

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 09-0335.01 Gregg Fraser

**SENATE BILL 09-042**

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**SENATE SPONSORSHIP**

**Tapia,**

**HOUSE SPONSORSHIP**

**Vigil,**

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**Senate Committees**

Finance  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

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

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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.)*

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.*

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.

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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

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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 MANAGER 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, AND HAS BEEN ALLOCATED CREDITS; AND

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

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

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

15 **39-2-117. Applications for exemption - review - annual reports**  
16 **- procedures.** (1) (a) (I) Every application filed on or after January 1,  
17 1990, claiming initial exemption of real and personal property from  
18 general taxation pursuant to the provisions of sections 39-3-106 to  
19 39-3-113 and 39-3-116 shall be made on forms prescribed and furnished  
20 by the administrator, shall contain such information as specified in  
21 paragraph (b) of this subsection (1), and shall be signed by the owner of  
22 such property or his or her authorized agent under the penalty of perjury  
23 in the second degree and, except as otherwise provided in this paragraph  
24 (a), shall be accompanied by a payment of one hundred fifty dollars,  
25 which shall be credited to the property tax exemption fund created in  
26 subsection (8) of this section. The administrator shall examine and  
27 review each application submitted, and, if it is determined that the

1 exemption therein claimed is justified and in accordance with the intent  
2 of the law, the exemption shall be granted, the same to be effective upon  
3 such date in the year of application as the administrator shall determine,  
4 but in no event shall the exemption apply to any year prior to the year  
5 preceding the year in which application is made UNLESS AUTHORIZED TO  
6 DO SO BY THE STATE BOARD OF EQUALIZATION PURSUANT TO SECTION  
7 39-9-109 (6). THE DECISION OF THE ADMINISTRATOR SHALL BE ISSUED IN  
8 WRITING AND A COPY THEREOF FURNISHED TO THE APPLICANT AND TO THE  
9 ASSESSOR, TREASURER, AND BOARD OF COUNTY COMMISSIONERS OF THE  
10 COUNTY IN WHICH THE PROPERTY IS LOCATED.

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

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

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

26 39-3-114.5. Charitable exemption - owner claiming federal tax  
27 credit - fee in lieu of school district tax. (1) WHENEVER AN ENTITY

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

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

17 (a) THE CURRENT ASSESSED VALUE OF THE REAL PROPERTY  
18 INTEREST EXPRESSED IN DOLLARS;

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

24 (c) THE DATE THE PAYMENT IN LIEU OF TAXES IS DUE FOR SUCH  
25 REAL PROPERTY INTEREST BASED ON THE DATE PROPERTY TAXES WITHIN  
26 THE COUNTY ARE DUE.

27 (3) THE TREASURER OF EACH COUNTY THAT RECEIVES A PAYMENT

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

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

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

11 **39-3-114. Burden - claim for charitable exemption.** The burden  
12 shall be on the owner and operator of any residential property for which  
13 an exemption is claimed pursuant to any of the provisions of sections  
14 39-3-109 and 39-3-112 to show facts sufficient to support the exemption  
15 claimed. In determining whether or not a particular property is entitled  
16 to such an exemption provided for in any of said sections, the  
17 administrator ~~shall~~ MAY require the owner or operator of such property to  
18 annually submit a complete financial report on its operations and ~~shall~~  
19 MAY require any occupants whose residential units are claimed to qualify  
20 for such exemption to submit copies of their federal or state income tax  
21 returns.

22 **SECTION 5.** 39-9-109, Colorado Revised Statutes, is amended  
23 BY THE ADDITION OF A NEW SUBSECTION to read:

24 **39-9-109. Power of state board - waiver of**  
25 **deadline.** (6) ACTING BY MAJORITY VOTE, THE STATE BOARD OF  
26 EQUALIZATION MAY AUTHORIZE THE PROPERTY TAX ADMINISTRATOR TO  
27 MAKE AN EXEMPTION EFFECTIVE EARLIER THAN THE DATE ALLOWED IN

1 SECTION 39-2-117 (1) (a) WHEN AN ERROR OR OMISSION OF A LOCAL PUBLIC  
2 OFFICIAL HAS PREVENTED THE PROPERTY OWNER FROM SEEKING  
3 EXEMPTION FOR THAT TIME. IN NO EVENT SHALL THE STATE BOARD  
4 AUTHORIZE AN EXEMPTION TO BE EFFECTIVE MORE THAN THREE YEARS  
5 PRIOR TO THE YEAR IN WHICH THE APPLICATION WAS FILED.

6 **SECTION 6.** 22-54-115 (1) (a), Colorado Revised Statutes, is  
7 amended to read:

8 **22-54-115. Distribution from state public school fund.** (1) No  
9 later than June 30 of each year, the state board shall determine the amount  
10 of the state's share of the district's total program for the budget year  
11 beginning on July 1, and the total thereof for all districts, which amount  
12 shall be payable in twelve approximately equal monthly payments during  
13 such budget year; except that:

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

21 **SECTION 7.** **Act subject to petition - effective date.** This act  
22 shall take effect at 12:01 a.m. on the day following the expiration of the  
23 ninety-day period after final adjournment of the general assembly that is  
24 allowed for submitting a referendum petition pursuant to article V, section  
25 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is  
26 on May 6, 2009); except that, if a referendum petition is filed against this  
27 act or an item, section, or part of this act within such period, then the act,

1 item, section, or part, if approved by the people, shall take effect on the  
2 date of the official declaration of the vote thereon by proclamation of the  
3 governor.