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HOUSE BILL 233

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO TAXATION; AMENDING THE PROPERTY TAX CODE TO PROVIDE THAT THE ADDITION OF A SOLAR ENERGY INSTALLATION SHALL NOT BE CONSIDERED A PHYSICAL IMPROVEMENT FOR PURPOSES OF THE LIMITATION ON INCREASES IN VALUATION OF RESIDENTIAL PROPERTY.

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 shall not exceed the higher of one hundred three percent of the

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

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

8 (2) any physical improvements, except for
9 solar energy system installations, made to the property during
10 the year immediately prior to the tax year or omitted in a
11 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, "change of ownership"
6 means a transfer to a transferee by a transferor of all or any
7 part of the transferor's legal or equitable ownership interest
8 in residential property except for a transfer:

9 (1) to a trustee for the beneficial use of the
10 spouse of the transferor or the surviving spouse of a deceased
11 transferor;

12 (2) to the spouse of the transferor that takes
13 effect upon the death of the transferor;

14 (3) that creates, transfers or terminates,
15 solely between spouses, any co-owner's interest;

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

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

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1 (6) for the purpose of quieting the title to
2 real property or resolving a disputed location of a real
3 property boundary;

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

7 (8) from a revocable trust described in
8 Paragraph (7) of this subsection back to the settlor or trustor
9 or to the beneficiaries of the trust.

10 F. As used in this section, "solar energy system
11 installation" means an installation that is used to provide
12 space heat, hot water or electricity to the property in which
13 it is installed and is:

14 (1) an installation that uses solar panels
15 that are not also windows;

16 (2) a dark-colored water tank exposed to
17 sunlight; or

18 (3) a non-vented trombe wall."

19 Section 2. APPLICABILITY.--The provisions of this act
20 apply to property tax years beginning on or after January 1,
21 2010.