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FISCAL IMPACT REPORT

SPONSOR: Griego DATE TYPED: 3/12/03 HB _____

SHORT TITLE: Property Taxes on Omitted Property SB 631/aSf1#1/aHTRC

ANALYST: Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	NFI			

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Responses Received From:
Taxation and Revenue Department (TRD)
Attorney General's Office (AGO)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment strikes the Senate Floor amendment.

Synopsis of SF1 Amendment #1

The Senate Floor #1 amendment states property owners would not be required to pay penalty and interest due to the omissions from previous property owners.

Synopsis of Original Bill

Senate Bill 631 amends statute to encourage taxpayers purchasing real property to report improvements made by prior owners, and to protect the new owners from tax liability incurred by prior owners.

Significant Issues

Section 1:

Establishes a thirty-day deadline for protesting bills for omitted property. The change is proposed because omitted property does not follow the same valuation and billing cycle as property currently on tax rolls. Section 7-38-76 NMSA 1978 currently requires omitted property to be valued and billed for within 30 days of being placed on the tax rolls by assessors. Property currently on the rolls has a separate valuation notice prior to assessment and billing. The proposed amendment to Section 7-38-24 NMSA 1978 therefore allows protests on omitted property in similar manner to protests currently available to owners of property that is not omitted.

Section 2:

Amends Section 7-38-42 NMSA 1978 to add procedures for crediting taxpayers for tax payments on omitted property. Under current statute, payments are applied to the oldest liability first to protect the property from proceedings on delinquent accounts. The new language would allow a new owner to make payments on an account that became delinquent because a previous owner failed to report improvements and pay taxes on them. The proposal therefore applies payments under these circumstances against the current liability rather than an older one.

Section 3:

Exempts improvements reported by a new owner from effects of an automatic lien when the improvements were made but not reported by a former owner. The proposal's fourth section amends Section 7-38-65 NMSA to exempt current owners from liability on omitted improvements of the prior owner. The section also states that owners of property on which improvements are omitted remain liable for taxes they should have paid due to the omissions.

FISCAL IMPLICATIONS

No fiscal impact noted

ADMINISTRATIVE IMPLICATIONS

TRD notes the following administrative concerns:

Implementing the proposal would be difficult and present a number of legal and administrative problems. The current property tax system requires current owners to be responsible for obligations associated with properties they purchase. They are required to pay taxes on properties they purchase irrespective of who incurred the tax liability. When taxes are imposed for which current owners are not responsible, a number of legal remedies exist under current statute. These remedies include allowing owners to seek payment from prior owners after they file a protest and pay taxes. Existing procedures have evolved to their current state because the alternatives would require property tax administrators – primarily county treasurers – to perform tasks that would be costly, difficult and more appropriately performed by other entities – for example the courts. These issues are illustrated by reviewing some problems likely to result from enacting the proposed bill, which would make fundamental changes to the existing approach.

1) The proposed addition to Section 7-38-42 C(2) – Section 2 of the proposal says that payments for a prior year's delinquent taxes, penalty and interest will not be applied to tax bills when current owners did not own the property when improvements were omitted and current owners were

not notified that the payments were omitted. This provision would prevent payments by escrow, mortgage and title companies or other entities whose name did not appear on a property tax bill they wish to pay. Complying with the requirement would effectively require county treasurers to perform title searches on properties whenever names of individuals submitting payments did not agree with names on property tax bills.

2) Section 7-38-47 NMSA 1978 *currently* states that property taxes are personal obligations of persons owning property when the property was subject to valuation and personal judgments may be imposed on owners for payment of property taxes, penalty and interest obligations. It also states that sale or transfer of property after it has been assessed for tax purposes does not relieve former owners of personal liability for penalty, interest and taxes that accrued while the person owned the property. Hence if a new tax bill for an omitted assessment became delinquent under the proposed measure, property owners would continue to be subject to penalty and interest because *current* Section 7-38-47 would not allow these fees to be waived. The new measure would thus conflict with current statute.

3) Under present law Section 7-38-47 NMSA 1978, as indicated above, sale of property does not relieve a former owner of personal liability. Hence a current owner that pays property taxes that should have been paid by a previous owner may seek payment from a previous owner because the prior owner remains responsible for them. The proposed measure is inconsistent with this provision. The Senate floor amendment is also inconsistent with Section 7-38-47 NMSA 1978. The amendment states that owners of omitted property are not required to pay penalty an interest on taxes that should have been due to omitted improvement, but 7-38-47 states that these owners would continue to be liable.

4) Under current regulation 3.6.7.85D NMAC, omitted assessments are subject to penalty and interest due to stipulations in Sections 7-38-49 NMSA 1978, stating that interest on unpaid taxes accrue from the thirtieth day after they are due until the date they are paid. For requirements of this section and its regulations to be complied with, the new material in 7-38-24, Subsection B(1)(b) must also include the same requirement as in Section 7-38-39 NMSA 1978 (PROTESTING VALUES--CLAIM FOR REFUND) and state that:

After receiving his property tax bill and making payment prior to the delinquency date of all property taxes due in accordance with the bill, a property owner may protest the value or classification determined for his property for property tax purposes under Section 7-38-22 and 7-38-24 NMSA 1978.

SN/yr:njw