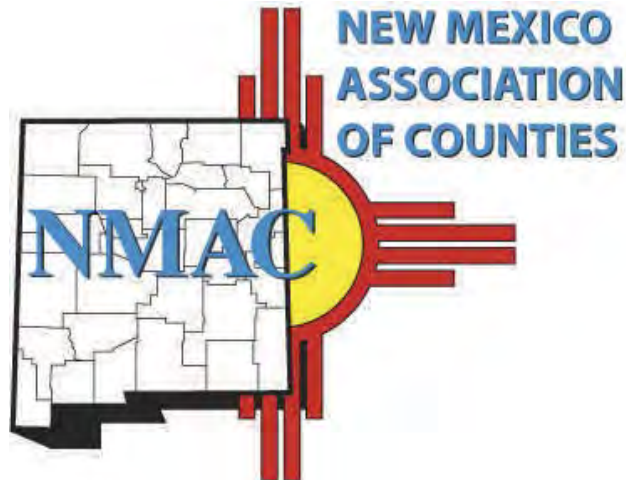


New Mexico Association of Counties



2014 NMAC Legislative Priorities

**As approved by the
NMAC Board of Directors
August 2013**

GERMANE LEGISLATION IN THE EVEN-NUMBERED YEARS

N.M. Const. Art IV

Sec. 5. [Time and length of sessions; items considered in even-numbered years.]

A. Each regular session of the legislature shall begin annually at 12:00 noon on the third Tuesday of January. Every regular session of the legislature convening during an odd-numbered year shall remain in session not to exceed sixty days, and every regular session of the legislature convening during an even-numbered year shall remain in session not to exceed thirty days. No special session of the legislature shall exceed thirty days.

B. Every regular session of the legislature convening during an even-numbered year shall consider only the following:

- (1) budgets, appropriations and revenue bills;
- (2) bills drawn pursuant to special messages of the governor; and
- (3) bills of the last previous regular session vetoed by the governor.

(As amended November 5, 1940, November 5, 1946, and November 3, 1964.)

NMAC 2014 LEGISLATIVE PRIORITIES

SHORT TITLE	LEAD AFFILIATE	PAGE
Property tax equity	Assessors	4
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NEW MEXICO ASSOCIATION OF COUNTIES

ASSESSOR'S AFFILIATE

RESOLUTION NUMBER 1

Subject: Residential Valuation Limitation and Equalization for New Mexico Residents

Affected Affiliates: Assessors, Treasurers, Managers

Type of change: State-Legislative

Impact: County/State revenue

Submitted as NMAC Priority or Affiliate Initiative (please circle one) Y N

WHEREAS, the value of owner occupied residential property, for property tax purposes, should be valued at no less than 90% of market value; and

WHEREAS, the annual limitation on increases in valuation of residential property for 2015, shall not exceed 105% of the value in the tax year prior to the tax year in which the property is being valued or not less than 70% of the market value whichever is greater; and

WHEREAS, the annual limitation on increases in valuation of residential property for subsequent years, following 2016, shall not exceed 105% of the value in the tax year prior to the tax year in which the property is being valued or not less than 90% of the market value whichever is greater; and

WHEREAS, while striving for equalization of property values, consideration must be given to the long term residents of New Mexico; and

WHEREAS, the creation of a valuation limitation for the long term resident, providing a deduction of 10% of the taxable value, of the residential property owned and occupied by a New Mexico resident for 10 or more years and a 20% deduction of the taxable value, of the residential property owned and occupied by a New Mexico resident, 65 years of age or older, for 20 or more years.

NOW, THEREFORE, BE IT RESOLVED that the New Mexico Association of Counties support legislation that will provide for the proposed changes to 7-36-21.2 NMSA, allowing for a more equitable property valuation process

Signed 
Affiliate Chair

Date: 6-20-13

**RESIDENTIAL VALUATION LIMITATION & EQUITY
FOR NM RESIDENTS**

House Bill 521, 2013 Regular Session

Introduced by Representative Ed Sandoval,

passed the House Tax Committee, but died on adjournment.

- House Bill 521 addressed the “Tax Lightning” problem, which strikes new homeowners when they purchase a home and there is no longer a 3% cap on valuation increases.
- The bill created equitable, transparent, and understandable residential property tax valuations by reducing the current disparity between homeowner valuations.
- It moved all taxpayers to not less than 70% of value in 2014, and not less than 85% of value in the following year.
- It created more equitable values for residential property owners and locked in lower values for the long term and senior New Mexico homeowners.

