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SENATE BILL 897

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

INTRODUCED BY

MARK L. BOITANO

AN ACT

RELATING TO PROPERTY TAXATION; PROVIDING FOR PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER TO DEFER THE DATE THAT CERTAIN PROPERTY TAXES ARE DUE; PROVIDING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 7-38-20 NMSA 1978 (being Laws 1973, Chapter 258, Section 60, as amended) is amended to read:

"7-38-20. COUNTY ASSESSOR AND DEPARTMENT TO MAIL NOTICES OF VALUATION. --

A. By April 1 of each year, the county assessor shall mail a notice to each property owner informing him of the net taxable value of his property that has been valued for property taxation purposes by the assessor.

B. By May 1 of each year, the department shall mail

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1 a notice to each property owner informing him of the net taxable  
2 value of his property that has been valued for property taxation  
3 purposes by the department.

4 C. Failure to receive the notice required by this  
5 section does not invalidate the value set on the property, any  
6 property tax based on that value or any subsequent procedure or  
7 proceeding instituted for the collection of the tax.

8 D. The notice required by this section shall state:

- 9 (1) the property owner's name and address;
- 10 (2) the description or identification of the  
11 property valued;
- 12 (3) the classification of the property valued;
- 13 (4) the value set on the property for property  
14 taxation purposes;
- 15 (5) the tax ratio;
- 16 (6) the taxable value of the property;
- 17 (7) the amount of any exemptions allowed and a  
18 statement of the net taxable value of the property after  
19 deducting the exemptions;
- 20 (8) the allocations of net taxable values to  
21 the governmental units; ~~[and]~~
- 22 (9) briefly, the procedures for protesting the  
23 value determined for property taxation purposes, classification,  
24 allocation of values to governmental units or denial of a claim  
25 for an exemption; and

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1                   (10) in large type and placed conspicuously on  
2 the form, the eligibility requirements, procedures and deadline  
3 for applying for a deferral of the date certain residential  
4 property taxes are due, and shall include the following notice:

5                                   "NOTICE TO TAXPAYERS

6   OPTION TO DEFER PAYMENT OF PROPERTY TAXES

7 If you are sixty-five years of age or older and meet income  
8 limitations and other requirements, New Mexico law entitles you  
9 to DEFER PAYMENT of a portion of property taxes imposed on your  
10 home in excess of five percent of your household income. To get  
11 more information or apply for a tax deferral, see the  
12 information below.

13                   WARNING: DEFERRING TAXES WILL RESULT IN TAXES BECOMING DUE  
14 UPON SALE OR TRANSFER OF YOUR HOME OR UPON YOUR DEATH. "

15                   E. The county assessor may mail the valuation notice  
16 required pursuant to Subsection A of this section to taxpayers  
17 with the preceding tax year's property tax bills if the net  
18 taxable value of the property has not changed since the  
19 preceding taxable year. In this early mailing, the county  
20 assessor shall provide clear notice to the taxpayer that the  
21 valuation notice is for the succeeding tax year and that the  
22 deadlines for protest of the value or classification of the  
23 property apply to this mailing date."

24                   Section 2. Section 7-38-31 NMSA 1978 (being Laws 1973,  
25 Chapter 258, Section 71) is amended to read:

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1           "7-38-31. COUNTY ASSESSOR TO CERTIFY NET TAXABLE VALUES TO  
2 THE DEPARTMENT. --After receiving the values for property  
3 taxation purposes certified to him by the department, the county  
4 assessor shall determine the net taxable value for all property  
5 allocated to governmental units in the county and subject to  
6 valuation for property taxation purposes, whether valued by him  
7 or by the department. No later than June 15 of each year, the  
8 county assessor shall certify to the department the net taxable  
9 values for all property allocated to governmental units in the  
10 county and subject to property taxation. The net taxable values  
11 of property shall be certified according to governmental units  
12 within the county. The assessor's certification shall include a  
13 statement of all property valuations that are the subject of a  
14 pending protest, whether protested locally or to the department,  
15 [~~and~~] a statement of the uncontroverted valuation in the pending  
16 protests and property valuations of property for which the  
17 property tax due date has been deferred pursuant to Section  
18 7-38-38.3 NMSA 1978. "

19           Section 3. Section 7-38-32 NMSA 1978 (being Laws 1973,  
20 Chapter 258, Section 72, as amended) is amended to read:

