

Repeals. — Laws 1985, ch. 65, § 46 repealed 7-34-18 NMSA 1978, as enacted by Laws 1969, ch. 119, § 18, relating to payment of taxes to release lien, effective July 1, 1985.

7-34-19. Repealed.

ANNOTATIONS

Repeals. — Laws 1985, ch. 65, § 46 repealed 7-34-19 NMSA 1978, as enacted by Laws 1969, ch. 119, § 19, relating to remedies cumulative, effective July 1, 1985.

7-34-20. Repealed.

ANNOTATIONS

Repeals. — Laws 1985, ch. 65, § 46 repealed 7-34-20 NMSA 1978, as enacted by Laws 1969, ch. 119, § 20, relating to limitation of action, effective July 1, 1985.

ARTICLE 35

Property Tax

7-35-1. Short title.

Articles 35 through 38 of Chapter 7 NMSA 1978 may be cited as the "Property Tax Code".

History: 1953 Comp., § 72-28-1, enacted by Laws 1973, ch. 258, § 1; 1982, ch. 28, § 1.

ANNOTATIONS

Cross references. — For constitutional provision as to equality in ad valorem taxation, see N.M. Const., art. VIII, § 1.

For constitutional provision as to property tax limits and exceptions, see N.M. Const., art. VIII, § 2.

For constitutional provision as to tax exempt property, see N.M. Const., art. VIII, § 3.

For constitutional provision as to head of family and veteran exemptions, see N.M. Const., art. VIII, § 5.

For constitutional provision as to assessment of lands, see N.M. Const., art. VIII, § 6.

For constitutional provision as to disabled veteran exemptions, see N.M. Const., art. VIII, § 5.

Construction of Property Tax Code. — The Property Tax Code, Articles 35 to 38 of Chapter 7 NMSA 1978, must be read and construed in its entirety. *Brown v. Greig*, 1987-NMCA-096, 106 N.M. 202, 740 P.2d 1186, cert. denied, 106 N.M. 174, 740 P.2d 1158.

Law reviews. — For comment, "Coal Taxation in the Western States: The Need for a Regional Tax Policy," see 16 Nat. Resources J. 415 (1976).

For comment, "Taxation of the Uranium Industry: An Economic Proposal," see 7 N.M.L. Rev. 69 (1976-77).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 71 Am. Jur. 2d State and Local Taxation §§ 24 to 27.

84 C.J.S. Taxation § 136 et seq.

7-35-2. Definitions.

As used in the Property Tax Code:

A. "abandoned real property" means real property:

(1) that is part of a subdivision where the subdivision has a minimum of five thousand lots in delinquency on the department's delinquent property tax list as prepared by the appropriate county treasurer pursuant to Section 7-38-61 NMSA 1978 as of January 1, 2019;

(2) of which the subdivided lots are vacant;

(3) that is part of a subdivision plotted on or before 1980;

(4) the property taxes, penalties and interest of which are delinquent for at least ten years; and

(5) that does not include property with existing homes, businesses or other habitable structures;

B. "department" or "division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "director" means the secretary;

D. "livestock" means cattle, buffalo, horses, mules, sheep, goats, swine, ratites and other domestic animals useful to humans;

E. "manufactured home" means a manufactured home as that term is defined in Section 66-1-4.11 NMSA 1978;

F. "net taxable value" means the value of property upon which the tax is imposed and is determined by deducting from taxable value the amount of any exemption authorized by the Property Tax Code;

G. "nonresidential property" means property that is not residential property;

H. "owner" means the person in whom is vested any title to property;

I. "person" means an individual or any other legal entity;

J. "property" means tangible property, real or personal;

K. "residential property" means property consisting of one or more dwellings together with appurtenant structures, the land underlying both the dwellings and the appurtenant structures and a quantity of land reasonably necessary for parking and other uses that facilitate the use of the dwellings and appurtenant structures. As used in this subsection, "dwellings" includes both manufactured homes and other structures when used primarily for permanent human habitation, but the term does not include structures when used primarily for temporary or transient human habitation such as hotels, motels and similar structures;

