

**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

SENATE SPONSORSHIP

Tapia,

HOUSE SPONSORSHIP

Vigil,

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.*

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 (b) THE PROPERTY IS OWNED BY AN ENTITY ORGANIZED FOR THE
21 PURPOSE OF OBTAINING TAX CREDITS THROUGH THE NEW MARKETS TAX

1 CREDIT PROGRAM UNDER 26 U.S.C. SEC. 45 D OF THE FEDERAL "INTERNAL
2 REVENUE CODE OF 1986", AS AMENDED, AND HAS BEEN ALLOCATED
3 CREDITS, SO LONG AS THE OPERATOR OF THE PROPERTY IS A NONPROFIT
4 ENTITY THAT WOULD OTHERWISE QUALIFY FOR PROPERTY TAX EXEMPTION
5 UNDER ARTICLE 3 OF THIS TITLE AND IS A GENERAL PARTNER OR
6 MANAGING MEMBER OF THE OWNER. THE PROVISIONS OF THIS PARAGRAPH
7 (b) SHALL APPLY TO APPLICATIONS FOR EXEMPTION FILED ON OR AFTER
8 JANUARY 1, 2009, OR THAT ARE PENDING ON THAT DATE.

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

11 **39-2-117. Applications for exemption - review - annual reports**
12 **- procedures.** (1) (a) (I) Every application filed on or after January 1,
13 1990, claiming initial exemption of real and personal property from
14 general taxation pursuant to the provisions of sections 39-3-106 to
15 39-3-113 and 39-3-116 shall be made on forms prescribed and furnished
16 by the administrator, shall contain such information as specified in
17 paragraph (b) of this subsection (1), and shall be signed by the owner of
18 such property or his or her authorized agent under the penalty of perjury
19 in the second degree and, except as otherwise provided in this paragraph
20 (a), shall be accompanied by a payment of one hundred fifty dollars,
21 which shall be credited to the property tax exemption fund created in
22 subsection (8) of this section. The administrator shall examine and
23 review each application submitted, and, if it is determined that the
24 exemption therein claimed is justified and in accordance with the intent
25 of the law, the exemption shall be granted, the same to be effective upon
26 such date in the year of application as the administrator shall determine,
27 but in no event shall the exemption apply to any year prior to the year

1 preceding the year in which application is made UNLESS AUTHORIZED TO
2 DO SO BY THE STATE BOARD OF EQUALIZATION PURSUANT TO SECTION
3 39-9-109 (6). THE DECISION OF THE ADMINISTRATOR SHALL BE ISSUED IN
4 WRITING AND A COPY THEREOF FURNISHED TO THE APPLICANT AND TO THE
5 ASSESSOR, TREASURER, AND BOARD OF COUNTY COMMISSIONERS OF THE
6 COUNTY IN WHICH THE PROPERTY IS LOCATED.

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

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

20 **SECTION 3.** 39-3-114, Colorado Revised Statutes, is amended
21 to read:

22 **39-3-114. Burden - claim for charitable exemption.** The burden
23 shall be on the owner and operator of any residential property for which
24 an exemption is claimed pursuant to any of the provisions of sections
25 39-3-109 and 39-3-112 to show facts sufficient to support the exemption
26 claimed. In determining whether or not a particular property is entitled
27 to such an exemption provided for in any of said sections, the

1 administrator ~~shall~~ MAY require the owner or operator of such property to
2 annually submit a complete financial report on its operations and ~~shall~~
3 MAY require any occupants whose residential units are claimed to qualify
4 for such exemption to submit copies of their federal or state income tax
5 returns.

6 **SECTION 4.** 39-9-109, Colorado Revised Statutes, is amended
7 BY THE ADDITION OF A NEW SUBSECTION to read:

8 **39-9-109. Power of state board - waiver of**
9 **deadline.** (6) ACTING BY MAJORITY VOTE, THE STATE BOARD OF
10 EQUALIZATION MAY AUTHORIZE THE PROPERTY TAX ADMINISTRATOR TO
11 MAKE AN EXEMPTION EFFECTIVE EARLIER THAN THE DATE ALLOWED IN
12 SECTION 39-2-117 (1) (a) WHEN AN ERROR OR OMISSION OF A LOCAL PUBLIC
13 OFFICIAL HAS PREVENTED THE PROPERTY OWNER FROM SEEKING
14 EXEMPTION FOR THAT TIME. IN NO EVENT SHALL THE STATE BOARD
15 AUTHORIZE AN EXEMPTION TO BE EFFECTIVE MORE THAN THREE YEARS
16 PRIOR TO THE YEAR IN WHICH THE APPLICATION WAS FILED.

17 **SECTION 5. Act subject to petition - effective date.** This act
18 shall take effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly that is
20 allowed for submitting a referendum petition pursuant to article V, section
21 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is
22 on May 6, 2009); except that, if a referendum petition is filed against this
23 act or an item, section, or part of this act within such period, then the act,
24 item, section, or part, if approved by the people, shall take effect on the
25 date of the official declaration of the vote thereon by proclamation of the
26 governor.