

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0725.01 Jason Gelender

HOUSE BILL 11-1241

HOUSE SPONSORSHIP

DelGrosso,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CIRCUMSTANCES IN WHICH A NONPROFIT HOUSING
102 PROVIDER THAT SELLS LOW-COST HOUSING TO LOW-INCOME
103 APPLICANTS WHO ASSIST IN THE CONSTRUCTION OF THE
104 HOUSING IS ENTITLED TO THE PROPERTY TAX EXEMPTION FOR
105 PROPERTY USED STRICTLY FOR CHARITABLE PURPOSES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

For property tax years commencing on or after January 1, 2011, 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.

bill:

- ! Allows a nonprofit housing provider (provider) to claim the property tax exemption for property used for strictly charitable purposes for a maximum of 5 consecutive property tax years for property upon which the provider intends to construct or rehabilitate housing to be sold to low-income applicants, regardless of whether or not there is actual physical use of the property;
- ! Allows the state property tax administrator to consider indicators of intent that show off-site progress towards construction or rehabilitation of housing on the property in determining whether a provider satisfies the intent requirement; and
- ! Requires a provider that is allowed an exemption for any property tax year and that subsequently sells, donates, or leases the property to any person other than a low-income applicant who has assisted in the construction of housing for the applicant's residential use on the property to pay all property taxes that the provider did not previously pay due to the exemption.

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

2 **SECTION 1.** Part 1 of article 3 of title 39, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **39-3-113.5. Property acquired by nonprofit housing provider**
6 **for low-income housing - use for charitable purposes - exemption -**
7 **limitations - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (a) "AREA MEDIAN INCOME" MEANS THE MEDIAN INCOME OF ANY
10 COUNTY IN WHICH PROPERTY IS LOCATED IN RELATION TO FAMILY SIZE, AS
11 PUBLISHED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HOUSING
12 AND URBAN DEVELOPMENT.

13 (b) "INDICATORS OF INTENT" MEANS OFF-SITE ACTIVITIES OF A
14 NONPROFIT HOUSING PROVIDER THAT ESTABLISH THE PROVIDER'S SPECIFIC

1 INTENT TO USE PROPERTY FOR THE PURPOSE OF CONSTRUCTING OR
2 REHABILITATING HOUSING TO BE SOLD TO LOW-INCOME APPLICANTS.

3 (c) "LOW-INCOME APPLICANT" MEANS AN INDIVIDUAL OR FAMILY
4 WHOSE TOTAL INCOME IS NO GREATER THAN SIXTY PERCENT OF THE AREA
5 MEDIAN INCOME AND WHO APPLIES TO A NONPROFIT HOUSING PROVIDER
6 TO ASSIST IN THE CONSTRUCTION AND PURCHASE OF HOUSING TO BE
7 CONSTRUCTED BY THE PROVIDER.

8 (d) "NONPROFIT HOUSING PROVIDER" MEANS AN ORGANIZATION
9 THAT IS EXEMPT FROM FEDERAL INCOME TAX PURSUANT TO SECTION 501
10 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
11 AMENDED, AND THAT HAS A PRIMARY ORGANIZATIONAL MISSION OF
12 WORKING WITH LOW-INCOME APPLICANTS TO CONSTRUCT OR
13 REHABILITATE HOUSING THAT THE ORGANIZATION THEN SELLS TO THE
14 LOW-INCOME APPLICANTS FOR THEIR RESIDENTIAL USE.

