

**Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 08-0875.01 Nicole Myers

**HOUSE BILL 08-1277**

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**HOUSE SPONSORSHIP**

**Bruce,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE PROHIBITION OF IMPROPER USES OF PROPERTY TO**  
102             **ENFORCE COLLECTIONS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Prohibits any private or governmental entity from including any charge or claim, other than a yearly property tax, delinquent property tax from prior years, and interest and penalties on such tax, on a property owner's property tax bill that was mailed after 1992. Specifies that any past or existing charge or claim included on a property tax bill that was mailed after 1992 is void and shall be removed from the bill.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

By a specified date, requires all recipients of past charges to make a good faith effort to refund all past charges included on a property tax bill after 1992 that are not a property tax or interest or penalties related to the property tax (nonproperty tax charge) to any property owner who still owns the property for which the property tax bill was generated. Specifies that the refund shall be made at the legal rate of interest, compounded annually from the month the charge was paid. Requires that, upon the written request of any property owner who either owns or no longer owns the property for which the property tax bill was generated after 1992, the recipient of past charges shall refund the charge to the property owner.

Authorizes any property owner who has been charged a nonproperty tax charge to receive, without charge, copies of all of the property owner's available past property tax bills mailed after 1992.

States that, if a property owner does not receive a refund of the nonproperty tax charge, the property owner may file suit against the recipient of past charges by a specified date. States that the property owner shall not be required to comply with the provisions of the "Colorado Governmental Immunity Act" in filing the suit. Requires that property tax notices sent for the 2008 and 2009 property tax years include a notice of a property owner's right to file suit against the recipient of past charges.

If the property owner files suit against a governmental entity, the property owner shall receive costs and reasonable attorney fees in addition to any judgment for past payment obtained against the governmental entity. If a property owner files suit against a private entity, specifies that the property owner shall receive costs, but not attorney fees, in addition to any judgment for past payment obtained against the private entity.

States that no monetary lien shall be recorded unless a final judgment has been obtained in a state or federal court. Authorizes a public notice of a potential lien to be recorded only if the lien arises from that specific property. Specifies that any lien inappropriately recorded is void from the date it was recorded. Specifies that recorded liens shall be in priority order based on the recording date of the lien, subject only to the automatic prior lien for existing and future value-based property taxes and interest and penalties resulting from the property tax.

Prohibits a private or governmental entity from seizing or attaching any property without a court order after notice to the property owner and a court hearing thereon for any reason except for the nonpayment of value-based property taxes and interest and penalties on the taxes.

Allows the recipients of past charges to pursue the collection of the charges in a court of competent jurisdiction. If the statute of limitations has not expired or if there is not a statute of limitations, requires the recipient of past charges to commence court action to pursue collection



1 STATEWIDE CONCERN AND THAT ONE OF THE PURPOSES OF THIS PART 3 IS  
2 TO ENSURE THAT NO LIEN, EXCEPT A LIEN FOR VALUE-BASED PROPERTY  
3 TAXES AND INTEREST AND PENALTIES THEREON, SHALL HAVE PRIORITY  
4 OVER A PREVIOUSLY RECORDED LIEN.

5 **39-21-302. Property tax bills - no charge except property tax**  
6 **- refunds.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A  
7 VALUE-BASED PROPERTY TAX BILL SHALL INCLUDE ONLY AN ANNUAL  
8 PROPERTY TAX LEVY, DELINQUENT PROPERTY TAX LEVIES FROM PRIOR  
9 YEARS LEVIED PURSUANT TO THE PROCESS ESTABLISHED FOR THE  
10 VALUATION OF PROPERTY PURSUANT TO ARTICLE 5 OF THIS TITLE, AND  
11 ANY INTEREST AND PENALTIES PERMITTED BY STATE LAW FOR FAILURE TO  
12 PAY THE TAX. A VALUE-BASED PROPERTY TAX BILL THAT WAS MAILED  
13 AFTER 1992 SHALL NOT BE USED BY ANY PERSON, STATE OR LOCAL  
14 GOVERNMENTAL ENTITY, PRIVATE ENTITY, ENTERPRISE, AUTHORITY, OR  
15 QUASI-GOVERNMENTAL ENTITY TO COLLECT ANY PRIVATE OR PUBLIC  
16 CHARGE OR CLAIM EXCEPT THE CHARGES ALLOWED PURSUANT TO THIS  
17 SUBSECTION (1).

