1	AN ACT
2	RELATING TO TAXATION; PROVIDING PROCEDURES FOR THE SALE OF
3	ABANDONED REAL PROPERTY FOR WHICH DELINQUENT PROPERTY TAX IS
4	DUE; DEFINING "ABANDONED REAL PROPERTY" IN THE PROPERTY TAX
5	CODE.
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7	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
8	SECTION 1. Section 7-35-2 NMSA 1978 (being Laws 1973,
9	Chapter 258, Section 2, as amended by Laws 1994, Chapter 9,
10	Section 1 and by Laws 1994, Chapter 9, Section 2) is amended
11	to read:
12	"7-35-2. DEFINITIONSAs used in the Property Tax
13	Code:
14	A. "abandoned real property" means real property:
15	(l) that is part of a subdivision where the
16	subdivision has a minimum of five thousand lots in
17	delinquency on the department's delinquent property tax list
18	as prepared by the appropriate county treasurer pursuant to
19	Section 7-38-61 NMSA 1978 as of January 1, 2019;
20	(2) of which the subdivided lots are vacant;
21	(3) that is part of a subdivision plotted on
22	or before 1980;
23	(4) the property taxes, penalties and
24	interest of which are delinquent for at least ten years; and
25	(5) that does not include property with

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1 existing homes, businesses or other habitable structures; 2 "department" or "division" means the taxation В. 3 and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority 4 5 lawfully delegated to that employee by the secretary; "director" means the secretary; C. 6 "livestock" means cattle, buffalo, horses, 7 mules, sheep, goats, swine, ratites and other domestic 8 animals useful to humans; 9 10 "manufactured home" means a manufactured home as that term is defined in Section 66-1-4.11 NMSA 1978; 11 F. "net taxable value" means the value of property 12 upon which the tax is imposed and is determined by deducting 13 from taxable value the amount of any exemption authorized by 14 15 the Property Tax Code; "nonresidential property" means property that 16 G. is not residential property; 17 "owner" means the person in whom is vested any 18 title to property; 19 "person" means an individual or any other legal 20 entity; 21 "property" means tangible property, real or J. **22** personal; 23 "residential property" means property Κ. 24 consisting of one or more dwellings together with appurtenant HBIC/HB 88 25 Page 2

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- 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

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property determined for property taxation purposes in order to derive taxable value; and

"tax year" means the calendar year."

**SECTION 2.** Section 7-38-66 NMSA 1978 (being Laws 1973, Chapter 258, Section 106, as amended by Laws 2001, Chapter 253, Section 2 and by Laws 2001, Chapter 254, Section 2) is amended to read:

"7-38-66. SALE OF REAL PROPERTY FOR DELINQUENT TAXES--NOTICE OF SALE. --

A. At least twenty days but not more than thirty days before the date of the sale for delinquent taxes, the department shall notify by certified mail, return receipt requested, and, for abandoned real property, an additional letter sent by first class mail, to the address as shown on the most recent property tax schedule, each property owner whose real property will be sold that the owner's real property will be sold to satisfy delinquent taxes, unless:

all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date of the sale, or, for abandoned real property being sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, all delinquent taxes, penalties, interest and costs due are paid by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website; or

1	(2) an installment agreement for payment of
2	all delinquent taxes, penalties, interest and costs due is
3	entered into with the department by 5:00 p.m. of the day
4	prior to the date of sale in accordance with Section 7-38-68
5	NMSA 1978, or, for abandoned real property sold via an online
6	platform as provided in Subsection D of Section 7-38-67.1
7	NMSA 1978, an installment agreement for payment of all
8	delinquent taxes, penalties, interest and costs due is
9	entered into with the department in accordance with Section
10	7-38-68 NMSA 1978 by 5:00 p.m. of the day prior to the date
11	the property is offered on the property tax division's
12	website.
13	B. The notice shall also:
14	(1) state the amount of taxes, penalties,
15	interest and costs due;
16	(2) state the time and place of the sale;
17	(3) if online, state the date and time the
18	sale begins and expires and the web address of the property
19	tax division's website where the property being sold will be
20	listed;
21	(4) describe the real property that will be
22	sold;
23	(5) inform the property owner of the
24	property owner's right to apply for an installment agreement

with the department for payment of delinquent taxes,

- (6) provide information on the name and phone number of the individual in the department the owner can contact to arrange for an installment agreement in accordance with Section 7-38-68 NMSA 1978; and
- (7) contain any other information that the department may require by rule.
- C. At the same time a notice required by
  Subsection A of this section is sent to the owner of the real
  property, a notice containing the information set out in
  Subsection B of this section shall also be sent to each
  person holding a lien or security interest of record in the
  property if an address for such person is reasonably
  ascertainable through a search of the property records of the
  county in which the property is located.
- D. Failure of the department to mail a required notice by certified mail, return receipt requested, shall invalidate the sale; provided, however, that return to the department of the notice of the return receipt shall be deemed adequate notice and shall not invalidate the sale.
- E. Proof that all delinquent taxes, penalties, interest and costs had been paid by 5:00 p.m. of the day prior to the date of sale shall prevent or invalidate the sale.

