

**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  
Department of Justice    
**Person Writing Analysis:**   AAG Jessee Kelly    
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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)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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.