

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 9, 2016
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB16-1187 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** The general assembly
4 hereby finds and declares that:

5 (a) The department of revenue does not currently have a written
6 policy with regard to the application of sales and use taxes on food
7 purchased and provided as part of a meal plan to residents of a retirement
8 community, nor with regard to the application of sales and use taxes on
9 the packaging used in presenting that food to a resident of a retirement
10 community. The question of the taxation of these items has been brought
11 to light by the issuance of a department of revenue private letter ruling
12 indicating that these items should be taxed. In general, the retirement
13 community industry has not been collecting and remitting sales or use tax
14 for these items.

15 (b) The intended purpose of the tax expenditure in this act is to
16 clarify that food purchased and provided as part of a meal plan to
17 residents of a retirement community is exempt from sales and use tax as
18 food for domestic home consumption, and clarifying that the packaging
19 used in presenting that food to a resident of a retirement community is
20 exempt from sales and use tax under the existing exemption for food
21 packaging.

22 **SECTION 2.** In Colorado Revised Statutes, 39-26-707, **add** (1)

1 (f), (2) (e), and (2.5) as follows:

2 **39-26-707. Food, meals, beverages, and packaging -**
3 **definitions.** (1) The following shall be exempt from taxation under the
4 provisions of part 1 of this article:

5 (f) (I) (A) ON AND AFTER JULY 1, 2016, ALL SALES OF FOOD, FOOD
6 PRODUCTS, SNACKS, BEVERAGES, AND MEALS PROVIDED FOR
7 CONSUMPTION BY RESIDENTS ON THE PREMISES OF A RETIREMENT
8 COMMUNITY;

9 (B) ON AND AFTER JULY 1, 2016, ALL SALES TO A RETIREMENT
10 COMMUNITY OF FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS
11 FOR PURPOSES OF A SALE DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS
12 SUBPARAGRAPH (I);

13 (C) ON AND AFTER JULY 1, 2016, ALL SALES OF ANY CONTAINER,
14 BAG, OR ARTICLE USED BY OR FURNISHED TO A CONSUMER FOR THE
15 PURPOSE OF PACKAGING, BAGGING, OR USE WITH FOOD, FOOD PRODUCTS,
16 SNACKS, BEVERAGES, AND MEALS PROVIDED FOR CONSUMPTION BY
17 RESIDENTS ON THE PREMISES OF A RETIREMENT COMMUNITY; AND

18 (D) ON AND AFTER JULY 1, 2016, ALL SALES TO A RETIREMENT
19 COMMUNITY OF ANY CONTAINER, BAG, OR ARTICLE USED BY OR FURNISHED
20 TO A CONSUMER FOR PURPOSES OF A SALE DESCRIBED IN
21 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I).

22 (II) FOR PURPOSES OF THIS PARAGRAPH (f), "FOOD" INCLUDES
23 PREPARED SALADS, SALAD BARS, AND PACKAGED AND UNPACKAGED COLD
24 SANDWICHES.

25 (2) The following shall be exempt from taxation under the
26 provisions of part 2 of this article:

27 (e) (I) (A) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR
28 CONSUMPTION OF FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND
29 MEALS PROVIDED FOR CONSUMPTION BY RESIDENTS ON THE PREMISES OF
30 A RETIREMENT COMMUNITY;

31 (B) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR
32 CONSUMPTION BY A RETIREMENT COMMUNITY OF FOOD, FOOD PRODUCTS,
33 SNACKS, BEVERAGES, AND MEALS FOR PURPOSES OF A SALE DESCRIBED IN
34 SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF PARAGRAPH (f) OF
35 SUBSECTION (1) OF THIS SECTION;

36 (C) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR
37 CONSUMPTION OF ANY CONTAINER, BAG, OR ARTICLE USED BY OR
38 FURNISHED TO A CONSUMER FOR THE PURPOSE OF PACKAGING, BAGGING,
39 OR USE WITH FOOD, FOOD PRODUCTS, SNACKS, BEVERAGES, AND MEALS
40 PROVIDED FOR CONSUMPTION BY RESIDENTS ON THE PREMISES OF A
41 RETIREMENT COMMUNITY; AND

1 (D) ON AND AFTER JULY 1, 2016, THE STORAGE, USE, OR
2 CONSUMPTION BY A RETIREMENT COMMUNITY OF ANY CONTAINER, BAG,
3 OR ARTICLE USED BY OR FURNISHED TO A CONSUMER FOR PURPOSES OF A
4 SALE DESCRIBED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF
5 PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION.

6 (II) FOR PURPOSES OF THIS PARAGRAPH (e), "FOOD" INCLUDES
7 PREPARED SALADS, SALAD BARS, AND PACKAGED AND UNPACKAGED COLD
8 SANDWICHES.

9 (2.5) FOR PURPOSES OF THIS SECTION, "RETIREMENT COMMUNITY"
10 MEANS:

11 (a) AN ASSISTED LIVING RESIDENCE AS DEFINED IN SECTION
12 25-27-102 (1.3), C.R.S.;

13 (b) AN INDEPENDENT LIVING FACILITY DESIGNED AND OPERATED
14 SPECIFICALLY TO SERVE AS THE PRIMARY RESIDENCE FOR PERSONS AGED
15 FIFTY-FIVE OR OLDER THAT PROVIDES MEALS AND OTHER SERVICES TO
16 RESIDENTS AS PART OF A COMPREHENSIVE FEE, INCLUDING A FACILITY
17 THAT QUALIFIES AS HOUSING FOR OLDER PERSONS AS DEFINED IN SECTION
18 24-34-502 (7) (b), C.R.S., AND A LIFE CARE INSTITUTION SUBJECT TO
19 ARTICLE 13 OF TITLE 12, C.R.S.; OR

20 (c) A NURSING CARE FACILITY LICENSED UNDER THE AUTHORITY
21 OF SECTION 25-1.5-103 (1)(a)(I)(A), C.R.S., THAT PROVIDES SERVICES TO
22 PERSONS WHO, DUE TO PHYSICAL CONDITION, MENTAL CONDITION, OR
23 DISABILITY, REQUIRE CONTINUOUS OR REGULAR INPATIENT NURSING CARE.

24 **SECTION 3. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety."

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