The bill supported the original intent and spirit of the value cap law instituted by Speaker Ben Lujan, which was to ensure that people who have lived in their homes for 10 or 20 years, and especially senior citizens, do not lose their homes because of increases in property valuation.

HB 521 was endorsed by the Realtors Association of New Mexico and by the New Mexico Association of Counties.

NEW MEXICO ASSOCIATION OF COUNTIES

ASSESSOR'S AFFILIATE

RESOLUTION NUMBER 2

Subject: Disclosure of non-residential sales to Assessor.

Affected Affiliates: Assessors

Type of change: State-Legislative

Impact: Administrative increase to Assessor

Submitted as NMAC Priority or Affiliate Initiative (please circle one) **Y** **N**

WHEREAS, 7-38-12.1 NMSA 1978 requires transferors or transferees of "residential property" to file an affidavit with the County Assessor disclosing sale price and other related information; and

WHEREAS, "residential property" is defined in the property tax code as real property with dwelling placed on it, and does not include non-residential properties; and

WHEREAS, the Assessor's duty is to appraise and assess all taxable properties, residential and non-residential, fairly and equitably according to its' market value; and

WHEREAS, the best approach in determining the market value of a property is utilizing the "sales comparison approach" which requires the use of sales data; and

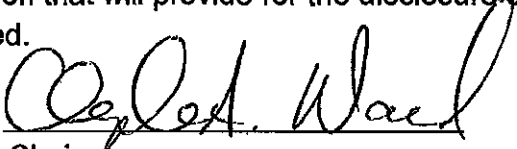
WHEREAS, 7-38-12.1 only requires the disclosure of "residential" sales data to the Assessor; and

WHEREAS, without adequate sales data the assessor must rely on other less than reliable approaches to fairly assess non-residential properties.

WHEREAS, agricultural land is not valued at market value and would be excluded; and

WHEREAS, subsurface rights are not valued by the Assessor therefore mineral deeds would be excluded.

NOW THEREFORE BE IT RESOLVED that the New Mexico Association of Counties support legislation that will provide for the disclosure of sales data for all real property except as specifically excluded.

Signed 
Affiliate Chair

Date: 7/18/13

DISCLOSURE OF NON-RESIDENTIAL SALES TO ASSESSORS

Senate Bill 117

Introduced by Senator George Munoz

For the Revenue Stabilization & Tax Policy Committee

Died on adjournment, in Senate Committee

Senate Bill 117 would have required affidavits on real property sold in a county to be filed with the County Assessor. The Legislative Finance Committee's Fiscal Impact Report (FIR) commented that the proposed measure would increase information available to assessors, and therefore result in more "current and correct" assessment levels among non-residential properties. Under those circumstances, revenues flowing to various property tax recipients (the state, school districts, and other entities) would be likely to increase, according to the FIR.

**NEW MEXICO ASSOCIATION OF COUNTIES
COUNTY CLERKS AFFILIATE RESOLUTION 1**

Brief Title or Subject: Notice of Liens

Affected NMAC Affiliates and/or County Offices	Governmental Entity / Legislative or Regulatory
County Clerks	State Legislative
Impact on Government Revenues & Finances	Affiliate Initiative or Request NMAC Priority
None	Request NMAC Priority

WHEREAS, liens on property are recorded in the office of the County Clerk; *and*

WHEREAS, there is currently no requirement to inform a property owner that a lien has been recorded; *and*

WHEREAS, a recorded lien clouds the title to the property and inhibits the owner’s ability to maximize use of the value of the property; *and*

WHEREAS, oftentimes, property owners are never made aware that a lien has been placed on their property; *and*

WHEREAS, giving notice of liens encourages debts to be resolved; *and*

WHEREAS, the NMAC Board in 2011 and 2012 approved County Clerk resolutions affirming that the owner of a property should be informed when a lien is recorded; *and*

WHEREAS, the County Clerks Affiliate now seeks NMAC Priority status for this issue,

NOW THEREFORE BE IT RESOLVED THAT the New Mexico Association of Counties support legislation that would require liens to contain language that notice of the lien was sent to the property owner prior to filing the lien.

