

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 09-0335.01 Gregg Fraser

SENATE BILL 09-042

SENATE SPONSORSHIP

Tapia,

HOUSE SPONSORSHIP

Vigil and Peniston,

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADMINISTRATION OF THE EXEMPT STATUS OF**
102 **PROPERTY FOR PROPERTY TAX PURPOSES.**

Bill Summary

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

Specifies certain types of property ownership that will be deemed to meet the requirements contained in the definition of the phrase "not for private gain or corporate profit" for purposes of granting charitable property tax exemptions.

Allows the state board of equalization to authorize the property tax administrator to make an exemption effective earlier than is currently allowed when an error or omission of a public official has prevented the

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.

SENATE
Amended 2nd Reading
February 20, 2009

property owner from seeking exemption for that time.

Requires the property tax administrator to provide a list of currently pending applications for property tax exemptions to specified county officials each year.

Makes the authority of the property tax administrator permissive with respect to requiring property owners claiming certain charitable property tax exemptions to provide financial reports and requiring occupants of the properties to provide copies of their income tax reports.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 39-1-102 (8.5), Colorado Revised Statutes, is
3 amended to read:

4 **39-1-102. Definitions.** As used in articles 1 to 13 of this title,
5 unless the context otherwise requires:

6 (8.5) "Not for private gain or corporate profit" means the
7 ownership and use of property whereby no person with any connection to
8 the owner thereof shall receive any pecuniary benefit except for
9 reasonable compensation for services rendered and any excess income
10 over expenses derived from the operation or use of the property and all
11 proceeds from the sale of the property of the owner shall be devoted to
12 the furthering of any exempt purpose. PROPERTY OWNERSHIP SHALL BE
13 DEEMED TO HAVE MET THE REQUIREMENTS OF THIS SUBSECTION (8.5) IF:

14 (a) THE PROPERTY IS OWNED BY A NONPROFIT CORPORATION OR
15 ASSOCIATION WHOSE PROPERTY IS IRREVOCABLY DEDICATED TO
16 CHARITABLE, RELIGIOUS, OR SCHOOL PURPOSES AND NO PORTION OF ITS
17 ASSETS WILL INURE TO THE BENEFIT OF ANY PRIVATE PERSON UPON THE
18 LIQUIDATION, DISSOLUTION, OR ABANDONMENT OF SUCH CORPORATION OR
19 ASSOCIATION; OR

20

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21 (b) (I) THE OPERATOR OF THE PROPERTY IS A NONPROFIT ENTITY

1 THAT WOULD OTHERWISE QUALIFY FOR PROPERTY TAX EXEMPTION UNDER
2 ARTICLE 3 OF THIS TITLE AND IS A GENERAL PARTNER OR MANAGING
3 MEMBER OF THE OWNER, AND THE PROPERTY IS OWNED BY:

4 (A) AN ENTITY ORGANIZED FOR THE PURPOSE OF OBTAINING TAX
5 CREDITS THROUGH THE NEW MARKETS TAX CREDIT PROGRAM UNDER 26
6 U.S.C. SEC. 45 D OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",
7 AS AMENDED, OR THE REHABILITATION TAX CREDIT PROGRAM UNDER 26
8 U.S.C. SEC. 47 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
9 AMENDED, AND HAS BEEN ALLOCATED CREDITS; AND

10 (B) AN ENTITY THAT MAKES PAYMENTS IN LIEU OF PROPERTY
11 TAXES PURSUANT TO SECTION 39-3-114.5.

12 (II) THE PROVISIONS OF THIS PARAGRAPH (b) SHALL APPLY TO
13 APPLICATIONS FOR EXEMPTION FILED ON OR AFTER JANUARY 1, 2009, OR
14 THAT ARE PENDING ON THAT DATE.