L. "secretary" means the secretary of taxation and revenue and, except for purposes of Section 7-35-6 NMSA 1978 and Paragraphs (1) and (2) of Subsection B of Section 9-11-6.2 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

M. "tax" means the property tax imposed under the Property Tax Code;

N. "taxable value" means the value of property determined by applying the tax ratio to the value of the property determined for property taxation purposes;

O. "tax rate" means the rate of the tax expressed in terms of dollars per thousand dollars of net taxable value of property;

P. "tax ratio" means the percentage established under the Property Tax Code that is applied to the value of property determined for property taxation purposes in order to derive taxable value; and

Q. "tax year" means the calendar year.

History: 1953 Comp., § 72-28-2, enacted by Laws 1973, ch. 258, § 2; 1977, ch. 249, § 60; 1981, ch. 37, § 60; 1985, ch. 109, § 1; 1986, ch. 20, § 104; 1991, ch. 166, § 1; 1993, ch. 39, § 1; 1994, ch. 9, § 1; 1994, ch. 9, § 2; 2018, ch. 50, § 1.

ANNOTATIONS

The 2018 amendment, effective May 16, 2018, defined "abandoned real property" as used in the Property Tax Code; added a new Subsection A and redesignated former Subsections A through P as Subsections B through Q, respectively; in Subsection D, after "useful to", changed "man" to "humans"; and in Subsection L, after "Subsection B of Section", deleted "7-38-90" and added "9-11-6.2".

The second 1994 amendment, effective January 1, 2001, in Subsection C, inserted "buffalo" and "ratites", and deleted "excluding ratites" at the end.

The first 1994 amendment, effective February 15, 1994, in Subsection C, inserted "buffalo", deleted "ratites" following "swine" and added "excluding ratites" at the end.

The 1993 amendment, effective June 18, 1993, inserted "ratites" in Subsection C.

The 1991 amendment, effective June 14, 1991, deleted "or, when delegated authority by the secretary, the director of the property tax division of the department" at the end of Subsection B; added Subsection D; redesignated former Subsections D to O as Subsections E to P; deleted "as defined in Section 66-1-4 NMSA 1978" following "manufactured homes" near the beginning of Subsection J; and added the language beginning "and, except for" at the end of Subsection K.

The property tax division's conclusion that elk are not livestock is a reasonable interpretation of this section. Had the legislature intended for the word "livestock" to be given identical treatment under the Livestock Code and the Property Tax Code, it would have been a simple matter for it to have given the term identical definitions. *Jicarilla Apache Nation v. Rodarte*, 2004-NMSC-035, 136 N.M. 630, 103 P.3d 554.

Vendor is an "owner". — Because a vendor holds legal title and because the Property Tax Code defines "owner" as the holder of any title, the vendor under a real estate contract is an "owner" under the code. *Southwest Land Inv., Inc. v. Hubbart*, 1993-NMSC-072, 116 N.M. 742, 867 P.2d 412.

Am. Jur. 2d, A.L.R. and C.J.S. references. — Oil and gas royalty as real or personal property, 56 A.L.R.4th 539.

7-35-2.1. Additional definition.

As used in the Property Tax Code, "costs" means the expenses incurred by the department in connection with collecting delinquent taxes. As applied to a particular property, "costs" may be, in the discretion of the department, either the sum of the expenses incurred specifically in connection with that property or the uniform charge applied to the class of delinquent properties of which the property is a member.

History: Laws 1995, ch. 12, § 5.

7-35-3. Director's supervisory power over county assessors; duty to evaluate performance and provide technical assistance; property valuation fund created.

A. The director has general supervisory authority over county assessors for the purposes of assuring implementation of and compliance with the provisions of the Property Tax Code and applicable regulations, orders, rulings and instructions of the department. He shall implement procedures for evaluation of the performance of county assessors' functions on a regular basis and shall also provide, subject to the availability of resources within the department and from the property valuation fund created in Subsection B of this section, appropriate technical assistance to county assessors.