21           "7-38-32. DEPARTMENT TO PREPARE A COMPILATION OF NET  
22 TAXABLE VALUES TO BE USED FOR BUDGET-MAKING AND RATE-SETTING. --

23           A. No later than June 30 of each year, the  
24 department shall prepare a compilation of all net taxable values  
25 certified to it by the county assessors and shall include in the

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1 compilation the information regarding protested values required  
2 to be furnished by the assessors to the department and the net  
3 taxable values of property for which the tax due date has been  
4 deferred pursuant to Section 7-38-38.3 NMSA 1978. The  
5 compilation shall be prepared in a form appropriate for use and  
6 shall be used for the purpose of making budgets. The  
7 compilation of net taxable values shall be sent immediately to  
8 the secretary of finance and administration.

9 B. No later than August 1 of each year, the  
10 department shall prepare an amended compilation of net taxable  
11 values and send it immediately to the secretary of finance and  
12 administration. This amended compilation shall include final  
13 valuations resulting from completed protests and information on  
14 pending protests and deletion of net taxable values of property  
15 for which the tax due date has been deferred. It shall be used  
16 by the department of finance and administration in setting  
17 property tax rates.

18 C. In the budget-making process for local units of  
19 government including school districts, the net taxable values  
20 from the immediately preceding tax year may be considered for  
21 the purpose of estimating available revenue from the current tax  
22 year when the compilation of net taxable values certified under  
23 Subsection A of this section is incomplete or indefinite due to  
24 pending protests. "

25 Section 4. Section 7-38-35 NMSA 1978 (being Laws 1973,

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1 Chapter 258, Section 75, as amended) is amended to read:

2 "7-38-35. PREPARATION OF PROPERTY TAX SCHEDULE BY  
3 ASSESSOR. --

4 A. After receipt of the rate-setting order and the  
5 order imposing the tax, but no later than October 1 of each tax  
6 year, the county assessor shall prepare a property tax schedule  
7 for all property subject to property taxation in the county.  
8 This schedule shall be in a form and contain the information  
9 required by regulations of the [~~division~~] department and shall  
10 contain at least the following information:

11 (1) the description of the property taxed and,  
12 if the property is personal property, its location;

13 (2) the property owner's name and address and  
14 the name and address of any person other than the owner to whom  
15 the tax bill is to be sent;

16 (3) the classification of the property;

17 (4) the value of the property determined for  
18 property taxation purposes;

19 (5) the tax ratio;

20 (6) the taxable value of the property;

21 (7) the amount of any exemption allowed and a  
22 statement of the net taxable value of the property after  
23 deducting the exemption;

24 (8) the allocations of net taxable value to the  
25 governmental units;

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1 (9) the tax rate in dollars per thousand of net  
2 taxable value for all taxes imposed on the property;

3 (10) the amount of taxes due on the described  
4 property; ~~and~~

5 (11) the amount of any penalties and interest  
6 already imposed and due on the described property; and

7 (12) the amount of taxes deferred, if any.

8 B. The property tax schedule is a public record and  
9 a part of the valuation records. "

10 Section 5. Section 7-38-37 NMSA 1978 (being Laws 1973,  
11 Chapter 258, Section 77, as amended) is amended to read:

12 "7-38-37. CONTENTS OF PROPERTY TAX BILL. -- Each property  
13 tax bill shall be in a form and contain the information required  
14 by regulations of the department and shall contain at least the  
15 following:

16 A. all of the information required to be contained  
17 in the property tax schedule;

18 B. the amount of property taxes due on each  
19 installment, the due dates of the installments and the dates on  
20 which taxes become delinquent;

21 C. a brief statement of the option available to make  
22 prepayments of the property tax due pursuant to Section  
23 7-38-38.2 NMSA 1978;

24 D. a brief statement of the procedure under Section  
25 7-38-39 NMSA 1978 for protesting values for property taxation

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1 purposes, classification, allocation of values to governmental  
2 units or a denial of a claim for an exemption;

3 E. a statement of the interest and penalties imposed  
4 by law for delinquency in the payment of property taxes and the  
5 remedies available against the taxpayer and the property for  
6 nonpayment of the amount due;

7 F. a statement advising the property owner that the  
8 property tax bill is the only notice he will receive for payment  
9 of both installments of the tax if no separate notice will be  
10 sent with respect to the second installment; [and]

11 G. the amount of any prepayment of the first  
12 installment made pursuant to Section 7-38-38.2 NMSA 1978; and

13 H. the actual amount of property taxes deferred  
14 pursuant to Section 7-38-38.3 NMSA 1978 for the current tax year  
15 and the accrued amount of all property taxes deferred from all  
16 tax years. "