Signed: 
Affiliate Chair: **Mario O. Jiménez III**

Date: June 20, 2013

**NEW MEXICO ASSOCIATION OF COUNTIES
COMMISSIONERS AFFILIATE RESOLUTION NUMBER 2**

Subject: Suspension of Medicaid in Lieu of Termination During Incarceration in County Detention Centers

Affected NMAC Affiliates and/or County Offices: County Detention Center affiliates in all counties with detention centers

**Type of Governmental Entity (Federal or State) & Whether Legislative or Regulatory
State entity through the NM Human Services Department and could be accomplished through legislation or regulatory change**

Impact on Government Revenues & Finances

This will have a strong positive impact on saving revenues for the county through savings in criminal justice and medical costs. This will allow for people to leave the corrections institution and receive treatment for substance use and mental disorders, which has been demonstrated to result in \$7 in criminal justice savings and \$5 in medical cost savings for every \$1 spent for treatment, which with Medicaid coverage treatment is at no cost to the county.

Submitted as NMAC Priority or Affiliate Initiative (*please circle one*)

WHEREAS, It is very expensive through law enforcement, criminal justice and incarceration costs to manage people that commit crimes associated with behavior from untreated substance use and mental disorders

; and

WHEREAS, Lack of access to health care after discharge from incarceration, including treatment for substance use and mental health disorders, is a major risk factor for recidivism and for committing crimes in people with untreated substance use and mental disorders

WHEREAS, having Medicaid benefits upon discharge from a county detention center will allow for the inmate to be linked upon discharge to treatment resources for substance use and mental health disorders

; and

Treatment of substance use and mental disorders has been well demonstrated to reduce recidivism, overdose and suicide, and every dollar invested in treatment has been well demonstrated to give a \$7 return in criminal justice savings and a \$5 return in medical savings

WHEREAS, as of January 1, 2014 likely more than 90% of county inmates will be eligible for Medicaid benefits compared to around 10% currently. These Medicaid benefits will be paid for 100% by the federal government for about 90% of inmates, with little cost to the counties except to help inmates sign up for Medicaid using the state's new automated online system in 2014,

; and

Savings to the counties will be great leveraging federal dollars.

NOW THEREFORE BE IT RESOLVED THAT, the New Mexico Association of Counties support legislation that would require the suspension of Medicaid in lieu of termination upon incarceration in county detention centers for youth and adults such that: (1) inmates would still have their Medicaid medical benefits upon discharge if they had Medicaid upon admission or (2) be able to apply for Medicaid benefits at any time during their incarceration and if still incarcerated when they receive their benefits have their Medicaid benefits suspended until discharge when they would automatically become active.

Signed 
Affiliate Chair

Date: 6/20/13

Excerpted statement by federal CMS/HSD policy advisor, regarding new Medicaid coverage opportunities available through the Affordable Care Act:

. . . incarceration does not preclude an individual from being determined Medicaid-eligible. (*Emphasis added.*) Inmates are permitted to file an application for Medicaid coverage during the time of their incarceration, and assuming they meet all applicable Medicaid eligibility requirements, may be enrolled in the Medicaid program before, during, and after the period of time spent in the correctional facility. Incarceration does, however, affect the state's ability to claim federal financial participation (FFP). We have previously informed state that this is a payment exclusion only, not an eligibility exclusion, and does not affect the eligibility of the individual inmate for the Medicaid program. States can receive FFP for Medicaid-covered state plan services provided to Medicaid-enrolled inmates, when inmates become inpatients in hospitals, nursing facilities, juvenile psychiatric facilities, or intermediate care facilities. Furthermore, the payment exclusion does not apply when the inmate is paroled, on probation, or on home release, except when the individual reports to the prison for an overnight stay. However, the exclusion does apply where the individual is an inmate awaiting criminal proceedings, penal dispositions, or other involuntary detainment determinations.

The Centers for Medicare & Medicaid Services (CMS) has a longstanding policy that permits states to establish a process under which a Medicaid-eligible inmate is placed in a suspended eligibility status while the inmate exclusion is applicable. (*Emphasis added.*) This suspension process prevents the state from erroneously claiming FFP for services furnished to the incarcerated individual, while ensuring that the individual returns to active enrollment when the inmate exclusion no longer applies (absent a redetermination that results in a termination for other reasons). In fact we have informed states that there is no legal basis for terminating the Medicaid eligibility of inmates of public institutions solely on the basis of their status as inmates. The suspension policy provides for continuity of care so that the individual can immediately access covered benefits when the inmate exclusion no longer applies, and enables the state to receive FFP for such benefits. . . .

