Bill 9

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 22-0168	**Date:**	October 25, 2021
Prime Sponsors:		**Bill Status:**	Bill Request
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Bill Topic: **SHORT-TERM RENTAL UNITS PROPERTY TAX**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☒ TABOR Refund
☒ Local Government
☐ Statutory Public Entity

The bill creates a hybrid property classification for short-term rental units, requiring a portion of these units to be assessed as lodging property. It increases local government revenue and expenditures and decreases state revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the bill draft requested by the Legislative Oversight Committee Concerning Tax Policy.

Table 1
State Fiscal Impacts Under Bill 9

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	General Fund	-	($3.3 million)
Expenditures	School Finance*	-	($30.8 million)
Transfers		-	-
TABOR Refund	General Fund	-	($3.3 million)

**School finance expenditures may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination thereof.*

Summary of Legislation

Beginning for property tax year 2023, the bill creates a hybrid property classification for short-term rental units, classifying these in part as residential property and in part as lodging property. The property is classified as lodging property for the portion of the previous property tax year when it was leased for stays of less than 30 days ("short-term stays"), and as residential property for the remainder of the year. Properties leased for short-term stays totaling 30 days or less continue to be classified as residential property for the entire year.

Owners of short-term rental units are required annually to submit affidavits to their county assessor that identify, under penalty of second degree perjury, the total number of days that the short-term rental unit was leased for short-term stays. If a short-rental also qualifies as a bed and breakfast, it is classified as a bed and breakfast.

Background

Assessment rates. Property taxes are paid on a portion of a property's actual value. This portion, known as assessed value, is calculated by multiplying the actual value by an assessment rate. The assessed value is then multiplied by a locally determined mill levy (or tax rate) to determine the property taxes owed. Residential and lodging property are subject to different assessment rates. Residential property is assessed at a rate of 6.95 percent for 2022 and 2023, and 7.15 percent for 2024 and subsequent years. Lodging property is assessed at a rate of 29.00 percent. Property tax is paid in arrears, so the assessment rate for a given year determines the amount of property tax paid in the following year.

Property taxes and school finance. Property tax revenue funds local governments, including counties, municipalities, school districts, and special districts. The amount of property tax revenue collected by school districts has a state budget impact because K-12 education is funded through a combination of state and local government revenue. The school finance act determines the amount of total program funding allotted to each school district, and the state is required to make up the difference between the amount determined by the formula and the property tax revenue collected by the school district from total program mills. The state share may be paid from the General Fund, the State Education Fund, or the State Public School Fund.

Assumptions

A centralized source of data are not currently available that counts the number of short-term rental units in Colorado or the duration of time for which these units are occupied. The assumptions explained below are used for the state revenue, school finance, and local government sections of this fiscal note and will be updated if more information becomes available.

Number of short-term rental units. Data from the U.S. Census Bureau's American Community Survey (ACS) indicate that approximately 118,000 residential properties in Colorado are not occupied as permanent residences and instead used seasonally, recreationally, or occasionally. National surveys indicate that 30 percent of vacation property owners have shown interest in renting their property as a short-term rental. However, available figures for resort communities in Colorado indicate much higher utilization rates. For example, January 2020 data accessed from Airbnb indicate that there were about 9,350 short-term rentals listed in four Summit County municipalities (Breckenridge, Dillon, Frisco, and Silverthorne), and the county has indicated that there are about 4,300 short-term rental units in unincorporated Summit County, which includes Keystone and Copper Mountain. Combining these figures gives 13,650 short-term rental units in Summit County, about 69 percent of the number of seasonal or recreational properties identified by the ACS for the county.

This fiscal note assumes that 69 percent of seasonal or recreational properties in resort counties (Eagle, Grand, Gunnison, Pitkin, Routt, San Miguel, and Summit), and 25 percent of those in other counties, are listed as short-term rentals. It is therefore estimated that there are approximately 54,750 short-term rental units in Colorado.

Duration of occupation. No publically available data could be identified on the number of days for which Colorado short-term rental units are occupied each year. For 38 municipalities, January 2020 data accessed from Airbnb indicated the percentage of rentals listed for at least 270 days per year. These ranged from 12 percent for Englewood to 39 percent for Glenwood Springs, Leadville, and Salida. This fiscal note applies these percentages as proxies for the percentage of short-term rental unit value that will be reclassified as lodging property under the bill. Where municipal level data were available, a weighted average was constructed for the county; a weighted average of other counties is used for counties that were not part of the data set. Statewide, it is estimated that about 25.7 percent of short-term rental unit value will be reclassified from residential property to lodging property under the bill.