18 (2) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2),  
19 ANY PAST OR EXISTING CHARGE OR CLAIM INCLUDED ON A PROPERTY TAX  
20 BILL THAT WAS MAILED AFTER 1992, OTHER THAN A CHARGE OR CLAIM  
21 AUTHORIZED PURSUANT TO SUBSECTION (1) OF THIS SECTION, SHALL BE  
22 VOID AND SHALL BE REMOVED FROM CURRENT AND FUTURE PROPERTY TAX  
23 BILLS.

24 (3) (a) BEFORE JANUARY 1, 2010, ALL RECIPIENTS OF PAST  
25 CHARGES SHALL MAKE A GOOD FAITH EFFORT TO REFUND ANY CHARGE OR  
26 CLAIM THAT IS NOT AUTHORIZED PURSUANT TO SUBSECTION (1) OF THIS  
27 SECTION BUT THAT WAS INCLUDED ON A PROPERTY OWNER'S PROPERTY

1 TAX BILL TO ANY PROPERTY OWNER WHO PAID THE UNAUTHORIZED  
2 CHARGE OR CLAIM AND WHO STILL OWNS THE PROPERTY THAT WAS THE  
3 BASIS OF THE PROPERTY TAX BILL. THE REFUND MAY BE INCLUDED AS A  
4 CREDIT ON THE PROPERTY OWNER'S 2009 PROPERTY TAX BILL. THE LEGAL  
5 RATE OF INTEREST, COMPOUNDED ANNUALLY, SHALL BE INCLUDED ON ANY  
6 REFUND MADE PURSUANT TO THIS PARAGRAPH (a).

7 (b) ANY PAST OR CURRENT PROPERTY OWNER WHO PAID A CHARGE  
8 THAT WAS INCLUDED ON A PROPERTY TAX BILL THAT IS NOT AUTHORIZED  
9 PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY MAKE A WRITTEN  
10 REQUEST FOR A REFUND OF THE CHARGE TO ANY RECIPIENT OF PAST  
11 CHARGES. ANY REFUND MADE PURSUANT TO THIS PARAGRAPH (b) SHALL  
12 BE MADE AT THE LEGAL RATE OF INTEREST, COMPOUNDED ANNUALLY  
13 FROM THE MONTH PAID. A REFUND OF CHARGES REQUESTED IN WRITING  
14 SHALL BE PAID WITHIN THIRTY DAYS AFTER THE RECIPIENT OF PAST  
15 CHARGES RECEIVES THE REQUEST.

16 (4) ANY PAST OR CURRENT PROPERTY OWNER WHO PAID A CHARGE  
17 INCLUDED ON A PROPERTY TAX BILL THAT WAS MAILED AFTER 1992 AND  
18 THAT WAS UNAUTHORIZED PURSUANT TO THIS SECTION MAY REQUEST  
19 COPIES, WITHOUT CHARGE, OF ALL AVAILABLE PAST PROPERTY TAX BILLS  
20 THAT WERE MAILED AFTER 1992 DURING THE PROPERTY OWNER'S  
21 OWNERSHIP OF THE PROPERTY.

22 **39-21-303. Requests for refund not granted - legal action.**

23 (1) (a) IF A PROPERTY OWNER'S WRITTEN REQUEST FOR A REFUND  
24 PURSUANT TO SECTION 39-21-302 (3) IS NOT GRANTED AND PAID WITHIN  
25 THIRTY DAYS OF THE RECEIPT OF THE REQUEST BY THE RECIPIENT OF PAST  
26 CHARGES, THE PROPERTY OWNER MAY, ON OR BEFORE DECEMBER 31,  
27 2011, FILE SUIT AGAINST THE RECIPIENT OF PAST CHARGES IN A COURT OF

1       COMPETENT JURISDICTION. A PROPERTY OWNER SHALL NOT BE REQUIRED  
2       TO COMPLY WITH THE PROVISIONS OF THE "COLORADO GOVERNMENTAL  
3       IMMUNITY ACT" CREATED IN ARTICLE 10 OF TITLE 24, C.R.S.