Taken from e-mail sent on June 18, 2013 by Marielle Kress MPP, Policy Advisor, Children & Adults Health Programs Group, Center for Medicaid and CHIP Services, Centers for Medicare & Medicaid Services, U.S. Department of Health & Human Services.

PRE-RELEASE MEDICAID BENEFITS FOR INCARCERATED PERSONS

**Senate Bill 65, 2013 Regular Session
Introduced by Senator Jerry Ortiz y Pino
Passed both houses, but was vetoed by the Governor**

SUMMARY OF LEGISLATIVE & GUBERNATORIAL ACTION

The original bill required the Human Services Department, along with correctional facilities, to ensure that incarcerated persons who are eligible for Medicaid, are able to access their Medicaid benefits immediately up release. The Senate Public Affairs Committee substitute added several requirements to the Human Services Department. The bill was finally amended on the Senate floor to expand slightly the affected parties, to include administrators of all facilities confining incarcerated individuals (and therefore to include counties); to strike the exclusion stating that the assessment process cannot take place less than ten days before release; and to require the Human Services Department to suspend but not terminate a Medicaid-eligible individual within the first year of the individual's entry into incarceration.

The Governor's veto message stated that, while she supported the intention of SB 65, it placed an unfunded burden on several state agencies and duplicated existing agreements between several departments. She further stated that the cabinet secretaries of those departments are committed to closing the incarceration benefits loophole, through an administrative process.

NEW MEXICO ASSOCIATION OF COUNTIES
DETENTION ADMINISTRATORS RESOLUTION 1

SUBJECT: County Correctional Facility Gross Receipts Tax

AFFECTED AFFILIATES: Commissioners

GOVERNMENTAL ENTITY: Counties - Legislative

IMPACT ON GOVERNMENTAL REVENUES: Revenue generating

SUBMITTED AS: NMAC priority

WHEREAS, twenty five counties in New Mexico have voted to enact the two one-sixteenth increments of County Correctional Facility Gross Receipts Tax authorized by state law; and

WHEREAS, county detention facilities use the proceeds of this local option tax to operate and maintain local detention facilities, and for many other purposes authorized by state law; and

WHEREAS, county detention facilities have seen a significant increase in detention facility populations since the County Correctional Facilities grt was expanded in 2004; and

WHEREAS, the resulting cost to county government is, in many counties, the most significant part of the county budget;

NOW THEREFORE BE IT RESOLVED, THAT the New Mexico Association of Counties supports legislation that would increase the County Correction Facility Gross Receipts Tax from two to four increments of one-sixteenth of one percent, resulting in a maximum tax of one fourth of one percent.

Signed

 6.20.13

Detention Administrators Chair

Signed

 6/20/13

Affiliate Chair

See third page for description of County Correctional Facility Gross Receipts Tax

COUNTY GROSS RECEIPTS TAX (GRT) LOCAL OPTION INCREMENTS

The county gross receipts taxes are collected at the same time and in the same manner as the state gross receipts. The local option tax rate changes are combined with the state gross receipts tax rate and incorporated into the gross receipts tax rate schedule that is revised and provided to the taxpayers every six months. The Enactment Date Table is posted on the Taxation & Revenue Department website: <http://www.tax.newmexico.gov/Tax-Library/For-Governments/Municipal-and-County-Governments/Pages/Enactment-Date-Tables.aspx>

Excerpted from *County Gross Receipts Tax Local Options*, published by the *NM Taxation & Revenue Department*, Revised June 2013.

