Bill 6

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0388	**Date:**	October 26, 2023
Prime Sponsors:		**Bill Status:**	Bill Request
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Bill Topic: **LODGING PROPERTY TAX TREATMENT**

Summary of Fiscal Impact:

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

The bill reclassifies certain residential properties as lodging property if they are used for short-term rentals. On net, the bill decreases state expenditures, increases local property tax revenue, and increases costs for local governments.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under Bill 6

		Budget Year FY 2024-25	Out Year FY 2025-26	Out Year FY 2026-27
Revenue		-	-	-
Expenditures	General Fund	-	$196,073	$64,603
	School Finance[1]	-	-	($78,260,253)
	Centrally Appropriated	-	$17,711	$17,711
	Total Expenditures	**-**	**$213,784**	**($78,177,939)**
	Total FTE	**-**	**1.0 FTE**	**1.0 FTE**
Transfers		-	-	-
Other Budget Impacts	General Fund Reserve	-	$29,411	$29,411

[1] *The state share of school finance may be paid out of the General Fund, State Education Fund, State Public School Fund, or a combination.*

Summary of Legislation

The bill classifies property designed for use as a residence, but that is only used for short-term rentals, as lodging property under the definition of hotels and motels. This excludes bed and breakfasts.

The bill also requires that homes not used as primary residences and that are used mostly as short-term rental units be classified and assessed as lodging property, beginning with the 2026 property tax year. These homes will be classified as lodging property if they were leased for short-term stays more than 90 days during the year. The bill requires the owner of a property used at least one time per year for a short term stay to annually submit an affidavit with the county assessor noting the number of days the home was used for short-term stays during the previous year.

The Division of Property Taxation in the Department of Local Affairs is required to develop the affidavit form. Additionally, the Division is required to establish and administer a program to develop a statewide database and reporting system for tracking short-term rental units by county.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior conviction data. The bill creates the new offense of giving false information on an affidavit identifying the total number of days during the previous year that a short-term rental unit was leased for short-term stays, a class 2 misdemeanor. To form an estimate of the prevalence of this new crime, the fiscal note analyzed the existing offense of filing a false tax return as a comparable crime. From FY 2019-20 to FY 2021-22, 6 individuals have been convicted and sentenced for this existing offense. Of the persons convicted, 3 were male, 2 were female, and 1 did not have a gender identified. Demographically, 3 were white, 1 was Asian, 1 was classified as "Other," and 1 did not have a race identified.

Based on the low number of sentences for the comparable crime, the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Expenditures

The bill increases state expenditures by about $214,000 in FY 2025-26, before decreasing state expenditures by $78.2 million in FY 2026-27 and future years. Expenditures are shown in Table 2 and detailed below

Table 2
Expenditures Under Bill 6

	FY 2024-25	FY 2025-26	FY 2026-27
Department of Local Affairs			
Personal Services	-	$63,323	$63,323
Operating Expenses	-	$1,280	$1,280
Capital Outlay Costs	-	$6,670	-
Computer Programming	-	$124,800	-
Centrally Appropriated Costs[1]	-	$17,711	$17,711
FTE – Personal Services	-	1.0 FTE	1.0 FTE
DOLA Subtotal	**-**	**$213,783**	**$82,313**
School Finance			
State Share of School Finance[2]	-	-	($78,260,253)
School Finance Subtotal	**-**	**-**	**($78,260,253)**
Total Cost	**$0**	**$213,783**	**($78,177,939)**
Total FTE	**-**	**1.0 FTE**	**1.0 FTE**

Department of Local Affairs. The bill is expected to increase General Fund expenditures in the Division of Property Taxation for 1.0 FTE beginning in FY 2025-26 to track and report short-term rental units as required in the bill. Development of a database and system to track short-term rentals will also require a $124,800 one-time computer programming cost in FY 2025-26 for the Office of Information Technology, paid using reappropriated funds from the Department of Local Affairs. The system may require ongoing maintenance costs in later years.

School finance. The bill increases property tax collections from school district total program mill levies, allowing an equivalent decrease in the state share of total program funding for school finance. The state aid obligation is expected to decrease by $78.2 million in FY 2026-27, with similar amounts in future years. The state aid obligation may be paid from the General Fund, the State Education Fund, the State Public School fund, or a combination of these funds.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund Reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government

Property tax revenue. The bill increases property tax revenue for local taxing jurisdictions by an estimated $371.2 million beginning in property tax year 2026, with similar impacts in subsequent years, by classifying homes leased largely for short-term stays as lodging property.

Assumptions. The estimate is based on available short-term rental listings published by AirDNA for 47 market areas in the state. Based on occupancy rates over the last year, percentage of entire homes for rent, and estimated percentage of affected listings, there are an estimated 24,100 short-term rental properties impacted by the bill.

Based on the affected properties as a percent of 2022 housing units in each county and residential valuation estimates, residential assessed value for affected short-term rental units will total an estimated $1.97 billion in property tax year 2026. After applying the assessment rate for lodging properties, assessed value would increase to $7.98 billion in property tax year 2026.

Property tax impacts were estimated assuming 2022 weighted average mill levies by county. School finance impacts were estimated using total program mill levies in 2026 for impacted school districts under current law. Actual impacts may differ from estimates to the extent that the bill discourages listing properties as short-term rentals for more than 90 days.

School districts. The bill is expected to increase the local share of school finance, and correspondingly decrease the state aid requirement, for school districts by $78.2 million for property tax year 2026, as a result of increased property tax revenue from total program mill levies as noted in the State Expenditures section.

County assessors. The bill increases expenditures for county assessor to implement the property classification requirements in the bill. County assessors will require more personnel to administer the bill's requirements.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, except the provisions affecting short-term rental unit classification begin with the 2026 property tax year.

State and Local Government Contacts

Counties
County Assessors
Judicial
Local Affairs
Municipalities
Property Tax Division
Special District Association