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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/13  
 LAST UPDATED 03/15/13

SPONSOR SJC HB 406/SJCS/aSFL#1/  
SB aSFL#2/aHTRC

SHORT TITLE Divided & Combined Property Tax Collection

ANALYST Smith

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
\$0.0						Beneficiaries of the Property Tax

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HB 613/HJCS

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of HTRC Amendment

The House Taxation and Revenue Committee Amendment strikes Senate Floor Amendment #2.

#### Synopsis of Senate Floor Amendment #2

Senate Floor Amendment #2 strikes the provision requiring a county to decline to file or process a plat, deed, or other document or instrument used to divide or combine real property pending payment by the property of taxes on the property.

Instead, the amendment provides that if a plat or other instrument used to divide or combine property is filed by a person owing taxes, penalties, interest or fees on that property, the county assessor must record with the county clerk a statement of taxes owed on that property along with a reference to the instrument recorded. Upon recording the statement by the county assessor, the instrument shall not be considered of record. A county clerk may decline to record an instrument dividing or combining property if the county clerk knows that taxes, penalties, interest or fees are

owed on that property.

Synopsis of Senate Floor Amendment #1

Senate Floor amendment #1 clarifies that “penalties, interest and fees” are included when property tax is collected.

Synopsis of Original Bill

The Senate Committee Judiciary Committee substitute for Senate Bill 406 adds a new section to the Property Tax Code to require special procedures for the administration of property tax on real property when it is divided or combined. For valuation of property in this situation, the county is to determine the taxes, penalties and interest due on the property by using the prior year’s tax rate, if the current rate has not been set, and the prior year’s value, if the current value has not been set, and proceed to immediately collect the taxes through the taxable year in which the property is divided or combined. They must also decline to file or process a plat, deed or other document used to divide or combine real property pending compliance with the Section. It also adds language requiring a taxpayer to pay the taxes, penalties and interest due on real property divided or combined through the taxable year in which the property is divided or combined prior to filing a plat.

**Effective Date:** Emergency clause

**FISCAL IMPLICATIONS**

The Taxation and Revenue Department (TRD) believes the proposed bill could potentially bring the positive fiscal impact to property tax beneficiaries. A new section of the Property Tax Code is enacted to provide special procedures for property tax administration intended to prevent the loss of property tax dollars when the division or combining of property jeopardizes the collection of property taxes. Failed subdivisions are responsible for thousands of (soft number based on observation of collection efforts) delinquent property tax accounts statewide. The Department cannot develop a number on revenue losses because these properties are unmarketable. When the account is transferred to Property Tax Division (PTD), the legal descriptions do not conform to the post subdivision boundaries of record at the counties.

**SIGNIFICANT ISSUES**

The TRD believes that any legislation that attempts to ensure the satisfaction of property tax obligations due on real property that may be split or combined needs to be considerably stronger. This bill took the approach that is found in Section 7-38-44 (jeopardy assessments on personal property) and tried to make it applicable to lot splits and combines. The TRD thinks the proposed legislation provides sufficient protections required to address the ongoing problem.

Current practices have failed to accomplish the satisfaction of the tax obligations. The TRD agrees there must be statutory requirements pertaining to real property splits and combines that will prevent the loss of property tax dollars due to loopholes or poor practices at local levels.

## TECHNICAL ISSUES

The TRD proposes alternative language:

“Neither the State, any of its political subdivisions, property owners or their authorized agents shall divide any real property parcel or combine any real property parcels without first complying with all the requirements of this section.

A. Before any real property parcel may be divided or combined with another parcel, a tax clearance certificate issued, signed and dated by the county treasurer acknowledging payment of all taxes must be obtained.

(1) The tax clearance shall be in a form prescribed by the Department and shall contain the following information:

- (a) The name property owner(s) as recorded in the records of the county clerk’s office in the county where the property is located;
- (b) The current and correct address of the property owner(s);
- (c) The UPC Code Number, Owner ID Number, Parcel Code Number or any other identifier the county treasurer and assessor use to identify the real property;
- (d) A statement of the amount of base tax, penalty, interest and costs paid;
- (e) The date the property taxes were paid;
- (f) The county name, municipality, town or village and school district number where the real property is located; and,
- (g) A statement that if the real property division or combine is not approved or complete by December 31st of the current tax year in which the tax clearance certificate was issued, the certificate is void and a new tax clearance certificate will be required.

B. Before a tax clearance certificate can be issued by the county treasurer, the following requirements must be met:

- (1) All property taxes due, including the taxes due for the current tax year, must be paid in full together with any penalties, interest and costs due;
- (2) If the amount of property tax due for the current tax year has not been determined, an amount equal to one and a half times of the full amount of property tax due for the immediate preceding tax year shall be collected and receipted by the county treasurer. The payment will be placed in a suspense fund and applied when the tax becomes due. Overpayments shall be refunded to the taxpayer immediately after application of the payment.
- (3) If the real property has been transferred to the Department and the taxes are subject to collection by the Department under Section 7-38-62 NMSA 1978, the tax clearance certificate must also be signed the Property Tax Division. Upon presentation of the tax clearance certificate to the Department, the treasurer must also provide the supporting documentation sufficient to confirm all taxes, penalty, interest and costs have been collected by the treasurer.
- (4) All property taxes, penalties, interest and costs collected in accordance with the requirements of this section shall be distributed in accordance with Section 7-38-43 NMSA 1978.

C. The tax clearance certificate must be presented to the county assessor with any other documentation required to effect the real property division or combine. Upon approval by the county assessor of the real property division or combine, the county assessor will sign and date the certificate and provide a copy to the county treasurer.

D. If the real property division or combine is not approved or complete by December 31st of the current tax year in which the tax clearance certificate was issued, the tax clearance certificate will be considered void and a new tax clearance certificate will be required before the county assessor may proceed to divide or combine the subject real property.

The state or any of its political subdivisions may, by regulation or ordinance or resolution, adopt additional requirements needed for final approval of real property divisions or combines. However, regulations, ordinances and resolutions may not allow real property divisions or combines without full compliance with the requirements set forth in this section.”

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

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