B. A revolving fund, to be called the "property valuation fund", is created.

(1) The fund shall consist of:

(a) all money which on January 1, 1975 remained in the special reappraisal fund which was created pursuant to Section 72-2-21.1 NMSA 1953 [repealed] and the reappraisal loan fund which was created pursuant to Section 72-2-21.11 NMSA 1953 [repealed];

(b) all repayments of outstanding loans made or committed to be made from the special reappraisal fund and the reappraisal loan fund; and

(c) all money appropriated to the fund.

(2) The fund shall not be used to supplement the general operating budget of the department. The fund may be used by the department for:

(a) providing a county with technical assistance services pursuant to Section 7-36-19 NMSA 1978 in the valuation of major industrial or commercial properties subject to valuation by the assessor;

(b) providing a county with technical assistance services in keeping appraised values current for valuation purposes;

(c) providing other major technical assistance to a county;

(d) installing necessary maps and other increments of the property description system in a county pursuant to Section 7-38-10 NMSA 1978; and

(e) meeting prior commitments for loans of money in the reappraisal loan fund for assistance to a county in which reappraisal has not been completed.

(3) Amounts from the property valuation fund may be expended by the director only after approval by the state board of finance. Approval by the state board of

finance, fully setting forth the reasons for the expenditure, must be requested in writing by either the director or the county assessor of the county requesting department assistance. A request by the county assessor must be concurred in by the board of county commissioners and the director.

(4) Any amount in the property valuation fund not currently needed for the purpose of the fund shall be invested by the state treasurer in such manner and for such times as will make the funds available when needed for the purposes of the fund.

(5) Any amount expended from the property valuation fund shall be reimbursed in full to the fund by the county requesting assistance or to which assistance has been provided; the reimbursement shall not be reduced by the director pursuant to Section 7-35-8 NMSA 1978; and the reimbursement shall be upon terms and conditions prescribed by the director and approved by the state board of finance.

(6) In any county which has not completed reappraisal by June 30, 1977, no political subdivision shall be eligible to receive any funds distributed from the following unless specific appropriations are made by the legislature:

(a) public school fund, supplemental distributions pursuant to Section 22-8-30 NMSA 1978; or

(b) any discretionary distributions made by the board of finance.

(7) There is appropriated to the property valuation fund all money which on January 1, 1975 remained in the special reappraisal fund and the reappraisal loan fund and all repayments of outstanding loans made or committed to be made from the special reappraisal fund and the reappraisal loan fund.

History: 1953 Comp., § 72-28-6, enacted by Laws 1973, ch. 258, § 6; 1975, ch. 153, § 1; 1989, ch. 324, § 2.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law. Laws 1974, ch. 92, § 34 repealed 72-2-21.1 and 72-2-21.11, 1953 Comp., referred to in Subsection B(1)(a).

Cross references. — For appraisers' certificates, property valuation and tax administration courses, see 4-39-2 to 4-39-5 NMSA 1978.

The 1989 amendment, effective April 7, 1989, in Subsection B, deleted former Paragraph (1)(c), which read "all money earned by the investment or loan of the money in the property valuation fund; and" and redesignated former Paragraph (1)(d) as Paragraph (1)(c), in Paragraph (2)(a), substituted "Section 7-36-19 NMSA 1978" for "Section 72-29-8 NMSA 1953", in Paragraph (2)(d), substituted "Section 7-38-10 NMSA

1978; and" for "Section 72-31-10 NMSA 1953", deleted former Paragraph (2)(e), which read "carrying out the functions from which a county assessor has been suspended pursuant to Section 72-28-9 NMSA 1953; and", redesignated former Paragraph (2)(f) as Paragraph (2)(e), in Paragraph (4) deleted "in such a manner and for such times as will make the funds available when needed for the purposes of the fund, and earnings from such investment shall be retained in the fund" from the end of the paragraph, in Paragraph (5), substituted "Section 7-35-8 NMSA 1978" for "Section 72-28-11 NMSA 1953", and in Paragraph (6)(a), substituted "Section 22-8-30 NMSA 1978" for "Section 77-6-29 NMSA 1953".

7-35-4. Department to provide manuals and other materials.

