

Amendment R Exempt Possessory Interests in Real Property

1 **Amendment R proposes amending the Colorado Constitution to:**

- 2 ♦ eliminate property taxes for individuals or businesses that use
3 government-owned property for a private benefit worth \$6,000 or less
4 in market value.

5 **Summary and Analysis**

6 ***Property taxes and possessory interests.*** Property taxes are primarily based
7 on the value of land, houses, other buildings, and business equipment. Individuals
8 and businesses pay property taxes to various local governments, such as cities,
9 counties, school districts, and special districts, each of which imposes its own tax rate
10 on property. Property taxes pay for a variety of local government services, including
11 public education, police and fire services, roads and bridges, parks and recreation
12 facilities, hospitals, and libraries.

13 When an individual or business uses government-owned land or equipment for
14 private purposes, a possessory interest is created. Although government-owned
15 property is exempt from taxes, the benefit that a business or individual obtains from
16 using that land or equipment is not. For example, some ranchers lease land from the
17 federal government for cattle grazing. Other businesses lease land to provide a
18 recreational activity, such as skiing or river rafting, or are given a contract to provide a
19 specific service on public land, such as operating a snack bar at a national park.
20 Under current law, the value of a private benefit is considered a possessory interest
21 and is subject to property taxes.

22 The market value of all possessory interests in Colorado is about \$300 million,
23 which is less than 0.1 percent of the total market value of all property in the state. At
24 this value, total property tax payments for possessory interests are approximately
25 \$6 million annually. There are about 7,000 possessory interests in the state, which
26 pay an average of \$850 in property taxes annually.

27 ***How does Amendment R change the taxation of possessory interests?***

28 Starting in 2012, Amendment R exempts a possessory interest from property taxation
29 if the market value of the interest is \$6,000 or less, which equates to a maximum tax
30 payment of \$120 annually, depending on local tax rates. For example, most cattle
31 grazing leases with the federal government have a market value below \$6,000, and
32 therefore this private benefit would not be taxed. In contrast, the value of private
33 benefits obtained by ski areas exceed the \$6,000 threshold and will continue to be
34 taxed at the full value. In budget year 2012-13, the measure is expected to reduce
35 property taxes statewide by \$160,000. Every two years, the \$6,000 threshold is
36 increased to account for inflation.

1 **Argument For**

2 Amendment R reduces the administrative burden of collecting a tax that in many
3 cases costs more money to collect than it brings in to local governments. For
4 example, the majority of possessory interests in the state are for agricultural leases,
5 many of which owe less than \$10 in property taxes. The cost of administering this tax
6 — mailing notices, maintaining tax rolls, and collecting and enforcing the tax — often
7 exceeds this amount.

8 **Argument Against**

9 Amendment R provides an unfair tax break for businesses and individuals who use
10 government-owned land and puts a greater tax burden on others to pay for local
11 government services. The state constitution requires that taxes be charged uniformly
12 for all taxpayers. A small tax bill does not justify exempting a business or individual
13 from paying the tax on the private benefit they enjoy on government land. Simple
14 fairness demands that all businesses and individuals pay taxes, no matter how small.

15 **Estimate of Fiscal Impact**

16 **State expenditures.** Public schools are funded from a combination of state and
17 local revenue. Since Amendment R reduces the amount of local revenue for schools,
18 the state's portion of school funding will increase by approximately \$46,000 beginning
19 in budget year 2012-13.

20 **Local government impact.** The amendment is expected to reduce property taxes
21 for local governments by up to \$160,000 per year, beginning in budget year 2012-13.
22 Of this amount, property taxes for school districts are expected to decrease by
23 approximately \$46,000. In addition, minor cost savings may occur in some counties
24 because of a reduced number of mailings and fewer properties to process and value.

Last Draft as Mailed to Interested Parties

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7 on the value of land, houses, other buildings, and business equipment. Individuals
8 and businesses pay property taxes to various local governments, such as cities,
9 counties, school districts, and special districts. Property taxes pay for a variety of local
10 government services, including public education, police and fire services, roads and
11 bridges, parks and recreation facilities, hospitals, and libraries.

12 When an individual or business uses government-owned land or equipment for
13 private purposes, a possessory interest is created. Although government-owned
14 property is exempt from taxes, the benefit that a business or individual obtains from
15 using that land or equipment is not. For example, some ranchers lease land from the
16 federal government for cattle grazing. Other businesses lease land to provide a
17 recreational activity, such as skiing or river rafting, or are given a contract to provide a
18 specific service on public land, such as operating a snack bar at a national park.
19 Under current law, the value of a private benefit is considered a possessory interest
20 and is subject to property taxes.