15 **SECTION 2.** 39-2-117 (1) (a), Colorado Revised Statutes, is
16 amended to read:

17 **39-2-117. Applications for exemption - review - annual reports**
18 **- procedures.** (1) (a) (I) Every application filed on or after January 1,
19 1990, claiming initial exemption of real and personal property from
20 general taxation pursuant to the provisions of sections 39-3-106 to
21 39-3-113 and 39-3-116 shall be made on forms prescribed and furnished
22 by the administrator, shall contain such information as specified in
23 paragraph (b) of this subsection (1), and shall be signed by the owner of
24 such property or his or her authorized agent under the penalty of perjury
25 in the second degree and, except as otherwise provided in this paragraph
26 (a), shall be accompanied by a payment of one hundred fifty dollars,
27 which shall be credited to the property tax exemption fund created in

1 subsection (8) of this section. The administrator shall examine and
2 review each application submitted, and, if it is determined that the
3 exemption therein claimed is justified and in accordance with the intent
4 of the law, the exemption shall be granted, the same to be effective upon
5 such date in the year of application as the administrator shall determine,
6 but in no event shall the exemption apply to any year prior to the year
7 preceding the year in which application is made. THE DECISION OF THE
8 ADMINISTRATOR SHALL BE ISSUED IN WRITING AND A COPY THEREOF
9 FURNISHED TO THE APPLICANT AND TO THE ASSESSOR, TREASURER, AND
10 BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE
11 PROPERTY IS LOCATED.

12 (II) On all properties for which an application is pending in the
13 office of the administrator, taxes shall not be due and payable until such
14 determination has been made. Such property shall not be listed for the tax
15 sale, and no delinquent interest will be charged on any portion of the
16 exemption that is denied. ~~The decision of the administrator shall be
17 issued in writing and a copy thereof furnished to the applicant and to the
18 assessor, treasurer, and board of county commissioners of the county
19 wherein such property is located.~~

20 (III) NO LATER THAN JUNE 1 OF EACH YEAR, THE ADMINISTRATOR
21 SHALL PROVIDE TO THE ASSESSOR, TREASURER, AND BOARD OF COUNTY
22 COMMISSIONERS OF EACH COUNTY A LIST OF ALL APPLICATIONS FOR
23 PROPERTY TAX EXEMPTION CURRENTLY PENDING IN THE OFFICE OF THE
24 ADMINISTRATOR.

25 SECTION 3. Article 3 of title 39, Colorado Revised Statutes, is
26 amended BY THE ADDITION OF A NEW SECTION to read:

27 39-3-114.5. Charitable exemption - owner claiming federal tax

1 credit - fee in lieu of school district tax. (1) WHENEVER AN ENTITY
2 ORGANIZED FOR THE PURPOSE OF OBTAINING TAX CREDITS THROUGH THE
3 NEW MARKETS TAX CREDIT PROGRAM UNDER 26 U.S.C. SEC. 45 D OF THE
4 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OR THE
5 REHABILITATION TAX CREDIT PROGRAM UNDER 26 U.S.C. SEC. 47 OF THE
6 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OWNS AN
7 INTEREST IN REAL PROPERTY FOR WHICH AN EXEMPTION IS CLAIMED, THE
8 ENTITY SHALL PAY ANNUALLY TO THE TREASURER OF THE COUNTY IN
9 WHICH THE PROPERTY IS LOCATED A PAYMENT IN LIEU OF TAXES, WHICH
10 PAYMENT SHALL NOT EXCEED THE AMOUNT OF TAXES THAT WOULD BE
11 DUE FOR TOTAL PROGRAM FOR THE SCHOOL DISTRICT IN WHICH THE
12 PROPERTY IS LOCATED IF THE INTEREST WERE TAXABLE.

13 (2) EACH YEAR DURING THE REGULAR TAX ASSESSMENT PERIOD,
14 THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY IN WHICH A
15 REAL PROPERTY INTEREST DESCRIBED IN SUBSECTION (1) OF THIS SECTION
16 IS LOCATED SHALL PROVIDE TO EACH ENTITY THAT HOLDS SUCH REAL
17 PROPERTY INTEREST THE FOLLOWING INFORMATION IN THE SAME MANNER
18 AS SUCH INFORMATION IS PROVIDED TO ANY OTHER OWNER OF REAL
19 PROPERTY IN THE COUNTY:

20 (a) THE CURRENT ASSESSED VALUE OF THE REAL PROPERTY
21 INTEREST EXPRESSED IN DOLLARS;

22 (b) THE AMOUNT OF THE PAYMENT IN LIEU OF TAXES DUE ON THE
23 REAL PROPERTY INTEREST BASED ON THE VALUE AND TAX RATE LEVIED
24 FOR TOTAL PROGRAM FOR THE SCHOOL DISTRICT IN WHICH THE PROPERTY
25 IS LOCATED THAT WOULD BE APPLICABLE TO THE REAL PROPERTY
26 INTEREST IF IT WERE TAXABLE; AND

