

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 289

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO TAXATION; PROVIDING FOR A FIVE-YEAR AUTOMATIC
APPLICATION OF THE LIMITATION ON INCREASE IN VALUE FOR
SINGLE-FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS
SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED; PROVIDING FOR
PENALTIES.

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

SECTION 1. Section 7-36-21.3 NMSA 1978 (being Laws 2000,
Chapter 21, Section 1, as amended) is amended to read:

"7-36-21.3. LIMITATION ON INCREASE IN VALUE FOR
SINGLE-FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS
SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED--REQUIREMENTS--
PENALTIES.--

A. For the 2001 and subsequent tax years, the
valuation for property taxation purposes of a single-family

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1 dwelling owned and occupied by a person who is sixty-five years
2 of age or older and whose modified gross income, as defined in
3 the Income Tax Act, for the prior taxable year did not exceed
4 the greater of eighteen thousand dollars (\$18,000) or the
5 amount calculated pursuant to Subsection [F] I of this section
6 shall not be greater than the valuation of the property for
7 property taxation purposes in the:

- 8 (1) 2001 tax year;
- 9 (2) year in which the owner's sixty-fifth
10 birthday occurs, if that is after 2001; or
- 11 (3) tax year following the tax year in which
12 an owner who turns sixty-five or is sixty-five years of age or
13 older first owns and occupies the property, if that is after
14 2001.

15 B. For the 2009 and subsequent tax years, the
16 valuation for property taxation purposes of a single-family
17 dwelling owned and occupied by a person who is sixty-five years
18 of age or older or disabled and whose modified gross income, as
19 defined in the Income Tax Act, for the prior taxable year did
20 not exceed the greater of thirty-two thousand dollars (\$32,000)
21 or the amount calculated pursuant to Subsection [F] I of this
22 section shall not be greater than the valuation of the property
23 for property taxation purposes in:

- 24 (1) the 2009 tax year, if the person owns and
25 occupies the property in the 2009 tax year;

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1 (2) the tax year in which the owner's sixty-
2 fifth birthday occurs, if that is after 2009; or

3 (3) the tax year following the tax year in
4 which an owner who is sixty-five years of age or older first
5 owns and occupies the property, if that is after 2009.

6 C. For the 2003 and subsequent tax years, the
7 valuation for property taxation purposes of a single-family
8 dwelling owned and occupied by a person who is disabled and
9 whose modified gross income, as defined in the Income Tax Act,
10 for the prior taxable year did not exceed the greater of
11 eighteen thousand dollars (\$18,000) or the amount calculated
12 pursuant to Subsection [F] I of this section shall not be
13 greater than the valuation of the property for property
14 taxation purposes in the:

15 (1) 2003 tax year;

16 (2) year in which the owner is determined to
17 be disabled, if that is after 2003; or

18 (3) tax year following the tax year in which
19 an owner who is disabled or who is determined in that year to
20 be disabled first owns and occupies the property, if that is
21 after 2003.

22 D. An owner who is entitled to a limitation in
23 valuation pursuant to more than one subsection of this section
24 may designate the subsection pursuant to which the limitation
25 shall be applied.

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1 ~~[E. The limitation of value specified in~~
2 ~~Subsections A, B and C of this section shall be applied in a~~
3 ~~tax year in which the owner claiming entitlement files with the~~
4 ~~county assessor an application for the limitation on a form~~
5 ~~furnished to the owner by the assessor. The application form~~
6 ~~shall be designed by the department and shall provide for proof~~
7 ~~of age or disability, occupancy and income eligibility for the~~
8 ~~tax year for which application is made.]~~

9 E. The limitation of value specified in Subsections
10 A, B and C of this section shall be claimed in order to be
11 allowed. The limitations may be claimed by filing proof of
12 eligibility with the county assessor on an application form for
13 the limitation furnished by the assessor. The application form
14 shall be designed by the department and shall provide for proof
15 of age or disability, occupancy and income eligibility. An
16 owner who applies for the limitation of value specified in this
17 section and files proof of income eligibility for the three
18 consecutive years immediately prior to the tax year for which
19 the application is made need not claim the limitation for
20 subsequent tax years if there is no change in eligibility. The
21 county assessor shall apply that limitation automatically in
22 subsequent tax years until a change in eligibility occurs.

23 F. An owner who has claimed and been allowed the
24 limitation of value specified in this section for the three
25 consecutive tax years immediately prior to the 2014 tax year

1 need not claim the limitation for subsequent tax years if there
 2 is no change in eligibility. The county assessor shall apply
 3 that limitation automatically in subsequent tax years until a
 4 change in eligibility occurs.

5 G. A person who has had a limitation applied to a
 6 tax year and subsequently becomes ineligible for the limitation
 7 because of a change in the person's status or income or a
 8 change in the ownership of the property against which the
 9 limitation was applied shall notify the county assessor of the
 10 loss of eligibility for the limitation by the last day of
 11 February of the tax year immediately following the year in
 12 which loss of eligibility occurs.

13 H. A person who violates the provisions of this
 14 section by intentionally claiming and receiving the benefit of
 15 a limitation to which the person is not entitled or who fails
 16 to comply with the provisions of Subsection G of this section
 17 may be liable for any additional taxes due, interest and a
 18 civil penalty of three times the amount of additional taxes
 19 due.

20 ~~[F.]~~ I. For the 2002 tax year and each subsequent
 21 tax year, the maximum amount of modified gross income in
 22 Subsections A, B and C of this section shall be adjusted to
 23 account for inflation. The department shall make the
 24 adjustment by multiplying the maximum amount for tax year 2000
 25 by a fraction, the numerator of which is the consumer price

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1 index ending during the prior tax year and the denominator of
2 which is the consumer price index ending in tax year 2000. The
3 result of the multiplication shall be rounded down to the
4 nearest one hundred dollars (\$100), except that if the result
5 would be an amount less than the corresponding amount for the
6 preceding tax year, then no adjustment shall be made. For
7 purposes of this subsection, "consumer price index" means the
8 consumer price index for all urban consumers published by the
9 United States department of labor for the month ending
10 September 30. The department shall publish annually the amount
11 determined by the calculation and distribute it to each county
12 assessor no later than December 1 of each tax year.

13 [~~G.~~] J. The limitation of value specified in
14 Subsections A, B and C of this section does not apply to:

15 (1) a change in valuation resulting from any
16 physical improvements made to the property during the year
17 immediately prior to the tax year or a change in the permitted
18 use or zoning of the property during the year immediately prior
19 to the tax year; or

20 (2) a residential property in the first tax
21 year that is valued for property taxation purposes.

22 [~~H.~~] K. As used in this section, "disabled" means a
23 person who has been determined to be blind or permanently
24 disabled with medical improvement not expected pursuant to
25 42 USCA 421 for purposes of the federal Social Security Act or

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1 is determined to have a permanent total disability pursuant to
2 the Workers' Compensation Act."

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