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FISCAL IMPACT REPORT

SPONSOR <u>Chandler</u>	LAST UPDATED <u>2/7/24</u> ORIGINAL DATE <u>2/6/24</u>
SHORT TITLE <u>Property Tax Forms & Changes</u>	BILL NUMBER <u>House Bill 247</u>
ANALYST <u>Graeser</u>	

REVENUE* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Property Tax/Local Governments			Indeterminate loss, could be substantial*	Indeterminate loss, could be substantial*	Indeterminate loss, could be substantial*	Recurring	Local Property Tax Beneficiaries
Property Tax/GOB Bonds			Indeterminate but minimal loss*	Indeterminate but minimal loss*	Indeterminate but minimal loss*	Recurring	State GOBs

Parentheses () indicate expenditure decreases.

* TRD/PTD has not responded to the potentially significant administrative impact of repealing all penalties for false declarations of residential property status. Back taxes, civil penalty and interest are treated by county treasurers in the same way that the underlying property tax collections are treated and are transferred to the various revenue beneficiaries.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
County Assessors		Unknown, could be substantial	Unknown, could be substantial	Unknown, could be substantial	Recurring	Local Funds
TRD/PTD		Unknown*	Unknown*	Unknown*	Recurring	General fund and other state funds

Parentheses () indicate expenditure decreases.

* TRD/PTD has not responded to the potentially significant administrative impact of repealing all penalties for false declarations of residential property status. It is expected that the indirect impact on administrative effort will be significant and affect staff resources.

Relates to House Memorial 44 and Senate Joint Resolution 18.

Sources of Information

LFC Files

Agency Analysis Received From

Department of Finance and Administration/Local Government Division (DFA/LGD)

Agency Analysis was Solicited but Not Received From

Taxation and Revenue Department/Property Tax Division (TRD/PTD)
New Mexico Counties (NMC)

SUMMARY

Synopsis of House Bill 247

House Bill 247 (HB247) amends two sections of New Mexico statutes, one that guides valuation notices sent to property owners and one that provides that all property is assumed to be nonresidential unless the owner declares it residential.

HB247 would allow each county to prescribe their own form to send to property owners during the valuation period of April 1 and May 1 and allows county assessors to include the county-designed form with the previous year's tax bill to provide easy access for property owners to update the mailing address or the classification of taxpayer's property or to claim an exemption or a limitation on increases in valuation for property taxation purposes.

The bill also would repeal Section 7-38-17.1 NMSA, which classifies all property as nonresidential until and unless the property owner files a declaration of change of classification. This section provides penalties for false declarations and contains instructions on notice of net taxable value and the requirement to declare change in status. The changes proposed in the bill serve to retain notice requirements but delete the penalties for false statement.

The effective date of this bill is July 1, 2024. This is after the preliminary notice of net taxable value and final notice of net taxable value for the 2024 tax year, but before the end of the protest period of July 31, 2024, for 2024 tax year valuations.

FISCAL IMPLICATIONS

The change in notification procedures and accompanying declaration form may be easily accomplished at minimum additional costs.

However, deleting the presumption of nonresidential status and the accompanying penalties for making a false statement could have significant negative impacts. Some nonresidential property owners would understand that residential properties are taxed significantly less than nonresidential properties based on the same net taxable value. Initially, this is because residential property tax rates have been significantly decreased relative to nonresidential rates because of yield control. (7-37-7.1 NMSA 1978). After the first year, the residential 3 percent assessment limit (7-36-21.2 NMSA 1978) continues to limit annual increases in assessment. Finally, business owners would possibly not be liable to declare tangible personal property (7-36.8 NMSA 1978). It is not certain that lacking penalties, assessors would be able to impeach an improper declaration.

Pursuant to current statute (7-38-17.1 NMSA 1978), make-up taxes, civil penalties, and interest are not considered fines and forfeitures which, pursuant to the New Mexico Constitution must be transferred to the common school fund. Penalties for false statement would be considered equivalent to other property tax payments and transferred appropriately to the revenue beneficiaries.

SIGNIFICANT ISSUES

Including “at minimum” in the information that must be included in the notice of net taxable

value mailed by the department by April 1 each year may be intended to allow or encourage the department to include a form with that mailing that would easily allow a property owner to update an address or declare a change in residency status or claim various deductions or limitations. However, the intent of Section 1, amending 7-38-20 NMSA regarding notification procedures is to make up for repealing notification procedures in the repealed 7-38-17.1 NMSA 1978.

Repealing section 7-38-17.1 NMSA 1978 may have unintended consequences by repealing penalties for false statements. Section 7-38-17.1 NMSA details penalties for false statements:

C. Any person who violates Subsection A of this section by declaring a property which is nonresidential to be residential or who violates Subsection B of this section by failing to report a change of use from residential to nonresidential shall be liable, for each tax year to which declaration or failure to report applies, for:

- (1) any additional taxes because of a difference in tax rates imposed against residential and nonresidential property;
- (2) interest, calculated as provided under Section 7-38-49 NMSA 1978, on any additional taxes determined to be due under Paragraph (1) of this subsection; and
- (3) a civil penalty of five percent of any additional taxes determined to be due under Paragraph (1) of this subsection.

D. Any person who violates Subsection A of this section by declaring a property which is nonresidential to be residential with the intent to evade any tax or who violates Subsection B of this section by refusing or failing to report a change of use from residential to nonresidential with the intent to evade any tax is guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than one thousand dollars (\$1,000). Any director, employee of the division, county assessor or employee of any assessor who knowingly records a property which is nonresidential to be residential is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) and shall be automatically removed from office or dismissed from employment upon conviction under this subsection.

As noted in “Fiscal Implications,” in the absence of penalties and with the knowledge that a residential declaration is advantageous, a nonresidential property owner might file a false declaration of residential status and that declaration would have to be accepted by the assessor.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met because TRD is not required in the bill to report annually to an interim legislative committee regarding property tax assessments, veteran’s or homeowner’s exemptions, net new value or valuation maintenance or the effect of the three-percent assessment limitation. DFA/PTD publishes rate sheets showing the final net taxable values and yield-controlled rates for counties, municipalities, school districts, higher education facilities, hospitals, and special districts. These assembled final data allow analysts to answer many questions, but not all.

ADMINISTRATIVE IMPLICATIONS

The proposed changes will likely have administrative consequences for TRD/PTD and the 33 county assessors’ offices. The impacts on TRD/PTD will probably be realized as increased

burden on staff dealing with inquiries from county assessors.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB247 relates to HM44, which requests a study to improve fairness between residential and nonresidential assessments and recommend legislation; and SJR18, which proposes a constitutional amendment that would allow the state to tax properties owned by foreign nations at a higher rate than for other property owners.

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