The department shall prepare, issue and periodically revise valuation manuals, cost and valuation schedules, bulletins and annotated digests of property tax laws and regulations in handbook form for the use of its employees, the county assessors and their employees and other persons involved in the administration and collection of the property tax. The department shall make the foregoing materials available to members of the public and may charge a fee for the materials to offset the cost of physical preparation. Any amounts collected are appropriated to the department for its operation.

History: 1953 Comp., § 72-28-7, enacted by Laws 1973, ch. 258, § 7.

7-35-5. Training programs; attendance by assessor.

A. The department shall conduct or sponsor special courses of instruction and in-service and intern training programs on the technical, legal and administrative aspects of property taxation. The department may cooperate with educational institutions and appropriate organizations interested in the property valuation or taxation field in the conduct or sponsorship of training programs. The department may reimburse the expenses incurred by assessors and employees of the state and its political subdivisions who attend training programs with the approval of the department.

B. The department shall establish a training program for persons elected or appointed as county assessors who have not held office as a county assessor within the ten years prior to the beginning of the term for which the person was elected or from the date of appointment. The department shall require attendance and satisfactory completion of such a program by such persons elected or appointed after the effective date of this 1991 act.

History: 1953 Comp., § 72-28-8, enacted by Laws 1973, ch. 258, § 8; 1991, ch. 166, § 2.

ANNOTATIONS

Cross references. — For courses in property valuation and property tax administration, see 4-39-2 NMSA 1978.

The 1991 amendment, effective June 14, 1991, added "Attendance by assessor" in the section heading; designated the existing language as Subsection A; and added Subsection B.

7-35-6. Suspension of county assessor's functions; department's performance of county assessor's functions.

A. If the secretary finds after informal efforts to obtain compliance have failed that a county assessor is not complying with the Property Tax Code or with the regulations, orders, rulings or other administrative directives of the department under the Property Tax Code, the secretary shall notify the county assessor and the board of county commissioners of the county involved by certified mail of the noncompliance and of the action required to remedy the noncompliance.

B. If the failure has not been remedied within sixty days after the notice is mailed, the secretary shall issue an order requiring the county assessor and the board of county commissioners to show cause why the county assessor's functions should not be suspended. The secretary shall set a time and place for a hearing on the order and shall send by certified mail to the county assessor and to the board of county commissioners copies of the order and the notice of hearings.

C. If the secretary determines after a hearing that a county assessor has failed to comply with the Property Tax Code or regulations, orders, rulings or instructions of the department or of the department of finance and administration pursuant to the Property Tax Code, the secretary may suspend in whole or in part any of the county assessor's functions. The suspension shall be by written order of the secretary and shall continue until the secretary finds that the county assessor is both willing and able to comply with the Property Tax Code and the regulations, orders, rulings or instructions of the department or of the department of finance and administration pursuant to the Property Tax Code.

D. During a suspension, the department succeeds to and shall carry out the functions from which the county assessor has been suspended. The county shall reimburse the department for all costs incurred in performing the functions. In the event that the county does not make reimbursement within a reasonable time, the department, notwithstanding any other provision of law, may obtain reimbursement by retaining ten percent of each distribution or transfer required by law to be made to the county from money collected by the department until the total retained equals the amount to be reimbursed. All amounts received or retained by the department under this subsection are appropriated to the department for its use in carrying out its duties under the Property Tax Code.

E. No less than thirty days after the date of any suspension order, the board of county commissioners may make a written request to the secretary to terminate the suspension order on the grounds that it is no longer justified because of the county assessor's willingness and ability to comply with the Property Tax Code or regulations,

orders, rulings or instructions of the department or of the department of finance and administration pursuant to the Property Tax Code. Upon receipt of a request to terminate a suspension order, the secretary shall set a time and place for a hearing on the request. The date of the hearing shall be not more than thirty days after the receipt of the request, and the secretary shall notify the board of county commissioners and the county assessor of the time and place of the hearing by certified mail. If the secretary determines after a hearing that the county assessor is both willing and able to comply with the Property Tax Code and the regulations, orders, rulings or instructions of the department or of the department of finance and administration pursuant to the Property Tax Code, the secretary shall terminate the suspension by written order, which order must be made within ten days of the hearing. In the absence of such a finding, the secretary shall deny the request for termination of the suspension, which denial must be made by written order within ten days of the hearing. Nothing in this subsection prohibits the secretary from terminating an order of suspension issued in accordance with Subsection C of this section without a request for a hearing, or a hearing, on the issue of termination of suspension. Repeated requests for the termination of a suspension may be made, but no request may be made less than thirty days after the date of the secretary's denial of a previous request for termination of a suspension.

