SB 20-109

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number:	LLS 20-0771	**Date:**	January 28, 2020
Prime Sponsors:	Sen. Gardner	**Bill Status:**	Senate Finance
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Bill Topic: **SHORT-TERM RENTALS PROPERTY TAX**

Summary of Fiscal Impact:

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

This bill defines short-term rental units for property taxes, reclassifying certain properties from residential to nonresidential property and increasing their assessed value starting in 2022. The bill will increase local government property taxes by $101.3 million annually, and potentially decrease the state share of school finance by $25.2 million annually.

Appropriation Summary: None required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 20-109

		FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Revenue	General Fund	-	-	Up to ($2,345,556)	Up to ($4,691,112)
Expenditures	General Fund	-	-	($25,167,144)	($25,167,144)
Transfers		-	-	-	-
TABOR Refund	General Fund	-	-	Not Estimated	

Summary of Legislation

This bill defines short-term rental units for property tax purposes. Short-term rental units meet the following two conditions:

- the building or unit is available for rent for less than 30 consecutive days; and
- the building or unit is occupied by the owner for less than 30 days per year.

Starting in 2022, based on usage of the unit in 2021, short-term rental units will be classified as nonresidential property.

The bill also ensures that residential units available for short-term rental, and not meeting the definition of a short-term rental unit, are classified as residential property.

Background

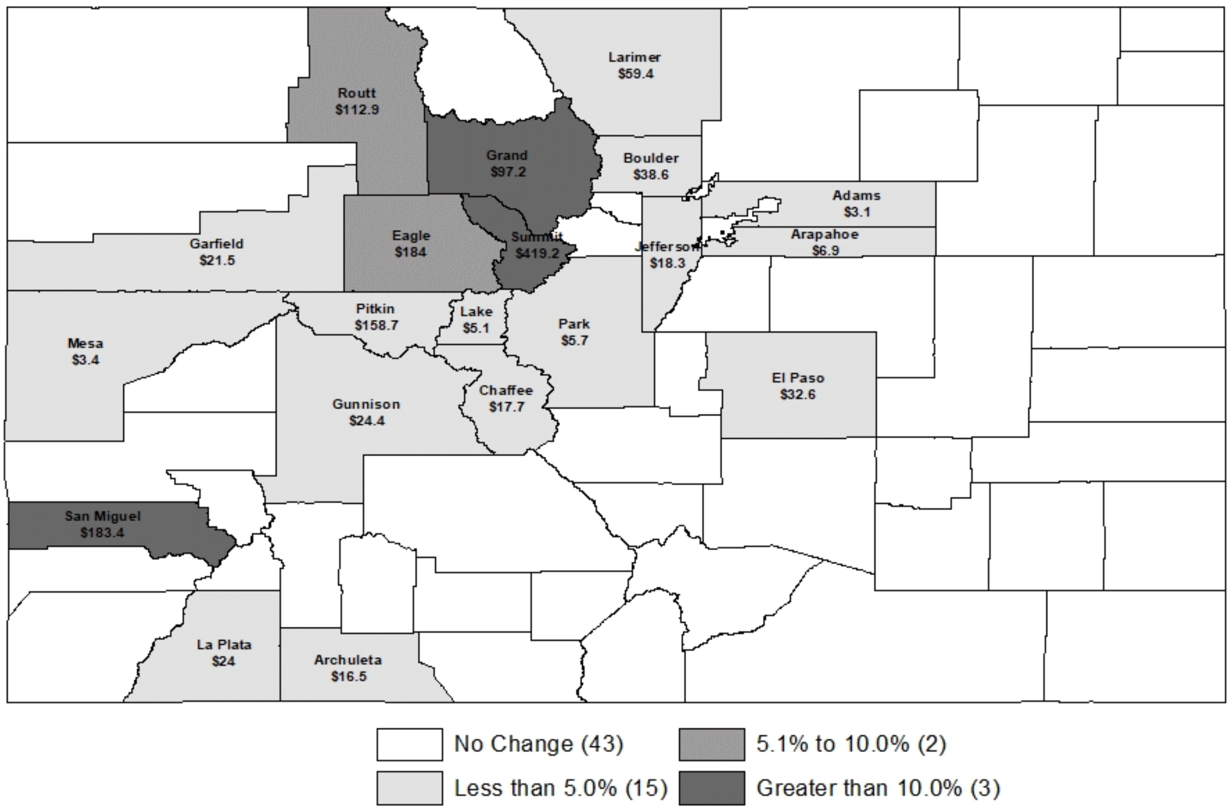
The reclassification of short-term rental units will increase statewide taxable values by an estimated $1.4 billion, or 0.9 percent in 2022.

