

House Bill 90 - 100 % Disable Veteran

44th legislature - STATE OF NEW MEXICO - second session, 2000

INTRODUCED BY

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FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; ENACTING AN EXEMPTION FROM PROPERTY TAXATION OF CERTAIN PROPERTY OWNED BY DISABLED VETERANS AS MANDATED BY ARTICLE 8, SECTION 15 OF THE CONSTITUTION OF NEW MEXICO; DECLARING AN EMERGENCY.

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

Section 1. A new section of the Property Tax Code is enacted to read:

"[NEW MATERIAL] DISABLED VETERAN EXEMPTION.--

A. As used in this section:

(1) "disabled veteran" means an individual who:

(a) has been honorably discharged from membership in the armed forces of the United States or has received a discharge certificate from a branch of the armed forces of the

United States for civilian service recognized pursuant to federal law as service in the armed forces of the United States; and

(b) has been determined pursuant to federal law to have a permanent and total service-connected disability; and

(2) "honorably discharged" means discharged from the armed forces pursuant to a discharge other than a dishonorable or bad conduct discharge.

B. The property of a disabled veteran, including joint or community property of the veteran and the veteran's spouse, is exempt from property taxation if it is occupied by the disabled veteran as his principal place of residence and has been especially adapted to his disability using a grant for specially adapted housing granted to the veteran by the federal government based on his permanent and total service-connected disability. Property held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code, as those sections may be amended or renumbered, by a disabled veteran or the veteran's surviving spouse is also exempt from property taxation if the property otherwise meets the requirements for exemption in this subsection or Subsection C of this section.

C. The property of the surviving spouse of a disabled veteran is exempt from property taxation if:

(1) the surviving spouse and the disabled veteran were married at the time of the disabled veteran's death;

(2) the property was exempt prior to the disabled veteran's death pursuant to Subsection B of this section; and

(3) the surviving spouse continues to occupy the property continuously after the disabled veteran's death as the spouse's principal place of residence.

D. The exemption provided by this section may be referred to as the "disabled veteran exemption".

E. The disabled veteran exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and the rules of the department.

F. The New Mexico veterans' service commission shall assist the department and the county assessors in determining which veterans qualify for the disabled veteran exemption."

Section 2. Section 7-36-7 NMSA 1978 (being Laws 1973,

Chapter 258, Section 15, as amended) is amended to read:

"7-36-7. PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES.--

A. Except for the property listed in Subsection B of this section or exempt pursuant to Section 7-36-8 NMSA 1978, all property is subject to valuation for property taxation purposes under the Property Tax Code if it has a taxable situs in the state.

B. The following property is not subject to valuation for property taxation purposes under the Property Tax Code:

(1) property exempt from property taxation under the federal or state constitution, federal law, the Property Tax Code or other laws, but this does not include property all or a part of the value of which is exempt because of the application of [a] the veteran, disabled veteran or head-of-family exemption [nor does] and this provision does not excuse an owner from [any] obligations to report his property as required by regulation of the department adopted under Section 7-38-8.1 NMSA 1978 or to claim its exempt status under Subsection C of Section 7-38-17 NMSA 1978;

(2) oil and gas property subject to valuation and taxation under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act; and

(3) productive copper mineral property subject to valuation and taxation under the Copper Production Ad Valorem Tax Act; for the purposes of this section, "copper mineral property" means all mineral property and property held in connection with mineral property when seventy-five percent or more, by either weight or value, of the salable mineral extracted from or processed by the mineral property is copper."

Section 3. Section 7-38-17 NMSA 1978 (being Laws 1973, Chapter 258, Section 57, as amended) is amended to read:

"7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--PENALTIES.--

A. Subject to the requirements of Subsection [F] E of this section, head-of-family exemptions claimed and allowed in the 1974 or a subsequent tax year, [or] veteran exemptions claimed and allowed in the 1982 or a subsequent tax year or disabled veteran exemptions claimed and allowed in the 2000 or a subsequent tax year need not be claimed for subsequent tax years if there is no change in eligibility for the exemption nor any change in ownership of the property against which the exemption was claimed. Head-of-family and veteran exemptions allowable under this subsection shall be applied automatically by county assessors in the subsequent tax years.

