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SENATE BILL 631

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

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO TAXATION; AMENDING CERTAIN SECTIONS OF THE PROPERTY  
TAX CODE CONCERNING THE IMPOSITION OF PROPERTY TAXES ON CERTAIN  
OMITTED PROPERTY.

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

Section 1. Section 7-38-24 NMSA 1978 (being Laws 1973,  
Chapter 258, Section 64, as amended) is amended to read:

"7-38-24. PROTESTING VALUES, CLASSIFICATION, ALLOCATION  
OF VALUES AND DENIAL OF EXEMPTION OR LIMITATION ON INCREASE IN  
VALUE DETERMINED BY THE COUNTY ASSESSOR. --

A. A property owner may protest the value or  
classification determined by the county assessor for his  
property for property taxation purposes, the assessor's  
allocation of value of his property to a particular  
governmental unit or denial of a claim for an exemption or for

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1 a limitation on increase in value by filing a petition with the  
2 assessor. Filing a petition in accordance with this section  
3 entitles the property owner to a hearing on his protest.

4 B. Petitions shall:

5 (1) be filed with the county assessor on or  
6 before:

7 (a) the later of April 1 of the property  
8 tax year to which the notice applies or thirty days after the  
9 mailing by the assessor of the notice of valuation if the  
10 notice was mailed with the preceding year's tax bill in  
11 accordance with Section 7-38-20 NMSA 1978; [~~or~~]

12 (b) thirty days after the mailing of a  
13 property tax bill on omitted property pursuant to Section  
14 7-38-76 NMSA 1978; or

15 [~~(b)~~] (c) in all other cases, thirty  
16 days after the mailing by the assessor of the notice of  
17 valuation;

18 (2) state the property owner's name and  
19 address and the description of the property;

20 (3) state why the property owner believes the  
21 value, classification, allocation of value or denial of a claim  
22 of an exemption or of a limitation on increase in value is  
23 incorrect and what he believes the correct value,  
24 classification, allocation of value or exemption to be; and

25 (4) state the value, classification,

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1 allocation of value or exemption that is not in controversy.

2 C. Upon receipt of the petition, the county  
3 assessor shall schedule a hearing before the county valuation  
4 protests board and notify the property owner by certified mail  
5 of the date, time and place that he may appear to support his  
6 petition. The notice shall be mailed at least fifteen days  
7 prior to the hearing date.

8 D. The county assessor may provide for an informal  
9 conference on the protest before the hearing. "

10 Section 2. Section 7-38-42 NMSA 1978 (being Laws 1979,  
11 Chapter 343, Section 1) is amended to read:

12 "7-38-42. COLLECTION AND RECEIPT OF AND ACCOUNTING FOR  
13 PROPERTY TAXES--APPLICATION OF RECEIPTS TO DELINQUENT TAXES.--

14 A. The county treasurer has the responsibility and  
15 authority for collection of taxes and any penalties or interest  
16 due under the Property Tax Code except for the collection of  
17 delinquent taxes, penalties and interest authorized to be  
18 collected by the department under Section 7-38-62 NMSA 1978.

19 B. Property taxes, penalties and interest collected  
20 shall be receipted and accounted for in accordance with law and  
21 regulations of the department of finance and administration.

22 C. Any payments received by the treasurer or the  
23 department as payments for property taxes, penalties or  
24 interest shall be first applied to the oldest outstanding  
25 unpaid property taxes, penalties or interest accrued in prior

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1 property tax years on the property identified and described in  
2 the property tax bill for which payment is tendered or, if the  
3 payment cannot be identified with a particular year's property  
4 tax bill, then the payment shall be applied first to the oldest  
5 liability for property taxes, penalties and interest shown in  
6 the treasurer's records under the name of the paying taxpayer.  
7 In applying the foregoing requirements for applications of  
8 payments and in the adoption of any regulations to implement  
9 those provisions, the following additional rules shall apply:

10 (1) applications of payments to a prior year's  
11 delinquent taxes, penalties and interest shall not be made for  
12 more than ten years prior to the year of payment unless the  
13 treasurer's records show that the property for which taxes are  
14 delinquent has been deeded to the state of New Mexico and that  
15 property has not been sold by the state pursuant to applicable  
16 law;

17 (2) applications of payments to a prior year's  
18 delinquent taxes, penalties and interest shall not be made if:

19 (a) the prior year for which the  
20 delinquent taxes, penalties or interest are due is not the  
21 immediately preceding tax year;

22 (b) the delinquent taxes, penalties or  
23 interest are the result of real estate improvements that were  
24 omitted from property tax schedules in the prior year and  
25 listed and billed pursuant to Section 7-38-76 NMSA 1978;

(c) the current owner was not the owner

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1 at the time the improvements were omitted and had no actual  
2 notice that the improvements were omitted; and

3 (d) the payments were made by or on  
4 behalf of the current owner;

5 ~~[(2)]~~ (3) after application of payment  
6 received, if all or part of the payment has been applied to a  
7 prior year's delinquent taxes, penalties or interest, the  
8 receipting authority shall issue a receipt to the paying  
9 taxpayer showing the application of the payment and indicating  
10 any balance due for taxes, penalties or interest to bring the  
11 property tax payment status current; and

12 ~~[(3)]~~ (4) the failure of a receipting  
13 authority to apply a payment as required under this subsection  
14 or the failure to issue a required receipt to the taxpayer of  
15 the status of his account shall not relieve the taxpayer of  
16 liability for taxes, penalties or interest he would otherwise  
17 be required to pay nor does action or inaction by the  
18 receipting authority act to estop the collecting authority from  
19 taking any action to collect or enforce the payment of taxes,  
20 penalties and interest legally due."

