

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 417

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO MUNICIPALITIES; INCREASING THE TYPES OF RESIDENTIAL  
PROPERTY THAT MAY BE INCLUDED IN BUSINESS IMPROVEMENT  
DISTRICTS.

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

Section 1. Section 3-63-5 NMSA 1978 (being Laws 1988,  
Chapter 32, Section 5, as amended) is amended to read:

"3-63-5. DISTRICT--AUTHORITY--CREATION.--

A. A district shall assess a business improvement  
benefit fee on any real property or business located within the  
district.

B. A district shall include any real property or  
business that benefits by the improvements set out in the  
business improvement district plan and that is located within  
the district's geographic boundaries.

underscored material = new  
[bracketed material] = delete

1 C. The district benefit fee assessment schedule  
2 shall not include:

3 (1) governmentally owned real property;  
4 (2) residential real property ~~[or]~~ other than  
5 multifamily residential rental property with at least four  
6 units or homeowners associations of multifamily ownership  
7 properties;

8 (3) real property owned by a nonprofit  
9 corporation; or

10 (4) residential real property located within  
11 an existing district that became eligible for a business  
12 improvement benefit fee assessment after the district was  
13 created, unless the ordinance that created the district is  
14 amended to include the new business or property after notice  
15 and hearing in accordance with Section 3-63-10 NMSA 1978.

16 D. A district may be created by petition of real  
17 property owners or by petition of business owners in a proposed  
18 district after notice and public hearing."

19 Section 2. Section 3-63-13 NMSA 1978 (being Laws 1988,  
20 Chapter 32, Section 13, as amended) is amended to read:

21 "3-63-13. ANNUAL ASSESSMENT--SPECIAL ACCOUNT.--

22 A. The council, upon recommendation of the  
23 management committee, may annually assess a business  
24 improvement benefit fee as defined by the ordinance upon all  
25 real property owners and business owners, exclusive of ~~[any~~

.172043.1

underscoring material = new  
[bracketed material] = delete

1 ~~real property owned by the United States or the state or any of~~  
2 ~~its political subdivisions located within the district]:~~

3 (1) governmentally owned real property;

4 (2) residential real property other than  
5 multifamily residential rental property with at least four  
6 units or homeowners associations of multifamily ownership  
7 properties;

8 (3) real property owned by a nonprofit  
9 corporation; or

10 (4) residential real property located within  
11 an existing district that became eligible for a business  
12 improvement benefit fee assessment after the district was  
13 created, unless the ordinance that created the district is  
14 amended to include the new business or property after notice  
15 and hearing in accordance with Section 3-63-10 NMSA 1978.

16 B. The council may make reasonable classifications  
17 regarding real property owners located within the district.  
18 The annual assessment may be based on the amount of space used  
19 for business purposes, street front footage, building or land  
20 square footage or such other factors or combination of factors  
21 as shall be deemed reasonable. The annual assessment shall be  
22 in addition to any other incorporated municipal-imposed license  
23 fees or other taxes, fees or other charges assessed or levied  
24 for the general benefit and use of the incorporated  
25 municipality.

.172043.1

underscored material = new  
[bracketed material] = delete

1           ~~[B-]~~ C. All money received by the municipality from  
2 the district assessment shall be held in a special account for  
3 the benefit of the district.

4           ~~[G-]~~ D. In the case of a district that was created  
5 by a majority of real property owners, the amount owed by a  
6 commercial tenant shall be proportional to the square footage  
7 of space that the tenant rents but shall not be more than  
8 seventy-five percent of the total business improvement benefit  
9 fee assessed on the property. The property owner shall pay at  
10 least twenty-five percent of the business improvement benefit  
11 fee.

12           ~~[D-]~~ E. In the case of a district that was created  
13 by a majority of businesses, the business improvement benefit  
14 fee shall be collected at the same time that the real property  
15 owner's property taxes are collected. Businesses shall be  
16 assessed for one hundred percent of the business fee assessed  
17 to the property."