[B. Subject to the requirements of Subsection F of this section, head-of-family exemptions not claimed and allowed in the 1974 tax year or veteran exemptions not

claimed and allowed in the 1982 tax year must be claimed in a subsequent tax year in order to be allowed, but once an exemption is claimed and allowed in a subsequent tax year, it shall apply to all subsequent tax years without further claiming as long as there is no change in eligibility for the exemption and no change in the ownership of the property.

C.] B. Beginning with the 1983 tax year, other exemptions of real property specified under Section 7-36-7 NMSA 1978 for nongovernmental entities [must] shall be claimed in order to be allowed. Once such exemptions are claimed and allowed for a tax year, they need not be claimed for subsequent tax years if there is no change in eligibility. Exemptions allowable under this subsection shall be applied automatically by county assessors in subsequent tax years.

[D.] C. Any exemption required to be claimed under this section [must] shall be applied for no later than the last day of February of the tax year in which it is required to be claimed in order for it to be allowed for that tax year.

[E.] D. Any person who has had an exemption applied to a tax year and subsequently becomes ineligible for the exemption because of a change in the person's status or a change in the ownership of the property against which the exemption was applied shall notify the county assessor of the loss of eligibility for the exemption by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

[F.] E. Exemptions may be claimed by filing proof of eligibility for the exemption with the county assessor. The proof shall be in a form prescribed by regulation of the [division] department. Procedures for determining eligibility of claimants for any exemption shall be prescribed by regulation of the [division] department, and these regulations shall include provisions for requiring the New Mexico veterans' service commission to issue certificates of eligibility for veteran exemptions in a form and with the information required by the [division] department. The regulations shall also include verification procedures to assure that veteran exemptions in excess of the amount authorized under Section 7-37-5 NMSA 1978 are not allowed as a result of multiple claiming in more than one county or claiming against more than one property in a single tax year.

[G.] F. The [division] department shall consult and cooperate with the New Mexico veterans' service commission in the development and promulgation of regulations under Subsection [F] E of this section. The commission shall comply with the promulgated regulations. The commission shall collect a fee of five dollars (\$5.00) for the issuance of a duplicate certificate of eligibility to a veteran.

[H.] G. Any person who violates the provisions of this section by intentionally claiming and receiving the benefit of an exemption to which he is not entitled or who fails to comply with the provisions of Subsection [E] D of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000). Any

county assessor or his employee who knowingly permits a claimant for an exemption to receive the benefit of an exemption to which he is not entitled is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) and shall also be automatically removed from office or dismissed from employment upon conviction under this subsection."

Section 4. Section 7-38-18 NMSA 1978 (being Laws 1973, Chapter 258, Section 58, as amended) is amended to read:

"7-38-18. PUBLICATION OF NOTICE OF CERTAIN PROVISIONS RELATING TO REPORTING PROPERTY FOR VALUATION AND CLAIMING OF EXEMPTIONS.-

A. Each county assessor shall have a notice published in a newspaper of general circulation within the county at least once a week during the first three full weeks in January of each tax year, which notice shall include a brief statement of the provisions of:

- (1) Section 7-38-8 NMSA 1978 relating to requirements for reporting property for valuation for property taxation purposes;
- (2) Section 7-38-8.1 NMSA 1978 relating to requirements for reporting exempt property;
- (3) Section 7-38-13 NMSA 1978 relating to requirements for reporting improvements to real property and to filing statements of decrease in value of property;
- (4) Section 7-38-17 NMSA 1978 relating to requirements for claiming veteran, disabled veteran, head-of-family and other exemptions; and
- (5) Section 7-38-17.1 NMSA 1978 relating to the requirements for declaring residential property and changes in use of property.

B. The [division] department shall develop and issue a uniform form of notice to be used by county assessors to fulfill the requirements of this section."

Section 5. APPLICABILITY.--The provisions of this act apply to the 2000 and subsequent property tax years.

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.