21 The market value of all possessory interests in Colorado is about \$330 million,
22 which is less than 0.1 percent of the total market value of all property in the state. At
23 this value, possessory interests generate approximately \$23 million in property taxes
24 annually. There are about 220,000 possessory interests in the state, of which nearly
25 215,000 are leases of agricultural land. Although agricultural leases greatly
26 outnumber the other types of possessory interests, they account for only 3 percent of
27 the total value of all the possessory interests in the state, averaging about \$51 each.

28 ***How does Amendment R change the taxation of possessory interests?***
29 Starting in 2012, a possessory interest is exempt from property taxation if the market
30 value of the interest is \$6,000 or less. For example, most cattle grazing leases with
31 the federal government have a market value below \$6,000, and therefore this private
32 benefit would not be taxed. In contrast, the value of private benefits obtained by ski
33 areas exceed the \$6,000 threshold and will continue to be taxed at the full value. In
34 budget year 2012-13, the measure is expected to reduce property taxes statewide by
35 \$160,000. Every two years, this \$6,000 threshold is increased to account for inflation.

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1 **Argument For**

2 Amendment R reduces the administrative burden of collecting a tax that in many
3 cases costs more money to collect than it brings in to local governments. For
4 example, an agricultural possessory interest with a market value of \$51 would owe
5 about \$1 in property taxes, depending on local tax rates. The cost of administering
6 this tax — mailing notices, maintaining tax rolls, and collecting and enforcing the
7 tax — often exceeds this amount.

8 **Argument Against**

9 Amendment R provides an unfair tax break for businesses and individuals who use
10 government-owned land and puts a greater tax burden on others to pay for local
11 government services. The state constitution requires that taxes be charged uniformly
12 for all taxpayers. A small tax bill does not justify exempting a business or individual
13 from paying the tax on the private benefit they enjoy on government land. Simple
14 fairness demands that all businesses and individuals pay taxes, no matter how small.

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17 local revenue. Since Amendment R reduces the amount of local revenue for schools,
18 the state's portion of school funding will increase by approximately \$46,000 beginning
19 in budget year 2012-13.

20 **Local Government Impact.** The amendment is expected to reduce property
21 taxes for local governments by up to \$160,000 per year, beginning in budget year
22 2012-13. Of this amount, property taxes for school districts are expected to decrease
23 by approximately \$46,000. In addition, minor cost savings may occur in some
24 counties because of fewer property valuations.

REFERENDUM R
EXEMPT POSSESSORY INTERESTS IN REAL PROPERTY
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Amendment R
Exempt Possessory Interests in Real Property

1 **Ballot Title:** Shall there be an amendment to section 3 (1) (b) of article X of the
2 constitution of the state of Colorado, concerning an exemption from property taxation
3 for a possessory interest in real property if the actual value of the interest is less than or
4 equal to six thousand dollars or such amount adjusted for inflation?

5 **Text of Proposal:**

6 *Be It Resolved by the House of Representatives of the Sixty-seventh General*
7 *Assembly of the State of Colorado, the Senate concurring herein:*

8 **SECTION 1.** At the next election at which such question may be submitted,
9 there shall be submitted to the registered electors of the state of Colorado, for their
10 approval or rejection, the following amendment to the constitution of the state of
11 Colorado, to wit:

12 Section 3 (1) (b) of article X of the constitution of the state of Colorado is
13 amended to read:

14 **Section 3. Uniform taxation - exemptions.** (1) (b) (I) Residential real
15 property, which shall include all residential dwelling units and the land, as defined by
16 law, on which such units are located, and mobile home parks, but shall not include
17 hotels and motels, shall be valued for assessment at twenty-one percent of its actual
18 value. For the property tax year commencing January 1, 1985, the general assembly
19 shall determine the percentage of the aggregate statewide valuation for assessment
20 which is attributable to residential real property. For each subsequent year, the general
21 assembly shall again determine the percentage of the aggregate statewide valuation for
22 assessment which is attributable to each class of taxable property, after adding in the
23 increased valuation for assessment attributable to new construction and to increased
24 volume of mineral and oil and gas production. For each year in which there is a change
25 in the level of value used in determining actual value, the general assembly shall adjust
26 the ratio of valuation for assessment for residential real property which is set forth in this
27 paragraph (b) as is necessary to insure that the percentage of the aggregate statewide
28 valuation for assessment which is attributable to residential real property shall remain
29 the same as it was in the year immediately preceding the year in which such change
30 occurs. Such adjusted ratio shall be the ratio of valuation for assessment for residential
31 real property for those years for which such new level of value is used. In determining
32 the adjustment to be made in the ratio of valuation for assessment for residential real
33 property, the aggregate statewide valuation for assessment that is attributable to
34 residential real property shall be calculated as if the full actual value of all