15 (2) SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (3) OF
16 THIS SECTION, FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
17 JANUARY 1, 2011, REAL PROPERTY ACQUIRED BY A NONPROFIT HOUSING
18 PROVIDER UPON WHICH THE PROVIDER INTENDS TO CONSTRUCT OR
19 REHABILITATE HOUSING TO BE SOLD TO LOW-INCOME APPLICANTS IS
20 DEEMED TO BE BEING USED FOR STRICTLY CHARITABLE PURPOSES,
21 REGARDLESS OF WHETHER OR NOT THERE IS ACTUAL PHYSICAL USE OF THE
22 PROPERTY, AND SHALL BE EXEMPT FROM PROPERTY TAXATION IN
23 ACCORDANCE WITH SECTION 5 OF ARTICLE X OF THE STATE CONSTITUTION.
24 IN DETERMINING WHETHER A NONPROFIT HOUSING PROVIDER SATISFIES
25 THE INTENT REQUIREMENT OF THIS SUBSECTION (2) WITH RESPECT TO
26 PARTICULAR PROPERTY, THE ADMINISTRATOR MAY CONSIDER INDICATORS
27 OF INTENT, INCLUDING BUT NOT LIMITED TO:

1 (a) THE ESTABLISHMENT BY THE NONPROFIT HOUSING PROVIDER
2 OF A COMMITTEE OR OTHER STRUCTURE FOR THE PURPOSE OF PLANNING
3 THE CONSTRUCTION OR REHABILITATION OF HOUSING ON THE PROPERTY;

4 (b) STEPS TAKEN BY THE NONPROFIT HOUSING PROVIDER TO
5 OBTAIN ANY REQUIRED LOCAL GOVERNMENT APPROVALS FOR THE
6 CONSTRUCTION OR REHABILITATION OF HOUSING ON THE PROPERTY;

7 (c) STEPS TAKEN BY THE NONPROFIT HOUSING PROVIDER TO
8 DEVELOP AND IMPLEMENT A FINANCING PLAN FOR THE CONSTRUCTION OR
9 REHABILITATION OF HOUSING ON THE PROPERTY;

10 (d) THE HIRING OF ARCHITECTS, CONTRACTORS, OR OTHER
11 PROFESSIONALS BY THE NONPROFIT HOUSING PROVIDER IN PREPARATION
12 FOR THE ACTUAL CONSTRUCTION OR REHABILITATION OF HOUSING ON THE
13 PROPERTY; AND

14 (e) THE SOLICITATION OR ACCEPTANCE BY THE NONPROFIT
15 HOUSING PROVIDER OF APPLICATIONS FROM LOW-INCOME APPLICANTS FOR
16 HOUSING TO BE CONSTRUCTED OR REHABILITATED ON THE PROPERTY.

17 (3) THE PROPERTY TAX EXEMPTION ALLOWED TO A NONPROFIT
18 HOUSING PROVIDER BY SUBSECTION (2) OF THIS SECTION IS SUBJECT TO
19 THE FOLLOWING LIMITATIONS:

20 (a) THE EXEMPTION MAY BE ALLOWED FOR A MAXIMUM OF FIVE
21 CONSECUTIVE PROPERTY TAX YEARS, BEGINNING WITH THE PROPERTY TAX
22 YEAR IN WHICH THE NONPROFIT HOUSING PROVIDER OBTAINED TITLE TO
23 THE PROPERTY; AND

24 (b) IF THE NONPROFIT HOUSING PROVIDER IS ALLOWED AN
25 EXEMPTION FOR ANY PROPERTY TAX YEAR AND SUBSEQUENTLY SELLS,
26 DONATES, OR LEASES THE PROPERTY TO ANY PERSON OTHER THAN A
27 LOW-INCOME APPLICANT WHO ASSISTED IN THE CONSTRUCTION OF

1 HOUSING FOR THE APPLICANT'S RESIDENTIAL USE ON THE PROPERTY, THE
2 PROVIDER SHALL BE LIABLE FOR ALL PROPERTY TAXES THAT THE PROVIDER
3 DID NOT PREVIOUSLY PAY DUE TO THE EXEMPTION.

4 **SECTION 2. Act subject to petition - effective date.** This act
5 shall take effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part shall not take effect
11 unless approved by the people at the general election to be held in
12 November 2012 and shall take effect on the date of the official
13 declaration of the vote thereon by the governor.