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HOUSE BILL 299

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ben Lujan

AN ACT

**RELATING TO TAXATION; REQUIRING DISCLOSURE OF SALES PRICE
INFORMATION FOR PROPERTY CLASSIFIED AS RESIDENTIAL PROPERTY FOR
PROPERTY TAXATION PURPOSES; REQUIRING PROPERTY TRANSFER
AFFIDAVIT TO BE FILED WITH THE COUNTY ASSESSOR; REQUIRING
INFORMATION TO BE KEPT CONFIDENTIAL.**

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

**Section 1. Section 7-36-21.2 NMSA 1978 (being Laws 2000,
Chapter 10, Section 2, as amended) is amended to read:**

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

**A. Residential property shall be valued at its
current and correct value in accordance with the provisions of
the Property Tax Code; provided that for the 2001 and
subsequent tax years, the value of a property in any tax year**

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1 shall not exceed the higher of one hundred three percent of the
2 value in the tax year prior to the tax year in which the
3 property is being valued or one hundred six and one-tenth
4 percent of the value in the tax year two years prior to the tax
5 year in which the property is being valued. This limitation on
6 increases in value does not apply to:

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

9 (2) any physical improvements made to the
10 property during the year immediately prior to the tax year or
11 omitted in a prior tax year; or

12 (3) valuation of a residential property in any
13 tax year in which:

14 (a) a change of ownership of the
15 property occurred in the year immediately prior to the tax year
16 for which the value of the property for property taxation
17 purposes is being determined; or

18 (b) the use or zoning of the property
19 has changed in the year prior to the tax year.

20 B. If a change of ownership of residential property
21 occurred in the year immediately prior to the tax year for
22 which the value of the property for property taxation purposes
23 is being determined, the value of the property shall be its
24 current and correct value as determined pursuant to the general
25 valuation provisions of the Property Tax Code.

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

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1 D. The provisions of this section do not apply to
2 residential property for any tax year in which the property is
3 subject to the valuation limitation in Section 7-36-21.3 NMSA
4 1978.

5 E. As used in this section, ~~[(1)]~~ "change of
6 ownership" means a transfer to a transferee by a transferor of
7 all or any part of the transferor's legal or equitable
8 ownership interest in residential property except for a
9 transfer:

10 ~~[(a)]~~ (1) to a trustee for the beneficial use
11 of the spouse of the transferor or the surviving spouse of a
12 deceased transferor;

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

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

17 ~~[(d)]~~ (4) to a child of the transferor, who
18 occupies the property as his principal residence at the time of
19 transfer; provided that the first subsequent tax year in which
20 that person does not qualify for the head of household
21 exemption on that property, a change of ownership shall be
22 deemed to have occurred;

23 ~~[(e)]~~ (5) that confirms or corrects a previous
24 transfer made by a document that was recorded in the real
25 estate records of the county in which the real property is

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1 located;

2 [~~(f)~~] (6) for the purpose of quieting the
3 title to real property or resolving a disputed location of a
4 real property boundary;

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

8 [~~(h)~~] (8) from a revocable trust described in
9 [~~Subparagraph (g) of this paragraph~~] Paragraph (7) of this
10 subsection back to the settlor or trustor or to the
11 beneficiaries of the trust

12 [~~(2) "net new value" means "net new value" as~~
13 ~~defined in Section 7-37-7.1 NMSA 1978; and~~

14 [~~(3) "prior year value" means the value for~~
15 ~~property taxation purposes of residential property subject to~~
16 ~~valuation under the Property Tax Code in the prior tax year]. "~~

17 Section 2. A new Section 7-38-12.1 NMSA 1978 is enacted
18 to read:

19 "7-38-12.1. [NEW MATERIAL] PROPERTY TRANSFERS- - AFFIDAVIT
20 TO BE FILED WITH ASSESSOR. - -

21 A. After January 1, 2004, a person presenting a
22 deed, real estate contract or memorandum of real estate
23 contract for recording with a county clerk shall also file with
24 the county assessor within thirty days of the date of filing
25 with the county clerk an affidavit signed and completed in

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1 accordance with the provisions of Subsection B of this section.