1 owner-occupied primary residences that are partially exempt from taxation pursuant to
2 section 3.5 of this article was subject to taxation. All other taxable property shall be
3 valued for assessment at twenty-nine percent of its actual value. However, the valuation
4 for assessment for producing mines, as defined by law, and lands or leaseholds
5 producing oil or gas, as defined by law, shall be a portion of the actual annual or actual
6 average annual production therefrom, based upon the value of the unprocessed material,
7 according to procedures prescribed by law for different types of minerals.
8 Non-producing unpatented mining claims, which are possessory interests in real
9 property by virtue of leases from the United States of America, shall be exempt from
10 property taxation. OTHER POSSESSORY INTERESTS IN REAL PROPERTY SHALL BE EXEMPT
11 FROM PROPERTY TAXATION AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b).

12 (II) (A) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2012, A
13 POSSESSORY INTEREST IN REAL PROPERTY SHALL BE EXEMPT FROM THE LEVY AND
14 COLLECTION OF PROPERTY TAX IF THE ACTUAL VALUE OF SUCH POSSESSORY INTEREST
15 IN REAL PROPERTY IS LESS THAN OR EQUAL TO SIX THOUSAND DOLLARS.

16 (B) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2013, A
17 POSSESSORY INTEREST IN REAL PROPERTY SHALL BE EXEMPT FROM THE LEVY AND
18 COLLECTION OF PROPERTY TAX IF THE ACTUAL VALUE OF SUCH POSSESSORY INTEREST
19 IN REAL PROPERTY IS LESS THAN OR EQUAL TO SIX THOUSAND DOLLARS ADJUSTED
20 BIENNIALLY TO ACCOUNT FOR INFLATION AS DEFINED IN SECTION 20 (2) (f) OF ARTICLE
21 X OF THIS CONSTITUTION. ON OR BEFORE NOVEMBER 1, 2012, AND ON OR BEFORE
22 NOVEMBER 1 OF EACH EVEN-NUMBERED YEAR THEREAFTER, THE PROPERTY TAX
23 ADMINISTRATOR SHALL CALCULATE THE AMOUNT OF THE EXEMPTION FOR THE NEXT
24 TWO-YEAR CYCLE USING INFLATION FOR THE PRIOR TWO CALENDAR YEARS AS OF THE
25 DATE OF THE CALCULATION. THE ADJUSTED EXEMPTION SHALL BE ROUNDED UPWARD
26 TO THE NEAREST ONE-HUNDRED-DOLLAR INCREMENT. THE ADMINISTRATOR SHALL
27 CERTIFY THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE AND PUBLISH
28 THE AMOUNT IN A MANNER PROVIDED BY LAW.

29 **SECTION 2.** Each elector voting at said election and desirous of voting for or
30 against said amendment shall cast a vote as provided by law either "Yes" or "No" on the
31 proposition: "SHALL THERE BE AN AMENDMENT TO SECTION 3 (1) (b) OF ARTICLE X OF
32 THE CONSTITUTION OF THE STATE OF COLORADO, CONCERNING AN EXEMPTION FROM
33 PROPERTY TAXATION FOR A POSSESSORY INTEREST IN REAL PROPERTY IF THE ACTUAL
34 VALUE OF THE INTEREST IS LESS THAN OR EQUAL TO SIX THOUSAND DOLLARS OR SUCH
35 AMOUNT ADJUSTED FOR INFLATION?"

36 **SECTION 3.** The votes cast for the adoption or rejection of said amendment
37 shall be canvassed and the result determined in the manner provided by law for the
38 canvassing of votes for representatives in Congress, and if a majority of the electors
39 voting on the question shall have voted "Yes", the said amendment shall become a part
40 of the state constitution.