tax division's website where the property being sold will be
20 listed;

21 (4) describe the real property that will be
22 sold;

23 (5) inform the property owner of the
24 property owner's right to apply for an installment agreement
25 with the department for payment of delinquent taxes,

1 penalties, interest and costs, in accordance with
2 Section 7-38-68 NMSA 1978;

3 (6) provide information on the name and
4 phone number of the individual in the department the owner
5 can contact to arrange for an installment agreement in
6 accordance with Section 7-38-68 NMSA 1978; and

7 (7) contain any other information that the
8 department may require by rule.

9 C. At the same time a notice required by
10 Subsection A of this section is sent to the owner of the real
11 property, a notice containing the information set out in
12 Subsection B of this section shall also be sent to each
13 person holding a lien or security interest of record in the
14 property if an address for such person is reasonably
15 ascertainable through a search of the property records of the
16 county in which the property is located.

17 D. Failure of the department to mail a required
18 notice by certified mail, return receipt requested, shall
19 invalidate the sale; provided, however, that return to the
20 department of the notice of the return receipt shall be
21 deemed adequate notice and shall not invalidate the sale.

22 E. Proof that all delinquent taxes, penalties,
23 interest and costs had been paid by 5:00 p.m. of the day
24 prior to the date of sale shall prevent or invalidate the
25 sale.

1 F. For abandoned real property sold via an online
2 platform as provided in Subsection D of Section 7-38-67.1
3 NMSA 1978, proof that the owner has paid all delinquent
4 taxes, penalties, interest and costs due by 5:00 p.m. of the
5 day prior to the date the property is offered on the property
6 tax division's website shall invalidate the sale.

7 G. Proof that the owner has, by 5:00 p.m. of the
8 day prior to the date of sale, entered into an installment
9 agreement to pay all delinquent taxes, penalties, interest
10 and costs as provided in Section 7-38-68 NMSA 1978 and that
11 timely payments under such agreement are being made shall
12 prevent or invalidate the sale.

13 H. For abandoned real property sold via an online
14 platform as provided in Subsection D of Section 7-38-67.1
15 NMSA 1978, proof that the owner has entered into an
16 installment agreement with the department for payment of all
17 delinquent taxes, penalties, interest and costs due in
18 accordance with Section 7-38-68 NMSA 1978 by 5:00 p.m. of the
19 day prior to the date the property is offered on the property
20 tax division's website shall invalidate the sale.

21 I. The time requirements of this section are
22 subject to the provisions of Section 7-38-83 NMSA 1978."

23 SECTION 3. A new Section 7-38-67.1 NMSA 1978 is enacted
24 to read:

25 "7-38-67.1. SALE OF ABANDONED REAL PROPERTY--NOTICE OF

1 SALE--REQUIREMENTS.--

2 A. Abandoned real property may be sold by special
3 sale.

4 B. Notice of the sale shall be published in a
5 local newspaper within the county where the abandoned real
6 property is located, or in a newspaper published in a county
7 contiguous to or near the county in which the abandoned real
8 property is located, the week immediately preceding the week
9 of the sale. In cases where abandoned real property is
10 offered for sale via an online platform pursuant to
11 Subsection D of this section, the notice of the sale shall be
12 published in a local newspaper within the county where the
13 abandoned real property is located, or in a newspaper
14 published in a county contiguous to or near the county in
15 which the abandoned real property is located, the week
16 immediately preceding the week of the beginning of the
17 continuous online sale. Online sales notices pursuant to
18 this section shall also be published on the property tax
19 division's website. The notice shall:

20 (1) state the time and place of the sale;

21 (2) if the sale is made via an online sale
22 pursuant to Subsection D of this section, state the date and
23 time the sale will begin and expire and the property tax
24 division's website where the property being sold will be
25 listed;

1 (3) include the name of the subdivision in
2 which the abandoned real property is located;

3 (4) state the total minimum bid; and

4 (5) provide the phone number of the property
5 tax division and the web address where interested buyers may
6 obtain copies of the list of properties to be sold.

7 C. Abandoned real property may be sold at public
8 auction either by the department or an auctioneer hired by
9 the department. The auction shall be held in the county
10 where the abandoned real property is located at a time and
11 place designated by the department.

12 D. Abandoned real property may be offered for sale
13 via an online platform on the property tax division's
14 website, and notice shall be given pursuant to Subsection B
15 of this section. The sales of abandoned real property listed
16 on the property tax division's website may be continuous
17 until December 31 of the tax year in which the abandoned real
18 property is offered for sale. For subsequent tax years,
19 notice shall be given pursuant to Subsection B of this
20 section before the abandoned real property listed on the
21 property tax division's website can be reoffered for sale.

22 E. Before the sale, the department shall determine
23 a minimum sale price for the abandoned real property. In
24 determining the minimum price, the department shall consider
25 the amount of all delinquent taxes, penalties, interest and

1 costs for which the abandoned real property is being sold.
2 If the department determines the total amount due is in
3 excess of the sale price that could reasonably be made
4 through public auction, the property tax division may offer
5 the abandoned real property for less than the total amount of
6 delinquent taxes, penalties, interest and costs due.

7 F. A sale properly made under the authority of and
8 in accordance with the requirements of this section
9 constitutes full payment of all delinquent taxes, penalties
10 and interest that are a lien pursuant to Section 7-38-48
11 NMSA 1978 against the abandoned real property at the time of
12 sale, and the sale extinguishes the lien.

13 G. Payment shall be made in full by the close of
14 the public auction before an offer may be deemed accepted by
15 the department. For abandoned real property sold via an
16 online platform pursuant to Subsection D of this section,
17 payment shall be made in full within one business day of the
18 bid being accepted by the department before an offer may be
19 deemed accepted by the department. Receipt of a bid from a
20 buyer by the department is not acceptance of the bid by the
21 department. The department shall notify the buyer whose bid
22 is accepted by the department, and the one business day
23 payment requirement begins at the time the buyer received
24 notice of acceptance to the buyer whose bid was accepted by
25 the department. Notice of acceptance of a bid sent to a

1 buyer by the department may be sent via email. Failure of a
2 buyer whose bid was accepted by the department and to whom
3 notice was sent by the department to pay the full sales price
4 within one business day invalidates the sale and the property
5 can be reoffered for sale unless the buyer receives an
6 extension to make payment from the department. Requests for
7 time extensions and approvals of time extensions can be made
8 via email.

9 H. The board of trustees of a community land
10 grant-merced governed pursuant to the provisions of
11 Chapter 49, Article 1 NMSA 1978, or by statutes specific to
12 the named land grant-merced, shall be allowed to exercise the
13 right of first offer to purchase the abandoned real property
14 if:

15 (1) the abandoned real property offered for
16 sale is situated within the boundaries of that land
17 grant-merced as shown in the United States patent to the
18 grant;

19 (2) the offer covers all taxes, penalties,
20 interest and costs due on the abandoned real property unless
21 the minimum sales price is reduced below total amounts owed
22 pursuant to Subsection E of this section; and

23 (3) the land becomes part of the common
24 lands of the land grant-merced.

25 I. In the event that there is a competing interest SCORC/SB 109
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1 in the abandoned real property by prior landholders, such as
2 land grant owners, pueblos or nontaxable entities, the
3 secretary shall determine who has the prevailing right of
4 first offer.

5 J. The time requirements of this section are
6 subject to the provisions of Section 7-38-83 NMSA 1978.

7 K. As used in this section, "right of first offer"
8 means the department is obliged to undergo exclusive good
9 faith negotiations with the rights holder before offering
10 abandoned real property for sale to the public."

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