Attachment B

DESCRIPTION & IMPOSITION, BY COUNTY, AS OF JULY 1, 2013

NAME OF TAX, PURPOSE, & INCREMENTS AUTHORIZED Unless otherwise noted, all increments are imposed countywide.	STATUTES & COUNTIES IMPOSING TAX
COUNTY GROSS RECEIPTS TAX	7-20E-9 through 7-20E-11
First 1/8 % (general purpose and/or county road fund	All counties
Second 1/8 % (county indigent patients)	All counties but Harding & Socorro
Third 1/8 % (general purpose)	24 counties
Fourth 1/16 % (general purpose)	22 counties
COUNTY INFRASTRUCTURE GROSS RECEIPTS TAX	7-20E-19
General purposes, waste/wastewater facilities, jails, economic development, etc.	
.First 1/16 %	10 counties
Second 1/16 %	10 counties

COUNTY CAPITAL OUTLAY GROSS RECEIPTS TAX Building & infrastructure projects, payment of revenue bonds for infrastructure	7-20E-21
First 1/16 %	6 counties
Second 1/16 %	6 counties
Third 1/16 %	6 counties
Fourth 1/16 %	6 counties
COUNTYWIDE/COUNTY AREA EMERGENCY COMMUNICATIONS & EMERGENCY MEDICAL & BEHAVIORAL HEALTH SERVICES GROSS RECEIPTS TAX Eligibility contingent on having emergency communications center and/or behavioral health services facility. May be imposed countywide or outside incorporated areas only.	7-20E-22
First 1/16 %	12 counties (Dona Ana votes on 07/30)
Second 1/16 %	12 counties
Third 1/16 %	10 counties
Fourth 1/16 %	9 counties
COUNTY EDUCATION GROSS RECEIPTS TAX For payment of county education GRT bonds for public school capital projects & off-campus program capital projects. Only Taos county is authorized.	7-20E-20
One ½ % increment	Taos
COUNTY HEALTH CARE GROSS RECEIPTS TAX Must be dedicated to the state's county-supported Medicaid Fund	7-20E-18
First 1/16 %	16 counties
Second 1/16 % is available only to counties w/ populations over 500,000.	Bernalillo
LOCAL HOSPITAL GROSS RECEIPTS TAX Four 1/8 % increments to pay principal & interest on revenue bonds for acquisition of land or buildings for hospital or healthcare facilities. Authorized for 14 counties; only 5 have imposed it.	7-20C-1 through 7-20C-17
First 1/8 %	Cibola, Quay, Roosevelt, San Juan, Union
Second 1/8 %	Cibola, Quay, Roosevelt, Union
Third 1/8 %	Cibola, Quay, Roosevelt
Fourth 1/8 %	Cibola, Quay, Roosevelt

<p>COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX To design & construct a county hospital facility, acquire land or buildings, or repay bonds or loans for acquiring, equipping, remodeling, or improving county hospital or health facility. One 1/4% increment</p>	<p>7-20E-12.1 Hidalgo & Sierra</p>
<p>SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX For operations & maintenance of hospital for care of sick & indigent persons (Quay) & county ambulance transport or rural health clinic costs (Luna). One 1/8 % increment</p>	<p>7-20E-13 & 7-20E-14 Quay and Luna</p>
<p>COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX Originally for purchasing & constructing jails; expanded to include operating detention facilities & transportation of prisoners. No election required but voters may petition for an election to approve or disapprove. First 1/16 % Second 1/16%</p>	<p>7-20-F-1 through 7-20F-12 26 counties 26 counties</p>
<p>COUNTY ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX For acquiring, constructing, operating & maintaining solid waste, water, wastewater, sewer, & other systems. Imposed <u>only</u> on businesses outside incorporated municipalities. One 1/8 %</p>	<p>7-20E-17 29 counties</p>
<p>COUNTY FIRE PROTECTION SERVICES EXCISE TAX For operational expenses (no salaries), ambulance services, capital outlay costs of independent fire districts or county ambulance services. Imposed only on businesses outside incorporated municipalities. Increment can be either 1/8 or 1/4 %. All imposing counties have enacted 1/4 %.</p>	<p>7-20E-15 & 7-20E-16 21 counties</p>
<p>COUNTY REGIONAL TRANSIT GROSS RECEIPTS TAX For purposes authorized in the Regional Transit District Act. County must be member of a regional transit district; all counties in district must elect to enact the tax.</p>	<p>7-20E-23</p>
<p>Four 1/16 % increments All counties appear to have enacted the first 2 increments only.</p>	<p>Bernalillo, Los Alamos, Rio Arriba, Sandoval, Santa Fe, & Taos counties</p>