F. For abandoned real property sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, proof that the owner has paid all delinquent taxes, penalties, interest and costs due by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website shall invalidate the sale.

G. Proof that the owner has, by 5:00 p.m. of the day prior to the date of sale, entered into an installment agreement to pay all delinquent taxes, penalties, interest and costs as provided in Section 7-38-68 NMSA 1978 and that timely payments under such agreement are being made shall prevent or invalidate the sale.

H. For abandoned real property sold via an online platform as provided in Subsection D of Section 7-38-67.1 NMSA 1978, proof that the owner has entered into an installment agreement with the department for payment of all delinquent taxes, penalties, interest and costs due in accordance with Section 7-38-68 NMSA 1978 by 5:00 p.m. of the day prior to the date the property is offered on the property tax division's website shall invalidate the sale.

I. The time requirements of this section are subject to the provisions of Section 7-38-83 NMSA 1978."

**SECTION 3.** A new Section 7-38-67.1 NMSA 1978 is enacted to read:

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- A. Abandoned real property may be sold by special sale.
- В. Notice of the sale shall be published in a local newspaper within the county where the abandoned real property is located, or in a newspaper published in a county contiguous to or near the county in which the abandoned real property is located, the week immediately preceding the week of the sale. In cases where abandoned real property is offered for sale via an online platform pursuant to Subsection D of this section, the notice of the sale shall be published in a local newspaper within the county where the abandoned real property is located, or in a newspaper published in a county contiguous to or near the county in which the abandoned real property is located, the week immediately preceding the week of the beginning of the continuous online sale. Online sales notices pursuant to this section shall also be published on the property tax division's website. The notice shall:
  - (1) state the time and place of the sale;
- (2) if the sale is made via an online sale pursuant to Subsection D of this section, state the date and time the sale will begin and expire and the property tax division's website where the property being sold will be listed;

(3) include the name of the subdivision in which the abandoned real property is located;

- (4) state the total minimum bid; and
- (5) provide the phone number of the property tax division and the web address where interested buyers may obtain copies of the list of properties to be sold.
- C. Abandoned real property may be sold at public auction either by the department or an auctioneer hired by the department. The auction shall be held in the county where the abandoned real property is located at a time and place designated by the department.
- D. Abandoned real property may be offered for sale via an online platform on the property tax division's website, and notice shall be given pursuant to Subsection B of this section. The sales of abandoned real property listed on the property tax division's website may be continuous until December 31 of the tax year in which the abandoned real property is offered for sale. For subsequent tax years, notice shall be given pursuant to Subsection B of this section before the abandoned real property listed on the property tax division's website can be reoffered for sale.
- E. Before the sale, the department shall determine a minimum sale price for the abandoned real property. In determining the minimum price, the department shall consider the amount of all delinquent taxes, penalties, interest and

- F. A sale properly made under the authority of and in accordance with the requirements of this section constitutes full payment of all delinquent taxes, penalties and interest that are a lien pursuant to Section 7-38-48 NMSA 1978 against the abandoned real property at the time of sale, and the sale extinguishes the lien.
- G. Payment shall be made in full by the close of the public auction before an offer may be deemed accepted by the department. For abandoned real property sold via an online platform pursuant to Subsection D of this section, payment shall be made in full within one business day of the bid being accepted by the department before an offer may be deemed accepted by the department. Receipt of a bid from a buyer by the department is not acceptance of the bid by the department. The department shall notify the buyer whose bid is accepted by the department, and the one business day payment requirement begins at the time the buyer received notice of acceptance to the buyer whose bid was accepted by the department. Notice of acceptance of a bid sent to a

- H. The board of trustees of a community land grant-merced governed pursuant to the provisions of Chapter 49, Article 1 NMSA 1978, or by statutes specific to the named land grant-merced, shall be allowed to exercise the right of first offer to purchase the abandoned real property if:
- (1) the abandoned real property offered for sale is situated within the boundaries of that land grant-merced as shown in the United States patent to the grant;
- (2) the offer covers all taxes, penalties, interest and costs due on the abandoned real property unless the minimum sales price is reduced below total amounts owed pursuant to Subsection E of this section; and
- (3) the land becomes part of the common lands of the land grant-merced.
- I. In the event that there is a competing interest in the abandoned real property by prior landholders, such as

1	land grant owners, pueblos or nontaxable entitles, the
2	secretary shall determine who has the prevailing right of
3	first offer.
4	J. The time requirements of this section are
5	subject to the provisions of Section 7-38-83 NMSA 1978.
6	K. As used in this section, "right of first offer"
7	means the department is obliged to undergo exclusive good
8	faith negotiations with the rights holder before offering
9	abandoned real property for sale to the public."
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