27 (c) THE DATE THE PAYMENT IN LIEU OF TAXES IS DUE FOR SUCH

1 REAL PROPERTY INTEREST BASED ON THE DATE PROPERTY TAXES WITHIN
2 THE COUNTY ARE DUE.

3 (3) THE TREASURER OF EACH COUNTY THAT RECEIVES A PAYMENT
4 IN LIEU OF TAXES PURSUANT TO THIS SECTION SHALL PAY OVER TO THE
5 SCHOOL DISTRICT IN WHICH THE REAL PROPERTY INTEREST DESCRIBED IN
6 SUBSECTION (1) OF THIS SECTION IS LOCATED THE AMOUNT OF THE TOTAL
7 PAYMENT; EXCEPT THAT THE TREASURER MAY DEDUCT THE COSTS
8 INCURRED BY THE TREASURER IN ADMINISTERING THIS SUBSECTION (3).

9 (4) EACH SCHOOL DISTRICT THAT RECEIVES A PAYMENT IN LIEU OF
10 TAXES PURSUANT TO THIS SECTION SHALL CERTIFY THE AMOUNT PAID OR
11 RECEIVED TO THE STATE BOARD OF EDUCATION.

12 **SECTION 4.** 39-3-114, Colorado Revised Statutes, is amended
13 to read:

14 **39-3-114. Burden - claim for charitable exemption.** The burden
15 shall be on the owner and operator of any residential property for which
16 an exemption is claimed pursuant to any of the provisions of sections
17 39-3-109 and 39-3-112 to show facts sufficient to support the exemption
18 claimed. In determining whether or not a particular property is entitled
19 to such an exemption provided for in any of said sections, the
20 administrator ~~shall~~ MAY require the owner or operator of such property to
21 annually submit a complete financial report on its operations and ~~shall~~
22 MAY require any occupants whose residential units are claimed to qualify
23 for such exemption to submit copies of their federal or state income tax
24 returns.

25 **SECTION 5.** 39-3-137 (2) and (3), Colorado Revised Statutes,
26 are amended to read:

27 **39-3-137. Organizations with tax exempt status - forgiveness**

1 of taxes owed. (2) Any waiver of the balance of taxes owed by an
2 organization pursuant to subsection (1) of this section shall be contingent
3 upon the reestablishment of the organization's tax-exempt status by the
4 PROPERTY TAX ADMINISTRATOR, AS AUTHORIZED BY THE state board of
5 equalization. pursuant to section 39-9-109.

6 (3) The state board of equalization may AUTHORIZE THE PROPERTY
7 TAX ADMINISTRATOR TO reestablish tax-exempt status pursuant to section
8 39-9-109 for any organization that meets the criteria specified in
9 paragraphs (a) to (d) of subsection (1) of this section and that paid all or
10 any portion of a property tax bill for a year or years in which the
11 organization was denied tax-exempt status.

12 =====
13 SECTION 6. 22-54-115 (1) (a), Colorado Revised Statutes, is
14 amended to read:

15 22-54-115. Distribution from state public school fund. (1) No
16 later than June 30 of each year, the state board shall determine the amount
17 of the state's share of the district's total program for the budget year
18 beginning on July 1, and the total thereof for all districts, which amount
19 shall be payable in twelve approximately equal monthly payments during
20 such budget year; except that:

21 (a) Such payments shall be adjusted following the certification of
22 pupil enrollments, the certification of valuations for assessment to the
23 state board pursuant to section 22-54-112 (1) and (2), and the certification
24 of the amount of any impact assistance grants on behalf of school districts
25 pursuant to section 30-25-302, C.R.S., AND THE CERTIFICATION OF ANY
26 PAYMENTS IN LIEU OF TAXES RECEIVED BY SCHOOL DISTRICTS PURSUANT
27 TO SECTION 39-3-114.5, C.R.S.:

1 **SECTION 7. Act subject to petition - effective date.** This act
2 shall take effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly that is
4 allowed for submitting a referendum petition pursuant to article V,
5 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
6 sine die is on May 6, 2009); except that, if a referendum petition is filed
7 against this act or an item, section, or part of this act within such period,
8 then the act, item, section, or part, if approved by the people, shall take
9 effect on the date of the official declaration of the vote thereon by
10 proclamation of the governor.