<p>COUNTY QUALITY OF LIFE GROSS RECEIPTS TAX To promote & expand cultural programs Four 1/16th % increments</p>	<p>7-20E-24 No counties (Village of Cuba has enacted)</p>
<p>COUNTY REGIONAL SPACEPORT GROSS RECEIPTS TAX County must be a member of a regional spaceport. At least 75 % is for a regional spaceport district financing, planning, designing, engineering, constructing, and/or projects of the district. First & second 1/16 % increments</p>	<p>7-20E-25 Dona Ana & Sierra counties</p>
<p>COUNTY WATER & SANITATION GROSS RECEIPTS TAX If board of directors of water & sanitation district approves a resolution, county must impose the tax on persons engaged in business in the district. One ¼ % increment</p>	<p>7-20-E-26 No counties</p>
<p>COUNTY BUSINESS RETENTION GROSS RECEIPTS TAX To retain local businesses in the county, by reducing the impact to the State General Fund of gaming tax lost to the state because of reduced economic activity in the county. May be imposed only by a county containing gaming operator licensees that are racetracks (racinos). Four 1/16 % increments</p>	<p>7-20E-27 Lincoln county (enacted 2011; expires 2015)</p>
<p>COUNTY HOLD HARMLESS GROSS RECEIPTS TAX County may designate specific purpose, including but not limited to police or fire protection, public transportation or street repair and maintenance. Three 1/8 % increments; no voter referendum or petition</p>	<p>Enacted in 2013; no counties have yet imposed.</p>

Data sources: New Mexico Department of Taxation & Revenue
County Gross Receipts Tax Local Options, revised June 2013
Enactment Dates of Local Option Taxes, as of July 1, 2013

Prepared by Tasia Young, Lobbyist
New Mexico Association of Counties
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updated 07/30/13

**NEW MEXICO ASSOCIATION OF COUNTIES
TREASURERS' AFFILIATE – RESOLUTION #1**

COUNTY TREASURERS AS AGENTS OF PTD IN RECEIVING PAYMENTS ON INSTALLMENT AGREEMENTS

Affected NMAC Affiliates and/or County Offices: Assessors, Managers, Commissioners

Type of Governmental Entity: State Legislative

Impact on Government Revenues and Finances: Increased efficiency of collection of delinquent taxes for local and state taxing entities.

Submitted as NMAC Priority.

WHEREAS, NMSA 7-38-62 instills the responsibility and exclusive authority on the Tax and Revenue Department to collect delinquent taxes showing on the tax delinquency list; And

Whereas, PTD enters into installment agreements with delinquent tax payers as a means to collect those taxes; AND

WHEREAS, New Mexico County Treasurers acknowledge the tracking of payments, the filing of injunctions and liens related to missed payments, and the enforcement of installment agreements, is a function that should remain under the authority, control and within the jurisdiction of the Property Tax Division and the Legal Services Bureau of the Tax and Revenue Department ; AND

WHEREAS, payments by delinquent taxpayers to the PTD creates an unnecessary, confusing and inefficient third tier of government to which taxpayers are required to make payments ; AND

WHEREAS, the public's right to have updated and accurate information at the local level is compromised by the payment by delinquent tax payers to the state level where it is retained and not distributed for up to three years; AND

WHEREAS, county treasurers are equipped with resources, policies, and procedures already in place by which they are able to distribute payments received on behalf of Property Tax Division to them on a monthly basis, enabling the department to perform the necessary enforcement, negotiation, and tracking of all installment agreements;

NOW THEREFORE BE IT RESOLVED THAT the New Mexico Association of Counties supports legislation that would amend State Statute 7-38-62 to authorize County Treasurers to receive all payments of property taxes, including for those properties that have been turned over to the Property Tax Division for collection and been placed on installment agreements.

Signed: Catherine Prother
Chairman, Treasurers Affiliate

6-20-13

7-38-62. Authority of department to collect delinquent property taxes after receipt of tax delinquency list; use of penalties, interest and costs.

After the receipt of the tax delinquency list, the department has the responsibility and exclusive authority to take all action necessary to collect delinquent taxes shown on the list. This authority includes bringing collection actions in the district courts based upon the personal liability of the property owner for taxes as well as the actions authorized in the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978] for proceeding against the property subject to the tax for collection of delinquent taxes. Payment of delinquent taxes listed and any penalty, interest or costs due in connection with those taxes shall be made to the department if occurring after the receipt by the department of the tax delinquency list; however, the department may authorize county treasurers to act as its agents in accepting payments of taxes, penalties, interest or costs due. Penalties, interest and costs due received by the department under this section shall be retained by the department for use, subject to appropriation by the legislature, in the administration of the Property Tax Code.