2 B. The affidavit required for submission shall be
3 in a form developed by the property tax division and signed by
4 the transferors or their authorized agents or the transferees
5 or their authorized agents of any interest in real property
6 transferred by deed or real estate contract. The affidavit
7 shall contain at least the following information to be used for
8 analytical and statistical purposes only:

9 (1) the complete names of all transferors and
10 transferees;

11 (2) the current mailing addresses of all
12 transferors and transferees;

13 (3) the legal description of the real property
14 interest transferred as it appears in the document of transfer;

15 (4) the full consideration, including money or
16 any other thing of value, paid or exchanged for the transfer;
17 and

18 (5) the value and a description of personal
19 property that is included in the sale price.

20 C. Upon receipt of the affidavit required by
21 Subsection A of this section, the county assessor shall place
22 the date of receipt on the original affidavit. The county
23 assessor shall retain the original affidavit as a permanent,
24 confidential record and as proof of compliance. The assessor
25 shall index the affidavits in a manner that permits cross-

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1 referencing to other records in the assessor's office
2 pertaining to the specific property described in the affidavit.
3 The affidavit and its contents are not part of the valuation
4 record of the assessor.

5 D. The affidavit required by Subsection A of this
6 section shall not be required for:

7 (1) a deed that results from the payment in
8 full or forfeiture by a transferee under a recorded real estate
9 contract or recorded memorandum of real estate contract;

10 (2) a lease of or easement on real property,
11 regardless of the length of term;

12 (3) a deed, patent or contract for sale or
13 transfer of real property in which an agency or representative
14 of the United States, New Mexico or any political subdivision
15 of the state is the named grantor or grantee and authorized
16 transferor or transferee;

17 (4) a quitclaim deed to quiet title or clear
18 boundary disputes;

19 (5) a conveyance of real property executed
20 pursuant to court order;

21 (6) a deed to an unpatented mining claim;

22 (7) an instrument solely to provide or release
23 security for a debt or obligation;

24 (8) an instrument that confirms or corrects a
25 deed previously recorded;

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1 (9) an instrument between husband and wife or
2 parent and child with only nominal actual consideration
3 therefor;

4 (10) an instrument arising out of a sale for
5 delinquent taxes or assessments;

6 (11) an instrument accomplishing a court-
7 ordered partition;

8 (12) an instrument arising out of a merger or
9 incorporation;

10 (13) an instrument by a subsidiary corporation
11 to its parent corporation for no consideration, nominal
12 consideration or in sole consideration of the cancellation or
13 surrender of the subsidiary's stock;

14 (14) an instrument from a person to a trustee
15 or from a trustee to a trust beneficiary with only nominal
16 actual consideration therefor;

17 (15) an instrument to or from an intermediary
18 for the purpose of creating a joint tenancy estate or some
19 other form of ownership; or

20 (16) an instrument delivered to establish a
21 gift or a distribution from an estate of a decedent or trust.

22 E. The affidavit required by Subsection A of this
23 section shall not be construed to be a valuation record
24 pursuant to Section 7-38-19 NMSA 1978.

25 F. Prior to November 1, 2003, the department shall

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1 print and distribute to each county assessor affidavit forms
2 for distribution to the public upon request. "

3 Section 3. A new Section 7-38-12.2 NMSA 1978 is enacted
4 to read:

5 "7-38-12.2. [NEW MATERIAL] PENALTIES. --

6 A. A person who intentionally refuses to make a
7 required report within the time period specified under the
8 provisions of Section 7-38-12.1 NMSA 1978 or who knowingly
9 makes a false statement on an affidavit required under the
10 provisions of Section 7-38-12.1 NMSA 1978 is guilty of a
11 misdemeanor and upon conviction shall be punished by the
12 imposition of a fine of not more than one thousand dollars
13 (\$1,000).

14 B. The secretary, any employee or any former
15 employee of the department or any other person subject to the
16 provisions of Section 7-38-12.1 NMSA 1978 who willfully
17 releases information in violation of that section is guilty of
18 a misdemeanor and shall be fined not more than one thousand
19 dollars (\$1,000). "

20 Section 4. APPLICABILITY. --The provisions of this act
21 apply to the 2004 and subsequent property tax years.