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SENATE BILL 160

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

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO PROPERTY TAXATION; PROVIDING FOR A FIVE PERCENT
LIMITATION ON ANNUAL INCREASES OF A RESIDENTIAL PROPERTY'S
VALUE; REQUIRING A STATEWIDE REVALUATION OF PROPERTY; REQUIRING
COUNTY SALES RATIOS OF NINETY-FIVE PERCENT; IDENTIFYING
VALUATION BASED ON COST AS THE PREFERRED METHOD OF ASSESSING
RESIDENTIAL PROPERTY VALUES.

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

Section 1. Section 7-36-15 NMSA 1978 (being Laws 1975,
Chapter 165, Section 2, as amended) is amended to read:

"7-36-15. METHODS OF VALUATION FOR PROPERTY TAXATION
PURPOSES--GENERAL PROVISIONS.--

A. Property subject to valuation for property
taxation purposes under this article of the Property Tax Code
shall be valued by the methods required by this article of the

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1 Property Tax Code whether the determination of value is made by
2 the department or the county assessor. The same or similar
3 methods of valuation shall be used for valuation of the same or
4 similar kinds of property for property taxation purposes.

5 B. Unless a method or methods of valuation are
6 authorized in Sections 7-36-20 through 7-36-33 NMSA 1978, the
7 value of property:

8 (1) for nonresidential property taxation
9 purposes shall be its market value as determined by application
10 of the sales of comparable property, income or cost methods of
11 valuation or any combination of these methods; and

12 (2) for residential property taxation purposes
13 shall be the residential property's market value as determined
14 by application of the cost method of valuation, unless use of
15 that method is not possible or practical, calculated by
16 subtracting the market extracted depreciation from the cost of
17 the residence and adding that difference to the value of the
18 property's land.

19 C. In using any of the methods of valuation
20 authorized by this [~~subsection~~] section, the valuation
21 authority:

22 (1) shall apply generally accepted appraisal
23 techniques; and

24 (2) in determining the market value of
25 residential housing, shall consider any decrease in the value

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1 that would be realized by the owner in a sale of the property
2 because of the effects of any affordable housing subsidy,
3 covenant or encumbrance imposed pursuant to a federal, state or
4 local affordable housing program that restricts the future use
5 of the property or the resale price of the property or would
6 otherwise prohibit the owner from fully benefitting from any
7 enhanced value of the property. [~~As used in this paragraph:~~

8 (a) ~~"subsidy, covenant or encumbrance~~
9 ~~imposed pursuant to a federal, state or local affordable~~
10 ~~housing program" includes those imposed by a nonprofit entity~~
11 ~~approved by a governmental entity as a qualifying grantee~~
12 ~~pursuant to the Affordable Housing Act; and~~

13 (b) ~~"residential housing" means any~~
14 ~~building, structure or portion thereof that is primarily~~
15 ~~occupied, or designed or intended primarily for occupancy, as a~~
16 ~~residence by one or more households and any real property that~~
17 ~~is offered for sale or lease for the construction or location~~
18 ~~thereon of such a building, structure or portion thereof.~~

19 ~~"Residential housing" includes congregate housing, manufactured~~
20 ~~homes, housing intended to provide or providing transitional or~~
21 ~~temporary housing for homeless persons and common health care,~~
22 ~~kitchen, dining, recreational and other facilities primarily~~
23 ~~for use by residents of a residential housing project.~~

24 G.] D. Dams, reservoirs, tanks, canals, irrigation
25 wells, installed irrigation pumps, stock-watering wells and

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1 pumps, similar structures and equipment used for irrigation or
2 stock-watering purposes, water rights and private roads shall
3 not be valued separately from the land they serve. The
4 foregoing improvements and rights shall be considered as
5 appurtenances to the land they serve, and their value shall be
6 included in the determination of value of the land.

7 ~~[D.]~~ E. The department shall adopt regulations to
8 implement the methods of valuation authorized in this article
9 of the Property Tax Code.

10 F. As used in this section:

11 (1) "market value" means the value of a
12 property in a specific market, generally equivalent to the
13 property's current and correct value;

14 (2) "residential housing" means any building,
15 structure or portion thereof that is primarily occupied, or
16 designed or intended primarily for occupancy, as a residence by
17 one or more households and any real property that is offered
18 for sale or lease for the construction or location thereon of
19 such a building, structure or portion thereof. "Residential
20 housing" includes congregate housing, manufactured homes,
21 housing intended to provide or providing transitional or
22 temporary housing for homeless persons and common health care,
23 kitchen, dining, recreational and other facilities primarily
24 for use by residents of a residential housing project; and

25 (3) "subsidy, covenant or encumbrance imposed

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1 pursuant to a federal, state or local affordable housing
2 program" includes those imposed by a nonprofit entity approved
3 by a governmental entity as a qualifying grantee pursuant to
4 the Affordable Housing Act."