17 Section 6. A new section of the Property Tax Code, Section  
18 7-38-38.3 NMSA 1978, is enacted to read:

19 "7-38-38.3. [NEW MATERIAL] DEFERRAL OF PROPERTY TAX  
20 DUE DATE--ELIGIBILITY.--

21 A. Each property tax year a claimant is entitled to  
22 apply for and the county treasurer may grant a deferral of the  
23 date on which some portion of the property taxes are due on the  
24 residential property that is the claimant's primary residence.  
25 A claimant may defer some or all of that portion of the property

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1 tax due on the claimant's primary residence in excess of five  
2 percent of the claimant's modified gross income for the taxable  
3 year immediately prior to the property tax year for which the  
4 deferral is being claimed.

5 B. When two or more individuals are qualified as  
6 claimants for one primary residence, they shall determine who  
7 the claimant shall be. The department shall prescribe the  
8 manner in which a claimant, who for any reason is incapacitated,  
9 may appoint the claimant's spouse or an authorized agent or have  
10 any such person appointed for the claimant, for the purpose of  
11 claiming a deferral of the date property taxes are due pursuant  
12 to this section.

13 C. Property taxes deferred pursuant to this section  
14 shall be due on November 10 of the year in which the first of  
15 any of the following events occurs, unless the event occurs  
16 after October 1, and in that case the deferred property taxes  
17 shall be due on April 10 of the following year:

18 (1) the claimant ceases to occupy the  
19 residential property as his primary residence or sells or  
20 otherwise disposes of that primary residence;

21 (2) the claimant dies; provided that if the  
22 surviving spouse or a joint tenant with rights of survivorship  
23 owning and occupying the primary residence and eligible to defer  
24 property taxes due pursuant to this section continues to own and  
25 occupy the residential property as that person's primary

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1 residence and chooses to claim a deferral of the date the  
2 deferred property taxes are due, then the deferred amounts shall  
3 not be due until that claimant dies or ceases to occupy the  
4 primary residence; or

5 (3) the county treasurer determines that  
6 deferral was erroneously allowed because eligibility  
7 requirements were not met.

8 D. As used in this section:

9 (1) "claimant" means an individual who is  
10 sixty-five years of age or older on the last day of the  
11 applicable tax year, who is an owner and occupant of residential  
12 property that is his primary residence on the last day of the  
13 applicable tax year and whose modified gross income does not  
14 exceed one hundred twenty-five percent of the poverty level for  
15 the claimant's household size;

16 (2) "modified gross income" means modified  
17 gross income as defined in the Income Tax Act; and

18 (3) "poverty level" means the official federal  
19 poverty guidelines published annually by the federal department  
20 of health and human services. "

21 Section 7. A new section of the Property Tax Code, Section  
22 7-38-38.4 NMSA 1978, is enacted to read:

23 "7-38-38.4. [NEW MATERIAL] PROPERTY TAX DEFERRAL--  
24 APPLICATION--CERTIFICATION--COLLECTION OF TAXES.--

25 A. To make application for a property tax deferral

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1 authorized pursuant to Section 7-38-38.3 NMSA 1978, a claimant  
2 shall file an application for deferral on or before June 1 of  
3 the tax year in which the property taxes are imposed.

4 Application shall be made at the office of the county treasurer.  
5 The department shall provide for uniform application forms and  
6 procedures.

7 B. If deferral is granted by the county treasurer,  
8 the county treasurer shall issue to the claimant a certificate  
9 of deferral and shall provide a listing of such certificates of  
10 deferral in force for the property tax year by July 1 to each  
11 governmental unit that has imposed a property tax on the primary  
12 residences of such claimants.

13 C. The certificate of deferral shall state the  
14 amount of tax estimated to be deferred and shall provide clear  
15 notice that the exact amount of tax deferred will be stated on  
16 the property tax bill mailed to the claimant after October 1 of  
17 the tax year.

18 D. If the claimant's property taxes are paid by a  
19 lender from an escrow account or other similar account, the  
20 county treasurer shall mail a copy of the certificate of  
21 deferral to the lender.

22 E. All or part of the taxes deferred pursuant to  
23 Section 7-38-38.3 NMSA 1978 may be paid at any time prior to the  
24 due date to the county treasurer by the claimant or any person  
25 on behalf of the claimant.