History: 1953 Comp., § 72-31-62, enacted by Laws 1973, ch. 258, § 102; 1990, ch. 22, § 5.

NEW MEXICO ASSOCIATION OF COUNTIES

TREASURERS AFFILIATE RESOLUTION 2

Subject: Clarification of Delinquent Property Tax List Definition

Affected NMAC Affiliates: Assessors, Commissioners, Managers

Affected Governmental Entity: State Legislative

Impact on Governmental Revenues & Finances: Increase in collecting taxes, penalty, and interest, for state and local taxing entities

Submitted as NMAC Priority

WHEREAS, state statute 7-38-61 NMSA 1978 requires County Treasurers to prepare by July 1 of each year, a property tax delinquency list of all real property for which taxes have been delinquent for more than two years and to transfer those properties to the Property Tax Division (PTD) of the New Mexico Taxation and Revenue Department (TRD) for collection; and

WHEREAS, state statute 7-38-62 NMSA 1978 authorizes PRD to collect the delinquent property taxes on the list and to retain penalty, interest, and costs due; and

WHEREAS, clarification in the interpretation of these statutes is needed, to assist County Treasurers, state agencies, software companies, delinquent taxpayers, and the general public; and

WHEREAS, County Treasurers define the tax delinquency list used in 7-38-61 and 7-38-62 NMSA 1978, as the current annual list; and

WHEREAS, PTD believes that there is no provision that allows TRD to permanently stop the collection process against a property, until all delinquent taxes, penalties, interest, and costs have been paid, or the property has been sold; and

WHEREAS, many properties are not sold if taxpayers are making partial payments toward taxes owed;

NOW THEREFORE BE IT RESOLVED THAT, the New Mexico Association of Counties supports legislation that would clarify the responsibility of County Treasurers and the Property Tax Division, so that if a delinquent property does not appear on the most recent delinquent property tax list, that property reverts back to the County Treasurer for collection, and the penalty and interest collected is distributed to the county.

Signed: Catherine Procter
Chairman, Treasurers Affiliate

6-20-13

7-38-61. Real property taxes delinquent for more than two years; treasurer to prepare delinquency list; notation on property tax schedule.

A. By July 1 of each year, the county treasurer shall prepare a property tax delinquency list of all real property for which taxes have been delinquent for more than two years. The tax delinquency list shall contain the information and be in a form prescribed and submitted by the date required by department regulations. The county treasurer shall record the tax delinquency list in the office of the county clerk. There shall be no recording fee for recordation of the tax delinquency list. The updated final property tax sale list shall be recorded with the office of the county clerk the day following the sale of the property. There shall be no recording fee for recordation of the final property tax sale list.

B. The county treasurer shall make a notation on the property tax schedule indicating that the account has been transferred to the department for collection at the time the tax delinquency list is mailed to the department.

History: 1953 Comp., § 72-31-60, enacted by Laws 1973, ch. 258, § 100; 1977, ch. 177, § 1; 1980 ch. 100, § 1; 1978 Comp., § 7-38-60, recompiled as 1978 Comp., § 7-38-61 by Laws 1982, ch. 28, § 22; 1997, ch. 124, § 2.

7-38-62. Authority of department to collect delinquent property taxes after receipt of tax delinquency list; use of penalties, interest and costs.

After the receipt of the tax delinquency list, the department has the responsibility and exclusive authority to take all action necessary to collect delinquent taxes shown on the list. This authority includes bringing collection actions in the district courts based upon the personal liability of the property owner for taxes as well as the actions authorized in the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978] for proceeding against the property subject to the tax for collection of delinquent taxes. Payment of delinquent taxes listed and any penalty, interest or costs due in connection with those taxes shall be made to the department if occurring after the receipt by the department of the tax delinquency list; however, the department may authorize county treasurers to act as its agents in accepting payments of taxes, penalties, interest or costs due. Penalties, interest and costs due received by the department under this section shall be retained by the department for use, subject to appropriation by the legislature, in the administration of the Property Tax Code.

History: 1953 Comp., § 72-31-62, enacted by Laws 1973, ch. 258, § 102; 1990, ch. 22, § 5.