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

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

9 A. Residential property shall be valued at its
10 current and correct value in accordance with the provisions of
11 the Property Tax Code; provided that for the ~~[2001]~~ 2012 and
12 subsequent tax years, the value of a property in any tax year
13 in a county with a sales ratio of ninety-five or above shall
14 not exceed the higher of one hundred ~~[three]~~ five percent of
15 the value in the tax year prior to the tax year in which the
16 property is being valued or one hundred ~~[six]~~ ten and ~~[one-~~
17 ~~tenth]~~ one-fourth percent of the value in the tax year two
18 years prior to the tax year in which the property is being
19 valued. This limitation on increases in value does not apply
20 to:

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

23 (2) any physical improvements made to the
24 property during the year immediately prior to the tax year or
25 omitted in a prior tax year; or

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1 (3) valuation of a residential property in any
2 tax year in which [~~(a) a change of ownership of the property~~
3 ~~occurred in the year immediately prior to the tax year for~~
4 ~~which the value of the property for property taxation purposes~~
5 ~~is being determined; or~~

6 ~~(b)]~~ the use or zoning of the property
7 has changed in the year prior to the tax year.

8 B. If a change of ownership of residential property
9 occurred in the year immediately prior to the tax year for
10 which the value of the property for property taxation purposes
11 is being determined, the value of the property shall be [~~its~~
12 ~~current and correct value as determined pursuant to the general~~
13 ~~valuation provisions of the Property Tax Code]~~ increased
14 pursuant to the limitation set forth in Subsection A of this
15 section. The increase in value for the current tax year and
16 each subsequent tax year shall not exceed one hundred five
17 percent of the value of the property in the year prior to the
18 year in which the property is being valued or one hundred ten
19 and one-fourth percent of the value in the tax year two years
20 prior to the tax year in which the property is being valued.

21 C. Beginning on January 1, 2011, to assure that the
22 values of residential property for property taxation purposes
23 are at current and correct values in all counties prior to
24 application of the limitation in Subsection A of this section:

25 (1) the department shall determine for the

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1 [2000] 2011 tax year the sales ratio pursuant to Section
2 7-36-18 NMSA 1978 or, if a sales ratio cannot be determined
3 pursuant to that section, conduct a sales-ratio analysis using
4 both independent appraisals by the department and sales; and
5 (2) if the sales ratio for a county for the
6 [2000] 2011 tax year is less than ~~[eighty-five]~~ ninety-five, as
7 measured by the median ratio of value for property taxation
8 purposes to sales price or independent appraisal by the
9 department, the county shall not be subject to the limitations
10 of Subsection A of this section and shall conduct a
11 reassessment of residential property in the county so that by
12 the [2003] 2013 tax year, the sales ratio is at least ~~[eighty-~~
13 ~~five]~~ ninety-five; provided that after ~~[such]~~ the reassessment,
14 the limitation on increases in valuation in this section shall
15 apply in those counties in the earlier of the [2004] 2014 tax
16 year or the first tax year following the tax year that the
17 county has a sales ratio of ~~[eighty-five]~~ ninety-five or higher
18 ~~[as measured by the median ratio of value for property taxation~~
19 ~~purposes to sales value or independent appraisal by the~~
20 ~~department. Thereafter].~~

21 D. The limitation on increases in valuation of
22 residential property for property taxation purposes in this
23 section shall apply in all counties to subsequent tax years [~~in~~
24 ~~all counties]~~ once a sales ratio of ninety-five is achieved;
25 provided that:

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1 (1) the county maintains a sales ratio
2 of ninety-five percent or higher;

3 (2) the assessor in a county in which
4 the sales ratio drops below eighty-five percent in any year or
5 below ninety-five percent for three consecutive years is
6 prohibited from applying the limitation set forth in Subsection
7 A of this section to residential property within the county
8 until the sales ratio is again ninety-five percent; and

9 (3) a county prohibited pursuant to the
10 provisions of this paragraph from applying the limitation in
11 Subsection A of this section shall revalue all residential
12 property prior to January 1 of the second year following the
13 tax year in which the provisions of Paragraph (2) of this
14 subsection apply and may take up to three years to reset the
15 sales ratio to ninety-five or above before reinstating the
16 limitation.

17 ~~[D.]~~ E. The provisions of this section do not apply
18 to residential property for any tax year in which the property
19 is subject to the valuation limitation in Section 7-36-21.3
20 NMSA 1978.

21 ~~[E.]~~ F. As used in this section, "change of
22 ownership" means a transfer to a transferee by a transferor of
23 all or any part of the transferor's legal or equitable
24 ownership interest in residential property except for a
25 transfer:

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1 (1) to a trustee for the beneficial use of the
2 spouse of the transferor or the surviving spouse of a deceased
3 transferor;

4 (2) to the spouse of the transferor that takes
5 effect upon the death of the transferor;

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

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

14 (5) that confirms or corrects a previous
15 transfer made by a document that was recorded in the real
16 estate records of the county in which the real property is
17 located;

18 (6) for the purpose of quieting the title to
19 real property or resolving a disputed location of a real
20 property boundary;

21 (7) to a revocable trust by the transferor
22 with the transferor, the transferor's spouse or a child of the
23 transferor as beneficiary; or

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

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1 or to the beneficiaries of the trust."

2 Section 3. APPLICABILITY.--The provisions of this act are
3 applicable to residential properties valued for the 2011 and
4 subsequent property tax years.

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