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1                   F. When any taxes deferred pursuant to Section  
2 7-38-38.3 NMSA 1978 are collected, the county treasurer shall  
3 maintain a record of the payment, a description of the property  
4 and the amount of taxes collected for the property. The county  
5 treasurer shall apportion and distribute the receipts from the  
6 property taxes collected to the applicable governmental units as  
7 provided by law and in accordance with the provisions of the  
8 Property Tax Code. "

9                   Section 8. A new section of the Property Tax Code, Section  
10 7-38-38.5 NMSA 1978, is enacted to read:

11                   "7-38-38.5. [NEW MATERIAL] PROPERTY TAX DEFERRAL--EFFECT  
12 OF DEFERRAL ON OBLIGATION OF BORROWER TO LENDER--EXCEPTIONS--  
13 REFUND.--

14                   A. The deferral of property taxes pursuant to  
15 Section 7-38-38.3 NMSA 1978 shall not affect the obligation of a  
16 borrower to continue to make payments to a lender for deposit in  
17 an escrow account or other similar account that is established  
18 for payment of property taxes prior to January 1, 1998.

19                   B. Any payments made by the borrower to an escrow  
20 account or other similar type of account with regard to taxes  
21 for the tax year prior to the time of submission of the  
22 certificate of deferral to the lender, if not previously used in  
23 payment or partial payment of such taxes, shall be refunded to  
24 the borrower within thirty days after receipt of notice of the  
25 tax due date deferral. "

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1           Section 9. A new section of the Property Tax Code, Section  
2 7-38-38.6 NMSA 1978, is enacted to read:

3           "7-38-38.6. [NEW MATERIAL] PROPERTY TAX DEFERRAL--  
4 NOTICE--PENALTIES. --

5           A. The claimant or, if the claimant is  
6 incapacitated, the claimant's agent appointed pursuant to  
7 Subsection B of Section 7-38-38.3 NMSA 1978 shall notify the  
8 county treasurer within thirty days of the date of a change in  
9 the claimant's primary place of residence or the sale of the  
10 claimant's primary place of residence.

11           B. Upon the death of a claimant, the personal  
12 representative of the claimant shall notify the county treasurer  
13 of the death no later than thirty days after the claimant's  
14 death.

15           C. Any person who intentionally refuses to provide  
16 notice as required under Subsection A or B of this section is  
17 guilty of a misdemeanor and shall be punished by the imposition  
18 of a fine of not more than one thousand dollars (\$1,000).

19           D. Any person who intentionally refuses to provide  
20 notice as required under Subsection A or B of this section with  
21 the intent to defraud is liable for a civil penalty in an amount  
22 equal to twenty-five percent of the deferred property taxes due  
23 or two thousand dollars (\$2,000), whichever is greater.

24           E. The civil penalties authorized under this section  
25 shall be imposed and collected at the time and in the manner the

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1 deferred property taxes are collected. "

2 Section 10. A new section of the Property Tax Code,  
3 Section 7-38-38.7 NMSA 1978, is enacted to read:

4 "7-38-38.7. [NEW MATERIAL] PROPERTY TAX DEFERRAL--  
5 PROTEST--REMEDY.--

6 A. After receiving his property tax bill and making  
7 payment prior to the delinquency date of all property taxes due  
8 and not deferred in accordance with the bill, a claimant may  
9 protest to the county treasurer the stated amount of property  
10 tax deferred for that tax year or the stated total amount of  
11 accrued property taxes deferred.

12 B. Upon the due date of deferred property taxes and  
13 payment prior to the delinquency date of the amount of deferred  
14 property taxes due as stated on the property tax bill, a  
15 claimant or the claimant's agent or personal representative may  
16 protest the amount of deferred property taxes due.

17 C. Upon filing of a protest pursuant to Subsection A  
18 or B of this section, the county treasurer shall review the  
19 protest and take appropriate action to determine if there is any  
20 error in the amount of taxes deferred or the amount of deferred  
21 taxes due and to correct that error. If the person protesting  
22 is not satisfied with the county treasurer's action, he may  
23 bring an action in district court on the grounds that there was  
24 an error in the computation of deferred taxes or an error in the  
25 property tax schedule relating to the payment or nonpayment of

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1 deferred taxes. The action shall be brought in the district  
2 court for the county in which the property is located. "

3 Section 11. APPLICABILITY. -- The provisions of this act  
4 apply to the 1998 and subsequent property tax years.