

1 SENATE BILL 112

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO TAXATION; PROVIDING THAT STUDENT HOUSING FACILITIES
12 LOCATED ON LAND OWNED BY AN EXEMPT HIGHER EDUCATION INSTITUTION
13 BUT LEASED BY A NONEXEMPT ENTITY TO THE HIGHER EDUCATION
14 INSTITUTION ARE EXEMPT FROM PROPERTY TAX.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 7-36-4 NMSA 1978 (being Laws 1976,
18 Chapter 61, Section 1, as amended) is amended to read:

19 "7-36-4. FRACTIONAL PROPERTY INTERESTS--DEFINITIONS--
20 TAXATION AND VALUATION OF FRACTIONAL INTERESTS.--

21 A. As used in this section:

22 (1) "fractional interest" means a tangible
23 interest in real property, except for mineral property as
24 defined in Section 7-36-22 NMSA 1978, that is less than the
25 total of the interests existing in the property, but

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1 "fractional interest" does not include those property interests
2 described in Sections 7-36-3, 7-36-3.1 and 7-36-3.2 NMSA 1978
3 nor does it include the lessee's interest under a lease when
4 the term of the lease is more than seventy-five years;

5 (2) "exempt entity" means any person whose
6 real property is exempt from taxation under the constitution of
7 New Mexico or the Enabling Act (36 Stat. 557, as amended) by
8 reason of ownership;

9 (3) "exempt property" means property that is
10 exempt from property taxation pursuant to Article 8, Section 3
11 of the constitution of New Mexico by reason of use;

12 (4) "improvements" includes surface and
13 subsurface structures, fixtures, transmission lines, pipelines
14 and other works, but "improvements" does not include:

15 (a) that property either included or
16 specifically excluded under the terms "property used in
17 connection with mineral property" under Section 7-36-23 NMSA
18 1978, "property used in connection with potash mineral
19 property" under Section 7-36-24 NMSA 1978 and "property used in
20 connection with uranium mineral property" under Section 7-36-25
21 NMSA 1978;

22 (b) a dwelling occupied by a low-income
23 resident in a housing project authorized under the provisions
24 of the Municipal Housing Law; and

25 (c) those property interests described

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1 in Sections 7-36-3, 7-36-3.1 and 7-36-3.2 NMSA 1978;

2 (5) "nonexempt entity" means any person that
3 is not an exempt entity; and

4 (6) "nonexempt property" means property that
5 is not exempt property.

6 B. Fractional interests of nonexempt entities in
7 real property of exempt entities are exempt from property
8 taxation under the Property Tax Code, but this exemption shall
9 not apply to the following property:

10 (1) improvements of land of an exempt entity
11 if the improvements are owned or leased by a nonexempt entity;
12 these improvements are subject to valuation for property
13 taxation purposes and to property taxation to be paid by the
14 nonexempt entity; provided that improvements, including a
15 leasehold interest in the improvements, are exempt if the
16 improvements are:

17 (a) residential housing facilities for
18 the use of students or medical residents of an exempt
19 institution of higher learning enumerated in Article 12,
20 Section 11 of the constitution of New Mexico;

21 (b) located on land owned by the
22 institution; and

23 (c) leased by the institution to a
24 nonexempt entity to operate or assist the institution in
25 operating the residential housing facilities; and

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1 (2) property interests of nonexempt entities
2 held under equitable title in the property of exempt entities.

3 C. When fractional interests are created in
4 property:

5 (1) fractional interests that are nonexempt
6 property shall be reported to the appropriate valuation
7 authority by the fractional interest owners for valuation for
8 property tax purposes if the owner is a nonexempt entity; and

9 (2) except for fractional interests owned by
10 the United States, an Indian nation, tribe or pueblo, the state
11 of New Mexico or a political subdivision of the state,
12 fractional interests that are owned by a nonexempt entity but
13 are claimed to be exempt property shall be reported by the
14 owner to the appropriate valuation authority for a
15 determination of exemption status and valuation if determined
16 to be nonexempt property.

17 D. Fractional interests that are nonexempt property
18 shall be valued by the applicable method of valuation pursuant
19 to the Property Tax Code, and if fractional interests that are
20 exempt property have been created, the value of the remaining
21 nonexempt fractional interests shall be determined in the
22 property tax year following the creation of the interests as
23 the value of the property in the property tax year immediately
24 prior to the year in which creation of the fractional interests
25 occurred, increased or decreased by the value directly

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1 attributable to the creation of the fractional interests that
2 are exempt property. For subsequent property tax years, the
3 nonexempt fractional interests shall be valued pursuant to the
4 applicable methods of valuation."

5 **SECTION 2. APPLICABILITY.**--The provisions of this act
6 apply to the 2026 and subsequent property tax years.