4               (b) PROPERTY TAX NOTICES SENT FOR THE 2008 AND 2009  
5       PROPERTY TAX YEARS SHALL INCLUDE A NOTICE OF A PROPERTY OWNER'S  
6       RIGHT TO FILE SUIT AGAINST THE RECIPIENT OF PAST CHARGES PURSUANT  
7       TO PARAGRAPH (a) OF THIS SUBSECTION (1).

8               (2) (a) IF THE PROPERTY OWNER FILES SUIT AGAINST A  
9       GOVERNMENTAL ENTITY AND THE COURT FINDS IN FAVOR OF THE  
10       PROPERTY OWNER, THE PROPERTY OWNER SHALL BE AWARDED COSTS AND  
11       REASONABLE ATTORNEY FEES IN ADDITION TO ANY JUDGMENT FOR PAST  
12       PAYMENTS OBTAINED AGAINST THE GOVERNMENTAL ENTITY. IN NO EVENT  
13       SHALL THE PROPERTY OWNER BE LIABLE FOR THE GOVERNMENTAL  
14       ENTITY'S COSTS AND ATTORNEY FEES.

15              (b) IF THE PROPERTY OWNER FILES SUIT AGAINST A PRIVATE  
16       ENTITY AND THE COURT FINDS IN FAVOR OF THE PROPERTY OWNER, THE  
17       PROPERTY OWNER SHALL BE AWARDED COSTS IN ADDITION TO ANY  
18       JUDGMENT FOR PAST PAYMENTS OBTAINED AGAINST THE PRIVATE ENTITY,  
19       BUT SHALL NOT BE AWARDED ATTORNEY FEES.

20              **39-21-304. Recording liens - prohibition absent final court**  
21       **judgment.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO  
22       MONETARY LIEN SHALL BE RECORDED BY ANY GOVERNMENTAL OR  
23       PRIVATE ENTITY OR RECORDED BY ANY COUNTY CLERK AND RECORDER'S  
24       OFFICE OR OTHER ENTITY ON ANY PROPERTY UNLESS A FINAL JUDGMENT  
25       FROM A STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IS  
26       OBTAINED AND ALL RIGHTS OF APPEAL ARE EXHAUSTED.

27              (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF

1 THIS SECTION, A CLERK AND RECORDER OR OTHER GOVERNMENTAL  
2 OFFICIAL MAY RECORD A PUBLIC NOTICE OF A POTENTIAL LIEN ONLY IF THE  
3 TITLE TO OR EQUITY IN THAT PROPERTY IS IN DISPUTE. THE NOTICE SHALL  
4 EXPIRE ONE YEAR AFTER IT IS RECORDED BUT MAY BE RENEWED  
5 ANNUALLY UNTIL A FINAL COURT JUDGMENT IN THE MATTER IS RECORDED.  
6 ANY LIEN RECORDED IN VIOLATION OF THIS SUBSECTION (2) SHALL BE  
7 DEEMED VOID FROM ITS RECORDING DATE AND SHALL BE DEEMED  
8 RESCINDED AS OF THE EFFECTIVE DATE OF THIS SUBSECTION (2) OR ITS  
9 RECORDING DATE, WHICHEVER IS LATER.

10 (3) IN THE EVENT THAT A LIEN IS RECORDED IN VIOLATION OF THE  
11 PROVISIONS OF THIS SECTION, THE CLERK AND RECORDER WHO RECORDED  
12 THE LIEN SHALL REVISE THE RECORDS PERTAINING TO THE LIEN TO  
13 REMOVE THE LIEN AND SHALL NOT DISCLOSE THE LIEN RECORDING.

