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SENATE BILL 884

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

NANCY E. RODRIGUEZ

AN ACT

RELATING TO PROPERTY TAX; ESTABLISHING DEADLINE FOR PAYMENT OF
DELINQUENT TAXES TO PREVENT SALE OF PROPERTY; AMENDING CERTAIN
SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-38-65 NMSA 1978 (being Laws 1973,
Chapter 258, Section 105, as amended) is amended to read:

"7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL
PROPERTY-- SALE OF REAL PROPERTY. --

A. The department may collect delinquent taxes on
real property by selling the real property on which the taxes
have become delinquent. The sale of real property for
delinquent taxes shall be in accordance with the provisions of
the Property Tax Code. Real property may be sold for delinquent
taxes at any time after the expiration of three years from the

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1 first date shown on the tax delinquency list on which the taxes
2 became delinquent. Real property shall be offered for sale for
3 delinquent taxes either within four years after the first date
4 shown on the tax delinquency list on which the taxes became
5 delinquent or, if the department is barred by operation of law
6 or by order of a court of competent jurisdiction from offering
7 the property for sale for delinquent taxes within four years
8 after the first date shown on the tax delinquency list on which
9 the taxes became delinquent, within one year from the time the
10 department determines that it is no longer barred from selling
11 the property, unless:

12 (1) all delinquent taxes, penalties, interest
13 and costs due are paid ~~[by]~~ on or before the date that is three
14 business days prior to the date of the sale; or

15 (2) an installment agreement for payment of all
16 delinquent taxes, penalties, ~~[interests]~~ interest and costs due
17 is entered into with the department ~~[by]~~ on or before the date
18 that is three business days prior to the date of the sale
19 pursuant to Section 7-38-68 NMSA 1978.

20 B. Failure to offer property for sale within the
21 time prescribed by Subsection A of this section shall not impair
22 the validity or effect of any sale which does take place."

23 Section 2. Section 7-38-66 NMSA 1978 (being Laws 1973,
24 Chapter 258, Section 106, as amended) is amended to read:

25 "7-38-66. SALE OF REAL PROPERTY FOR DELINQUENT TAXES--

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1 NOTICE OF SALE. --

2 A. At least twenty days but not more than thirty
3 days before the date of the sale for delinquent taxes, the
4 department shall notify by certified mail, return receipt
5 requested, to the address as shown on the most recent property
6 tax schedule, each property owner whose real property will be
7 sold that the owner's real property will be sold to satisfy
8 delinquent taxes, unless:

9 (1) all delinquent taxes, penalties, interest
10 and costs due are paid [by] on or before that date that is three
11 business days prior to the date of the sale; or

12 (2) an installment agreement for payment of all
13 delinquent taxes, penalties, interest and costs due is entered
14 into with the department [by] on or before that date that is
15 three business days prior to the date of the sale in accordance
16 with Section 7-38-68 NMSA 1978.

17 B. The notice shall also:

18 (1) state the amount of taxes, penalties,
19 interest and costs due;

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

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

23 (4) contain any other information that the
24 department may require by regulation.

25 C. At the same time a notice required by Subsection

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1 A of this section is sent to the owner of the property, a notice
2 containing the information set out in Subsection B of this
3 section shall also be sent to each person holding a lien or
4 security interest of record in the property if an address for
5 such person is reasonably ascertainable through a search of the
6 property records of the county in which the property is located.

7 D. Failure of the department to mail a required
8 notice by certified mail, return receipt requested, shall
9 invalidate the sale; provided, however, that return to the
10 department of the notice of the return receipt shall be deemed
11 adequate notice and shall not invalidate the sale.

12 E. Proof by the taxpayer that all delinquent taxes,
13 penalties, interest and costs had been paid on or before the
14 date that was three business days prior to the date of the sale
15 shall prevent or invalidate the sale.

16 F. Proof by the taxpayer that the taxpayer has
17 entered into an installment agreement on or before the date that
18 was three business days prior to the date of the sale to pay all
19 delinquent taxes, penalties, interest and costs [~~prior to the~~
20 ~~date of sale~~] as provided in Section 7-38-68 NMSA 1978 and that
21 timely payments under such agreement are being made shall
22 prevent or invalidate the sale."

23 Section 3. Section 7-38-68 NMSA 1978 (being Laws 1973,
24 Chapter 258, Section 108, as amended) is amended to read:

25 "7-38-68. INSTALLMENT AGREEMENTS. --

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1 A. The ~~[division]~~ department may enter into an
2 installment agreement for the payment of all delinquent property
3 taxes, penalties, interest and costs due with respect to either
4 real property or a manufactured home with the owner of the real
5 property or manufactured home whose taxes have become delinquent
6 and whose account for all or part of the delinquent taxes has
7 been transferred for collection to the ~~[division]~~ department.
8 Execution of an installment agreement under this section by a
9 property owner is an irrevocable admission of liability for all
10 taxes that are the subject of the agreement. The installment
11 agreement shall be in writing and shall not extend for a period
12 of more than thirty-six months. Interest shall accrue on the
13 unpaid balance during the period of the installment agreement.
14 The rate of interest shall be one percent a month, and no other
15 interest on that portion of the principal representing unpaid
16 taxes shall accrue while an installment agreement is in effect.
17 The ~~[division]~~ department shall not enter into an installment
18 agreement with a property owner ~~[on or]~~ after the date that is
19 three business days prior to the date of the initial sale of
20 real property or manufactured home for delinquent taxes whether
21 or not the real property or manufactured home is sold and a deed
22 issued as a result of that sale. The ~~[division]~~ department
23 shall promulgate regulations establishing requirements for a
24 minimum down payment and substantially equal monthly payments
25 for installment agreements.