State Revenue

The bill is expected to decrease General Fund revenue by up to $3.3 million for FY 2023-24 and by up to $6.7 million for FY 2024-25 and subsequent fiscal years. The estimate for FY 2023-24 is a half-year impact for tax year 2024 on an accrual accounting basis. The bill reduces income tax revenue, which is subject to TABOR.

Taxpayers who itemize deductions on their federal income tax return may deduct property taxes paid to local governments, up to an annual cap in federal law. The bill is expected to increase aggregate property taxes paid for property tax year 2023, which may be deducted when computing taxable income for tax year 2024. The estimate multiplies the amount of the expected property tax impact by the state income tax rate and represents an upper bound if all property taxes are deducted. Depending on the share of taxpayers who choose to take the federal standard deduction, or whose state and local tax deduction would otherwise exceed the federal limit, the revenue impact will be less than estimated.

State Expenditures

Workload in the Department of Local Affairs will increase beginning in FY 2022-23, and the state aid requirement for school finance will decrease by an estimated $30.8 million beginning in FY 2023-24. The bill will also decrease the state TABOR refund obligation for FY 2023-24. These impacts are discussed below.

Department of Local Affairs. The Division of Property Taxation updates procedures, forms, and various manuals to assist assessors with the assessment and administration of property taxes. The division will experience increased workload to update these forms and to train and assist assessors. Additionally, the division will be required to develop the affidavit required in the bill. This workload increase can be accomplished within existing appropriations.

School finance. The state aid requirement for school finance is expected to decrease by $30.8 million in FY 2023-24, offsetting the expected increase in property tax revenue collected by school districts through the assessment of total program mills. If the General Assembly chooses to address the increased local share by decreasing the budget stabilization factor instead, then the expenditure decrease will be less than estimated.

Estimates assume the property tax revenue increase described in the Local Government section of this fiscal note and current school finance total program mills for each school district. If mill levies are changed, the state expenditure reduction will be affected accordingly.

TABOR refunds. Beginning in FY 2023-24, the bill decreases state income tax revenue, which will correspondingly decrease the state obligation for TABOR refunds to taxpayers. TABOR refunds are paid from the General Fund. An estimate of state revenue subject to TABOR is not available beyond FY 2023-24.

Local Government

The bill increases local government revenue and expenditures as discussed below.

Local government revenue. The bill is expected to increase local government revenue from property taxes by $146.9 million for property tax year 2023, for which taxes are paid in calendar year 2024. A forecast of assessed values, from which property tax estimates are derived, is not available beyond property tax year 2023.

Based on the assumptions listed in the Assumptions section above, the bill is expected to require the reclassification of approximately $11.3 billion in actual residential property value as lodging property. Under current law, this amount would be assessed at a rate of 6.95 percent for the 2023 property tax year; under the bill, this amount will be assessed at a rate of 29.00 percent, resulting in a $2.5 billion increase in assessed values. The revenue estimate applies combined average county, municipal, school district, and special district mills on a county-by-county basis. Revenue increases are expected to be largest in resort counties, led by Summit County ($37.9 million), Eagle County ($27.5 million), and Grand County ($14.4 million). These amounts represent the combined property tax impacts for all taxing jurisdictions within each county, not only the county government.

County assessors use different valuation methods for commercial property than those used for residential property. To the extent that the change in the method of valuation results in the determination of different actual property values than under current law, the revenue impact will differ from this estimate.

Property tax revenue is subject to local government TABOR limits. For local governments that are at or near their TABOR limits, a property tax revenue increase may increase TABOR refund obligations, requiring a corresponding reduction in mill levies if voters do not approve a measure allowing the jurisdiction to retain the excess.

Local government expenditures. County assessors' offices will require increased staff levels in order to implement the bill. The amount by which assessors' workloads will increase will depend on the number of short-term rental units in the county. It is estimated that counties with large numbers of short-term rental units will require 5.0 FTE or more to implement the bill, and that approximately 30.0 FTE will be required in assessors' offices statewide.

Assessors' offices are expected to need to contract with an outside source to determine the locations of short-term rental units within their counties. Costs will vary by county and are estimated at between $10,000 and $100,000 per county.

Computer programming changes will be required to accommodate required changes to notice of valuation forms. Costs will vary by county and are estimated at between $5,000 and $50,000 per county.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Counties	County Assessors	Education
Judicial	Local Affairs	Municipalities
Property Tax	School Districts	Special Districts