

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: Senate Bill 382 (First Edition)

SHORT TITLE: Required Withholding for Nonresidents.

SPONSOR(S): Senators Apodaca and Hise

FISCAL IMPACT					
	Yes (x)	No ()	No Estimate Available ()		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
REVENUES: (\$Millions)	5.5	5.5	5.5	5.5	5.5
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue					
EFFECTIVE DATE: Taxable years beginning on or after January 1, 2011					

BILL SUMMARY: Senate Bill 382 requires buyers who purchase real estate and associated tangible personal property located in North Carolina from a nonresident individual or nonresident entity to withhold from the compensation paid to the nonresident seller the amount of state income tax that is payable by the nonresident. The bill provides that the amount of taxes to be withheld is the lesser of the following:

1. 4% of the amount realized on the sale.
2. The highest applicable marginal tax rate that could be applied to the gain required to be recognized under the Internal Revenue Code based on whether the nonresident seller is taxed as a corporation or an individual.
3. The entire net proceeds payable to the nonresident seller.

The bill provides guidelines regarding certain types of sales and transfers of real property and associated tangible personal property that are exempt from the withholding requirement.

The bill requires the buyer to file a return with the Secretary of Revenue and pay the withheld taxes to the Secretary on or before the 15th day of the month following the month in which the sale takes place. It specifies information to be included on the return and requires the buyer to provide the nonresident seller with a written statement of the information contained in the return. It also provides that a buyer may refund to the seller amounts that were improperly withheld and specifies criteria to determine when an amount is improperly withheld by the buyer.

ASSUMPTIONS AND METHODOLOGY: Fiscal Research reviewed data from the Department of Revenue for Brunswick County showing assessments made during FY 2010-11 related to land sales by nonresidents as a result of special compliance projects undertaken there. The Department estimates that sales in Brunswick County represent 3% of the value of all land sales by nonresidents in North Carolina. The data for Brunswick County was extrapolated to a statewide number to provide an estimate of the total amount of tax to be withheld under the bill proposal. This estimate was shared down to account for revenue generated as a result of the Department's existing compliance initiatives to arrive at the estimated fiscal impact.

SOURCES OF DATA: Department of Revenue

TECHNICAL CONSIDERATIONS: None

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