History: Laws 1981, ch. 37, § 61; 1991, ch. 166, § 3.

ANNOTATIONS

Repeals and reenactments. — Section 7-35-6 NMSA 1978 was repealed and reenacted by Laws 1981, Chapter 37, Section 61. For prior history, see 1953 Comp., § 72-28-9, enacted by Laws 1973, ch. 258, § 9; 1974, ch. 92, § 2.

The 1991 amendment, effective June 14, 1991, rewrote the section heading which read "Division to seek compliance by assessors and county commissioners"; in Subsection A, substituted "secretary" for "director" in two places and substituted "department under the Property Tax Code" for "division"; rewrote Subsection B; and added Subsections C to E.

7-35-7. Suspension of county treasurer's functions; department of finance and administration's performance of county treasurer's functions.

A. If the secretary of finance and administration finds that a county treasurer has failed to comply with the Property Tax Code or regulations, orders, rulings or instructions of the department or of the department of finance and administration, he shall notify the county treasurer and the board of county commissioners by certified mail of the fact and nature of the failure.

B. If the failure has not been remedied within sixty days after the notice is mailed, the secretary of finance and administration shall issue an order requiring the county treasurer and the board of county commissioners to show cause why the county

treasurer's functions should not be suspended. The secretary of finance and administration shall set a time and place for a hearing on the order and shall send by certified mail to the county treasurer and to the board of county commissioners copies of the order and the notice of the hearing.

C. If the secretary of finance and administration determines after a hearing that a county treasurer has failed to comply with the Property Tax Code or regulations, orders, rulings or instructions of the department or of the department of finance and administration, the secretary of finance and administration may suspend in whole or in part any of the county treasurer's functions. The suspension shall be by written order of the secretary of finance and administration and shall continue until he finds that the county treasurer is both willing and able to comply with the Property Tax Code and the regulations, orders, rulings or instructions of the department or of the department of finance and administration.

D. During a suspension, the department of finance and administration succeeds to and shall carry out the functions from which the county treasurer has been suspended. The county shall reimburse the department of finance and administration for all costs incurred in performing the functions. All amounts received by the department of finance and administration under this subsection shall be deposited with the state treasurer for credit to the state general fund.

E. No less than thirty days after the date of any suspension order, the board of county commissioners may make a written request to the secretary of finance and administration to terminate the suspension order on the grounds that it is no longer justified because of the county treasurer's willingness and ability to comply with the Property Tax Code or regulations, orders, rulings or instructions of the department or of the department of finance and administration. Upon receipt of a request to terminate a suspension order, the secretary of finance and administration shall set a time and place for a hearing on the request. The date of the hearing shall be not more than thirty days after the receipt of the request, and the secretary of finance and administration shall notify the board of county commissioners and the county treasurer of the time and place of the hearing by certified mail. If the secretary of finance and administration determines after a hearing that the county treasurer is both willing and able to comply with the Property Tax Code and the regulations, orders, rulings or instructions of the department or of the department of finance and administration, he shall terminate the suspension by written order, which must be made within ten days of the hearing. In the absence of such a finding, he shall deny the request for termination of the suspension, which denial must be made by written order within ten days of the hearing. Nothing in this subsection prohibits the secretary of finance and administration from terminating an order of suspension in accordance with Subsection C of this section without a request for a hearing, or a hearing, on the issue of termination of suspension. Repeated requests for the termination of a suspension may be made, but no request may be made less than thirty days after the date of the secretary of finance and administration's denial of a previous request for termination of a suspension.