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SENATE BILL 189

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO PROPERTY TAXATION; PROVIDING FOR A THREE PERCENT  
LIMITATION ON ANNUAL INCREASES OF A RESIDENTIAL PROPERTY'S  
VALUE; REQUIRING A STATEWIDE REVALUATION OF PROPERTY; REQUIRING  
ANNUAL VALUATIONS OF RESIDENTIAL PROPERTY; PROVIDING FOR ANNUAL  
ADJUSTMENTS UNTIL PROPERTY TAXATION VALUATIONS ARE CURRENT AND  
CORRECT WITH MARKET 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 for property taxation purposes shall be its  
8 market value as determined by application of the sales of  
9 comparable property, income or cost methods of valuation or any  
10 combination of these methods.

11 C. In using any of the methods of valuation  
12 authorized by this ~~[subsection]~~ section, the valuation  
13 authority:

14 (1) shall apply generally accepted appraisal  
15 techniques; and

16 (2) in determining the market value of  
17 residential housing, shall consider any decrease in the value  
18 that would be realized by the owner in a sale of the property  
19 because of the effects of any affordable housing subsidy,  
20 covenant or encumbrance imposed pursuant to a federal, state or  
21 local affordable housing program that restricts the future use  
22 of the property or the resale price of the property or would  
23 otherwise prohibit the owner from fully benefitting from any  
24 enhanced value of the property. ~~[As used in this paragraph:~~

25 ~~(a) "subsidy, covenant or encumbrance~~

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

5 ~~(b) "residential housing" means any~~  
6 ~~building, structure or portion thereof that is primarily~~  
7 ~~occupied, or designed or intended primarily for occupancy, as a~~  
8 ~~residence by one or more households and any real property that~~  
9 ~~is offered for sale or lease for the construction or location~~  
10 ~~thereon of such a building, structure or portion thereof.~~

11 ~~"Residential housing" includes congregate housing, manufactured~~  
12 ~~homes, housing intended to provide or providing transitional or~~  
13 ~~temporary housing for homeless persons and common health care,~~  
14 ~~kitchen, dining, recreational and other facilities primarily~~  
15 ~~for use by residents of a residential housing project.~~

16 ~~G.] D. Beginning with valuations for tax year 2012,~~  
17 ~~every county assessor shall revalue residential properties once~~  
18 ~~per year.~~

19 ~~E. Dams, reservoirs, tanks, canals, irrigation~~  
20 ~~wells, installed irrigation pumps, stock-watering wells and~~  
21 ~~pumps, similar structures and equipment used for irrigation or~~  
22 ~~stock-watering purposes, water rights and private roads shall~~  
23 ~~not be valued separately from the land they serve. The~~  
24 ~~foregoing improvements and rights shall be considered as~~  
25 ~~appurtenances to the land they serve, and their value shall be~~

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1 included in the determination of value of the land.

2 ~~[D-]~~ F. The department shall adopt regulations to  
3 implement the methods of valuation authorized in this article  
4 of the Property Tax Code.

5 G. As used in this section:

6 (1) "residential housing" means any building,  
7 structure or portion thereof that is primarily occupied, or  
8 designed or intended primarily for occupancy, as a residence by  
9 one or more households and any real property that is offered  
10 for sale or lease for the construction or location thereon of  
11 such a building, structure or portion thereof. "Residential  
12 housing" includes congregate housing, manufactured homes,  
13 housing intended to provide or providing transitional or  
14 temporary housing for homeless persons and common health care,  
15 kitchen, dining, recreational and other facilities primarily  
16 for use by residents of a residential housing project; and

17 (2) "subsidy, covenant or encumbrance imposed  
18 pursuant to a federal, state or local affordable housing  
19 program" includes those imposed by a nonprofit entity approved  
20 by a governmental entity as a qualifying grantee pursuant to  
21 the Affordable Housing Act."

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

24 "7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF  
25 OWNER-OCCUPIED RESIDENTIAL PROPERTY.--

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1           A. Except as provided in Subsection B of this  
2 section, owner-occupied residential property shall be valued at  
3 its current and correct value in accordance with the provisions  
4 of the Property Tax Code; provided that for the [~~2001~~] 2016 and  
5 subsequent tax years, the value of a property in any tax year  
6 shall not exceed [~~the higher of~~] one hundred three percent of  
7 the value in the tax year prior to the tax year in which the  
8 property is being valued [~~or one hundred six and one-tenth~~  
9 ~~percent of the value in the tax year two years prior to the tax~~  
10 ~~year in which the property is being valued~~]. This limitation  
11 on increases in value does not apply to:

12                   (1) a residential property in the first tax  
13 year that [~~it~~] the property is valued for property taxation  
14 purposes;

15                   (2) any physical improvements, except for  
16 solar energy system installations, made to the property during  
17 the year immediately prior to the tax year or omitted in a  
18 prior tax year; or

19                   (3) valuation of a residential property in any  
20 tax year in which

21                               [~~(a) a change of ownership of the~~  
22 ~~property occurred in the year immediately prior to the tax year~~  
23 ~~for which the value of the property for property taxation~~  
24 ~~purposes is being determined; or~~

25                               (~~b~~) the use or zoning of the property

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1 has changed in the year prior to the tax year.