14 **39-21-305. Liens - priority.** (1) NOTWITHSTANDING ANY OTHER  
15 PROVISION OF LAW, RECORDED LIENS SHALL BE IN PRIORITY ORDER BASED  
16 ON THE RECORDING DATE OF THE LIEN, SUBJECT ONLY TO AN AUTOMATIC  
17 PRIOR LIEN FOR EXISTING AND FUTURE VALUE-BASED PROPERTY TAXES  
18 AND INTEREST AND PENALTIES ON THOSE TAXES. NO PRIVATE OR  
19 GOVERNMENTAL LIEN OR ANY CHARGE THAT IS NOT AN AUTHORIZED  
20 CHARGE ON A PROPERTY TAX BILL PURSUANT TO SECTION 39-21-302  
21 SHALL HAVE A HIGHER PRIORITY THAN A RECORDED LIEN PURSUANT TO  
22 THIS SECTION.

23 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO  
24 PRIVATE OR GOVERNMENTAL ENTITY SHALL SEIZE OR ATTACH ANY  
25 PROPERTY WITHOUT A COURT ORDER AFTER NOTICE TO THE PROPERTY  
26 OWNER AND A COURT HEARING THEREON FOR ANY REASON EXCEPT FOR  
27 THE NONPAYMENT OF VALUE-BASED PROPERTY TAXES AND INTEREST AND

1 PENALTIES ON THE TAXES.

2 **39-21-306. Statute of limitations.** (1) ANY RECIPIENT OF PAST  
3 CHARGES THAT IS REQUIRED TO REFUND ANY CHARGES TO A PROPERTY  
4 OWNER MAY PURSUE THE COLLECTION OF THE CHARGES IN A COURT OF  
5 COMPETENT JURISDICTION. IF THE STATUTE OF LIMITATIONS HAS NOT  
6 EXPIRED OR IF THERE IS NOT A STATUTE OF LIMITATIONS, THE RECIPIENT  
7 OF PAST CHARGES SHALL COMMENCE A COURT ACTION TO PURSUE THE  
8 COLLECTION OF THE CHARGES WITHIN ONE YEAR OF THE DATE OF THE  
9 EVENT THAT GAVE RISE TO THE CHARGES. IF THE STATUTE OF LIMITATIONS  
10 HAS EXPIRED, THE RECIPIENT OF PAST CHARGES SHALL NOT BE ALLOWED  
11 TO PURSUE TO COLLECTION OF THE CHARGES.

12 (2) THE STATUTE OF LIMITATIONS TO FILE A CASE TO CORRECT AN  
13 ERROR IN TAXES THAT MAY BECOME A JUDGMENT RECORDED AS A LIEN ON  
14 PROPERTY SHALL BE ONE YEAR FROM THE DATE THE ALLEGED BACK TAXES  
15 WERE DUE.

16 **39-21-307. Laws contrary to this part 3.** (1) ANY PROVISION  
17 OF STATE STATUTE OR ANY RULE PROMULGATED PURSUANT TO THE  
18 STATUTORY PROVISIONS THAT IS CONTRARY TO THE REQUIREMENTS OF  
19 THIS PART 3 IS HEREBY SUPERSEDED AND DEEMED NULL AND VOID FROM  
20 THE EFFECTIVE DATE OF THE STATUTES OR RULES.

21 (2) ANY LOCAL LAW, ORDINANCE, RULE, REGULATION, OR OTHER  
22 SIMILAR PROVISION THAT AUTHORIZES PRACTICES CONTRARY TO THE  
23 PROVISIONS OF THIS PART 3 IS HEREBY SUPERSEDED AND DEEMED NULL  
24 AND VOID FROM THE EFFECTIVE DATE OF THE PROVISION.

25 **SECTION 2. Effective date.** This act shall take effect at 12:01  
26 a.m. on the day following the expiration of the ninety-day period after  
27 final adjournment of the general assembly that is allowed for submitting



1 a referendum petition pursuant to article V, section 1 (3) of the state  
2 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);  
3 except that, if a referendum petition is filed against this act or an item,  
4 section, or part of this act within such period, then the act, item, section,  
5 or part, if approved by the people, shall take effect on the date of the  
6 official declaration of the vote thereon by proclamation of the governor.