

LFC Requester:

Jennifer Faubion

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X Amendment X
Correction Substitute

Date Prepared: 1/25/2024

Bill No: SB207

Sponsor: Peter Wirth

Short Title: Amending Provisions of
the Lodgers' Tax and
authorizing an Occupancy
Surtax

Agency Name and Code Number: 305 – New Mexico
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Senate Bill (“SB”) 207 would impose the lodgers’ tax on rentals less than 30 days that include a room or rooms of residential housing which is defined as single family homes (apartments, guest cottage, and condominium). This bill excludes, bread and breakfasts, hotels and motels. The bill also provides for a surtax on properties that are being used as short term rental units. The tax revenue would go to counties and municipalities and part of that money would be used offset the cost of counties and municipalities investing in low income housing. The bill provides for taxpayer audits based on the amount of tax revenue. The bill also removes the presumption that property is considered commercial property. Exempted from the tax is the state of New Mexico and its agents along with the Federal government and its agents. Lastly the bill addresses updating the letter/forms sent by a county assessor’s office to property owners. The update provides for the property owner to request tax exemptions and for a landowner to update their mailing address with the county assessor’s office.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

None noted.

PERFORMANCE IMPLICATIONS

The bill provides for audits and defines funding to ensure that if the tax is imposed by counties and municipalities that it is being paid.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There is no conflict with current law.

TECHNICAL ISSUES

The bill adds lodgers' tax to residential housing defined as: (apartments, guest cottage, and condominium). Modular homes are not listed as part of the defined terms of this bill and it is possible that they could be rented for less than 30 days and avoid the expansion of the lodgers' tax.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

Consider amended to include modular homes and mobile homes as they are residential housing that could be rented for time periods less than 30 days.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Residential housing being used for rental periods associated with hotels and motels will not be taxed like hotels and motels, thereby evading lodgers' taxes. This will make short term rental of housing stock more competitive and attractive, which may be contributing to constriction of the long-term rental market.

AMENDMENTS

None currently.