2 ~~[B. If a change of ownership of residential~~  
3 ~~property occurred in the year immediately prior to the tax year~~  
4 ~~for which the value of the property for property taxation~~  
5 ~~purposes is being determined, the value of the property shall~~  
6 ~~be its current and correct value as determined pursuant to the~~  
7 ~~general valuation provisions of the Property Tax Code.~~

8 ~~G.]~~ B. Beginning on January 1, 2012, to assure that  
9 the values of residential property for property taxation  
10 purposes are at current and correct values in all counties  
11 prior to application of the limitation in Subsection A of this  
12 section, the property tax division of the department shall  
13 ~~[determine for the 2000 tax year the sales ratio pursuant to~~  
14 ~~Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be~~  
15 ~~determined pursuant to that section, conduct a sales-ratio~~  
16 ~~analysis using both independent appraisals by the department~~  
17 ~~and sales. If the sales ratio for a county for the 2000 tax~~  
18 ~~year is less than eighty-five, as measured by the median ratio~~  
19 ~~of value for property taxation purposes to sales price or~~  
20 ~~independent appraisal by the department, the county shall not~~  
21 ~~be subject to the limitations of Subsection A of this section~~  
22 ~~and shall conduct a reassessment of residential property in the~~  
23 ~~county so that by the 2003 tax year, the sales ratio is at~~  
24 ~~least eighty-five. After such reassessment, the limitation on~~  
25 ~~increases in valuation in this section shall apply in those~~

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1 ~~counties in the earlier of the 2004 tax year or the first tax~~  
2 ~~year following the tax year that the county has a sales ratio~~  
3 ~~of eighty-five or higher, as measured by the median ratio of~~  
4 ~~value for property taxation purposes to sales value or~~  
5 ~~independent appraisal by the department. Thereafter, the~~  
6 ~~limitation on increases in valuation of residential property~~  
7 ~~for property taxation purposes in this section shall apply to~~  
8 ~~subsequent tax years in all counties]~~ review and certify that  
9 residential property values in a county are current and correct  
10 prior to authorizing the county assessor of that county to mail  
11 notices of value; provided that, in each property tax year from  
12 2012 through 2016, the residential property value for tax  
13 purposes shall be adjusted from the previous year as follows:

14 (1) in property tax year 2012, the value shall  
15 be adjusted by one-fifth of the difference between the value  
16 used in property tax year 2011 and the current and correct  
17 value;

18 (2) in property tax year 2013, the value shall  
19 be adjusted by one-fourth of the difference between the value  
20 used in property tax year 2012 and the current and correct  
21 value;

22 (3) in property tax year 2014, the value shall  
23 be adjusted by one-third of the difference between the value  
24 used in property tax year 2013 and the current and correct  
25 value;

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1                   (4) in property tax year 2015, the value shall  
2 be adjusted by one-half of the difference between the value  
3 used in property tax year 2014 and the current and correct  
4 value; and

5                   (5) in property tax year 2016 and each  
6 subsequent property tax year, the value shall equal the current  
7 and correct value, subject to the limitation of Subsection A of  
8 this section.

9                   ~~[D.]~~ C. The provisions of this section do not apply  
10 to residential property for any tax year in which the property  
11 is subject to the valuation limitation in Section 7-36-21.3  
12 NMSA 1978.

13                   ~~[E. As used in this section, "change of ownership"~~  
14 ~~means a transfer to a transferee by a transferor of all or any~~  
15 ~~part of the transferor's legal or equitable ownership interest~~  
16 ~~in residential property except for a transfer:~~

17                   ~~(1) to a trustee for the beneficial use of the~~  
18 ~~spouse of the transferor or the surviving spouse of a deceased~~  
19 ~~transferor;~~

20                   ~~(2) to the spouse of the transferor that takes~~  
21 ~~effect upon the death of the transferor;~~

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

24                   ~~(4) to a child of the transferor, who occupies~~  
25 ~~the property as that person's principal residence at the time~~

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1 of transfer; ~~provided that the first subsequent tax year in~~  
2 ~~which that person does not qualify for the head of household~~  
3 ~~exemption on that property, a change of ownership shall be~~  
4 ~~deemed to have occurred;~~

5 ~~(5) that confirms or corrects a previous~~  
6 ~~transfer made by a document that was recorded in the real~~  
7 ~~estate records of the county in which the real property is~~  
8 ~~located;~~

9 ~~(6) for the purpose of quieting the title to~~  
10 ~~real property or resolving a disputed location of a real~~  
11 ~~property boundary;~~

12 ~~(7) to a revocable trust by the transferor~~  
13 ~~with the transferor, the transferor's spouse or a child of the~~  
14 ~~transferor as beneficiary; or~~

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

18 ~~F.]~~ D. As used in this section, "solar energy  
19 system installation" means an installation that is used to  
20 provide space heat, hot water or electricity to the property in  
21 which it is installed and is:

22 (1) an installation that uses solar panels  
23 that are not also windows;

24 (2) a dark-colored water tank exposed to  
25 sunlight; or

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(3) a non-vented trombe wall."

SECTION 3. APPLICABILITY.--The provisions of this act are applicable to residential properties valued for the 2012 and subsequent property tax years.

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