Assessment rates. Property taxation is based on the assessed value of land, improvements, and certain personal property. Under Colorado law, nonresidential property is assessed at 29 percent of its actual value. Based on the December 2019 Legislative Council Staff forecast, the residential assessment rate (RAR) will be 7.13 percent for tax years 2022. The RAR will be determined by the General Assembly pursuant to the state constitution in future years beyond the forecast period. Reclassification under the bill increases property tax liability by 306.7 percent for an affected property at the forecast residential assessment rate.

Starting in 2023, reclassifying short-term rental units from residential property to nonresidential property will put upward pressure on the RAR. The RAR cannot be increased without a voter approval. There are currently no published estimates of the 2023 and 2024 RAR to estimate the change in the RAR because of the bill.

Short-term rental units. Data from the short-term rental site AirBNB was used to estimate the share of residential property that will be reclassified under the bill. Aggregate data for 38 markets in Colorado were analyzed, and it is estimated that 8,526 residential units are available to rent for more than nine months per year. These residential units represent about 0.7 percent of residential market value in the state. Rental activity in 2021 will be used to determine if a property is a short-term rental unit in 2022. The estimated change in 2022 assessed values for each county are shown in Figure 1.

Figure 1
Change in 2022 Assessed Values
Millions of Dollars



Source: Colorado Legislative Council Staff projections.

Based on the estimated change in 2022 assessed values and 2018 mills, local property taxes will increase by $101.3 million in FY 2022-23. Table 2 shows the change in property tax revenue.

Table 2
Change in Property Tax Revenue Under SB 20-109

	FY 2022-23
Local School Total Program Mill Levy	$25,167,144
Other Local Government Revenue	$76,152,776
Total Change in Property Tax Revenue	**$101,319,920**

The fiscal note is based on short-term rental data as of January 24, 2020 and does not try and estimate any behavioral impacts. To the extent that property owners stop making their property available for short-term rental, the fiscal impact will be reduced.

State Revenue

The bill decreases state General Fund revenue from income tax by $2.3 million in FY 2022-23 and by $4.7 million starting in FY 2023-24.

Many owners of short-term rental units currently realize income tax savings by deducting property taxes paid from federal taxable income. The increase in property taxes from this bill increases the deduction owners will be allowed to take, decreasing their Colorado income tax liability. The revenue impact is calculated by applying the state's 4.63 percent income tax rate to the increased property tax liability. The FY 2022-23 revenue impact is based on a half-year impact to account for accrual accounting of the income tax.

Federal tax legislation passed at the end of 2017 increased the standard deduction and reduced the deduction allowed for state and local taxes. Data is not yet available to determine how federal tax law changes impacted Colorado filing activity so the maximum General Fund revenue impact is estimated.

State Expenditures

Starting in FY 2022-23, the bill potentially decreases state expenditures for school finance by $25,167,144 as described below. In addition, the bill results in a workload increase for the Department of Local Affairs (DOLA) in FY 2021-22.

School finance impact. Based on school district operating mill levies across the state, the increase in property taxes available for the local share of school finance may decrease required state aid by $25,167,144 in FY 2022-23 with ongoing impacts in future fiscal years. This estimate is based on 2019 operating mill levies. Mills in four school districts across the state will go down as a result of the increase in taxable value, increasing the state backfill required under the bill. If the Budget Stabilization Factor remains unchanged, the property tax increase will be offset by lower state aid.

DOLA - Division of Property Taxation (DPT). In FY 2021-22, the DPT will issue guidance to county assessors on assessing short-term rental units correctly. This will be accomplished with existing resources.

Local Government

Local government property tax revenue will be increased by an estimated $101.3 million annually, starting in FY 2022-23. This revenue will go to local governments and school districts, with unique impacts described below.

County assessors. County assessors will need to hire staff to properly classify short-term rental property. The staff will need to monitor usage of properties including if it is available for rent for less than 30 consecutive days, or occupied by the owner for more than 30 days per year. The number of staff hired in each assessor's office will depend on market dynamics in each county and vary by the number of units available for short-term rent.

Municipalities, counties, and special districts. Property tax revenue to municipalities, counties, and special districts with reclassified short-term rental units will be increased by about $76.1 million annually. To the extent that local governments decrease mills because of constitutional and statutory revenue and budget considerations, the revenue impact will be reduced.

School districts. The property tax revenue from the program mill levy will be increased by about $25.2 million annually. However, the state's share of funding may be decreased, offsetting the increase in property tax revenue.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed. Rental activity in 2021 will be used to determine 2022 property taxes.

State and Local Government Contacts

Counties
Local Affairs
Property Tax Division - Local Affairs
County Assessors
Municipalities
Special Districts