21 Section 3. Section 7-38-48 NMSA 1978 (being Laws 1973,  
22 Chapter 258, Section 88, as amended) is amended to read:

23 "7-38-48. PROPERTY TAXES ARE A LIEN AGAINST REAL PROPERTY  
24 FROM JANUARY 1--PRIORITIES--CONTINUANCE OF TAXING PROCESS.--

25 A. Except as provided in Subsection B of this

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1 section, taxes on real property are a lien against the real  
2 property from January 1 of the tax year for which the taxes are  
3 imposed. The lien runs in favor of the state and secures the  
4 payment of taxes on the real property and any penalty and  
5 interest that [~~becomes~~] become due. The lien continues until  
6 the taxes and any penalty and interest are paid. The lien  
7 created by this section is a first lien and paramount to any  
8 other interest in the property, perfected or unperfected. The  
9 annual taxing process provided for in the Property Tax Code  
10 shall continue as to any particular property regardless of  
11 prior tax delinquencies or of pending protests, actions for  
12 refunds or other tax controversies involving the property,  
13 including a sale for delinquent taxes.

14 B. No lien is created pursuant to Subsection A of  
15 this section if:

16 (1) the tax otherwise creating the lien is not  
17 due for the current tax year or the immediately preceding  
18 property tax year;

19 (2) the tax otherwise creating the lien is the  
20 result of real estate improvements that were omitted from  
21 property tax schedules in a prior year and listed and billed  
22 pursuant to Section 7-38-76 NMSA 1978; and

23 (3) the current owner was not the owner at the  
24 time the improvements were omitted and had no actual notice  
25 that the improvements were omitted."

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1           Section 4. Section 7-38-65 NMSA 1978 (being Laws 1973,  
2 Chapter 258, Section 105, as amended by Laws 2001, Chapter 253,  
3 Section 1 and by Laws 2001, Chapter 254, Section 1) is amended  
4 to read:

5           "7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL  
6 PROPERTY--SALE OF REAL PROPERTY. --

7           A. If a lien exists by the operation of Section  
8 7-38-48 NMSA 1978, the department may collect delinquent taxes  
9 on real property by selling the real property on which the  
10 taxes have become delinquent. The sale of real property for  
11 delinquent taxes shall be in accordance with the provisions of  
12 the Property Tax Code. Real property may be sold for  
13 delinquent taxes at any time after the expiration of three  
14 years from the first date shown on the tax delinquency list on  
15 which the taxes became delinquent. Real property shall be  
16 offered for sale for delinquent taxes either within four years  
17 after the first date shown on the tax delinquency list on which  
18 the taxes became delinquent or, if the department is barred by  
19 operation of law or by order of a court of competent  
20 jurisdiction from offering the property for sale for delinquent  
21 taxes within four years after the first date shown on the tax  
22 delinquency list on which the taxes became delinquent, within  
23 one year from the time the department determines that it is no  
24 longer barred from selling the property, unless:

25                           (1) all delinquent taxes, penalties, interest

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1 and costs due are paid by 5:00 p.m. of the day prior to the  
2 date of the sale; or

3 (2) an installment agreement for payment of  
4 all delinquent taxes, penalties, interests and costs due is  
5 entered into with the department by 5:00 p.m. of the day prior  
6 to the date of the sale pursuant to Section 7-38-68 NMSA 1978.

7 B. Failure to offer property for sale within the  
8 time prescribed by Subsection A of this section shall not  
9 impair the validity or effect of any sale which does take  
10 place.

11 C. The time requirements of this section are  
12 subject to the provisions of Section 7-38-83 NMSA 1978."

13 Section 5. Section 7-38-76 NMSA 1978 (being Laws 1973,  
14 Chapter 258, Section 116, as amended) is amended to read:

15 "7-38-76. PROPERTY SUBJECT TO PROPERTY TAXATION BUT  
16 OMITTED FROM PROPERTY TAX SCHEDULES IN PRIOR YEARS. --

17 A. Subject to the limitations contained in the  
18 Property Tax Code and except as provided in Subsection B of  
19 this section, county assessors, treasurers and the department  
20 have the authority and the duty to enter in the valuation  
21 records, list on the property tax schedules, bill for and  
22 collect the taxes for all tax years on property that was  
23 subject to property taxation but was omitted from property tax  
24 schedules and for which taxes have not been paid but would be  
25 due except for the omission. Property tax bills shall be

1 prepared and mailed by the county treasurers within thirty days  
2 of the date the omitted property is listed on the property tax  
3 schedule, and all taxes on omitted property shall be due the  
4 date the property tax bill is mailed.

5 B. Except for taxes due in the current tax year and  
6 the immediately preceding tax year, the current owner of the  
7 real estate is not liable for a property tax bill mailed  
8 pursuant to Subsection A of this section if:

9 (1) the omitted property is improvements that  
10 were placed on the real estate; and

11 (2) the current owner was not the owner at the  
12 time the improvements were omitted and had no actual notice  
13 that the improvements were omitted.

14 C. Nothing in this section relieves the owner of  
15 the property at the time the improvements were omitted from  
16 being personally liable for the taxes due pursuant to Section  
17 7-38-47 NMSA 1978.

18 ~~[B.]~~ D. The department shall promulgate regulations  
19 for the procedures to be followed and the records to be  
20 maintained in the administration and collection of taxes on  
21 omitted property. The department of finance and administration  
22 shall promulgate regulations covering the receipt of,  
23 accounting for and distribution of taxes on omitted property. "