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1 B. An installment agreement prevents any further
2 action to collect the delinquent taxes stated in the agreement
3 as long as the terms of the agreement are met.

4 C. The [~~division~~] department may proceed under the
5 Property Tax Code to collect the property taxes, penalties,
6 interest and costs due and unpaid if:

7 (1) installment payments are not made on or
8 before the dates specified in the agreement;

9 (2) the property owner fails to pay other
10 property taxes when required; or

11 (3) any other condition contained in the
12 agreement is not met.

13 D. For the purpose of computing the time when real
14 property or a manufactured home may be sold for delinquent
15 taxes, the date of original delinquency shall be used when the
16 delinquent taxes have been the subject of an installment
17 agreement that was subsequently breached by the property owner.

18 E. If an owner of real property or a manufactured
19 home enters into an installment agreement and subsequently
20 breaches the agreement under this section, the [~~division~~]
21 department shall not enter into another installment agreement
22 with that property owner for the payment of the delinquent taxes
23 that were the subject of the installment agreement.

24 F. Alphabetically indexed and serially numbered
25 records of installment agreements must be kept in the office of

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1 the director and made available for public inspection. "

2 Section 4. Section 7-38-70 NMSA 1978 (being Laws 1973,
3 Chapter 258, Section 110, as amended) is amended to read:

4 "7-38-70. ISSUANCE OF DEEDS AS RESULT OF SALE OF REAL
5 PROPERTY FOR DELINQUENT TAXES--EFFECT OF DEEDS--LIMITATION OF
6 ACTION TO CHALLENGE CONVEYANCE. --

7 A. Upon receiving payment for real property sold for
8 delinquent taxes, the [~~division~~] department shall execute and
9 deliver a deed to the purchaser.

10 B. If the real property was sold substantially in
11 accordance with the Property Tax Code, the deed conveys all of
12 the former property owner's interest in the real property as of
13 the date the state's lien for real property taxes arose in
14 accordance with the Property Tax Code, subject only to perfected
15 interests in the real property existing before the date the
16 property tax lien arose.

17 C. After two years from the date of sale, neither
18 the former real property owner shown on the property tax
19 schedule as the delinquent taxpayer nor anyone claiming through
20 him may bring an action challenging the conveyance.

21 D. Subject to the limitation of Subsection C of this
22 section, in all controversies and suits involving title to real
23 property held under a deed from the state issued under this
24 section, any person claiming title adverse to that acquired by
25 the deed from the state [~~must~~] shall prove, in order to defeat

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1 the title, that:

2 (1) the real property was not subject to
3 taxation for the tax years for which the delinquent taxes for
4 which it was sold were imposed;

5 (2) the [~~division~~] department failed to mail
6 the notice required under Section 7-38-66 NMSA 1978 or to
7 receive any required return receipt;

8 (3) he, or the person through whom he claims,
9 had title to the real property at the time of the sale and had
10 paid all delinquent taxes, penalties, interest and costs on or
11 before the date that was three business days prior to the date
12 of the sale as provided in Subsection E of Section 7-38-66 NMSA
13 1978; or

14 (4) he, or the person through whom he claims,
15 had entered into an installment agreement on or before the date
16 that was three business days prior to the date of the sale to
17 pay all delinquent taxes, penalties, interest and costs [~~prior~~
18 ~~to the sale~~] as provided in Section 7-38-68 NMSA 1978 and that
19 all payments due were made timely. "

20 Section 5. APPLICABILITY. --The provisions of this act
21 apply to the 1998 and subsequent property tax years.

State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 14, 1997

Mr. Speaker:

Your **TAXATION AND REVENUE COMMITTEE**, to whom has
been referred

SENATE BILL 884

has had it under consideration and reports same with
recommendation that it **DO PASS**, and thence referred to the
JUDICIARY COMMITTEE.

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SB 884

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Sandoval

Absent: None

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State of New Mexico House of Representatives

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 14, 1997

Mr. Speaker:

**Your TAXATION AND REVENUE COMMITTEE, to whom has
been referred**

SENATE BILL 884

**has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.**

Respectfully submitted,

Jerry W. Sandel, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SB 884

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Sandoval

Absent: None

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 21, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 884

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Thomas P. Foy, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 1 Against

Yes: 6

No: King

Excused: Alwin, Foy, Luna, Rios, Sanchez, Stewart

Absent: None

M \S0884

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