HOUSE BILL 19-1011

CONCERNING CLARIFICATION OF THE SCOPE OF AN EXISTING SALES TAX EXEMPTION FOR MANUFACTURED HOMES.

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://leg.colorado.gov/.)

Statutory Revision Committee. A state sales and use tax exemption statute (exemption statute) exempts from state sales tax, and through operation of another statute also exempts from local sales taxes, 48% of the purchase price for the initial sale of "factory-built housing" and 100% of the purchase price for any subsequent sale of a "manufactured home" (sales tax exemption). The exemption statute
references another statute defining "factory-built housing". In Senate Bill
03-182, however, the general assembly replaced the existing definition of
"factory-built housing" with a new definition of "factory-built residential
structure", and the statute referenced in the exemption statute actually
defines the latter term. The definition of "factory-built residential
structure" includes only "structures designed to be installed on a
permanent foundation" and therefore arguably limits the sales tax
exemption, which had previously clearly applied to structures designed
for occupancy in either temporary or permanent locations, to only those
structures designed to be installed on permanent foundations.

The bill clarifies the scope of the sales tax exemption by allowing
it for "manufactured homes", a term that a specifically referenced statute
defines broadly to include homes designed to be installed on either
temporary or permanent foundations.

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

SECTION 1. Legislative declaration. The general assembly
declares that the purpose of this legislation, enacted in 2019, is to effect
a nonsubstantive change in statute to clarify the scope of an existing state
sales and use tax exemption for manufactured homes. The general
assembly further declares that the addition of such clarifying language to
the section does not in any way alter the scope or applicability of the
statutory section involved.

SECTION 2. In Colorado Revised Statutes, 39-26-721, amend
(1) and (2) as follows:

39-26-721. Manufactured homes. (1) Forty-eight percent of the
purchase price of factory-built housing, as such housing is defined in
section 24-32-3302 (10), C.R.S., shall be A MANUFACTURED HOME, AS
DEFINED IN SECTION 42-1-102 (106)(b), IS exempt from taxation under
part 1 of this article 26; except that the entire purchase price in any
subsequent sale of SUCH a manufactured home, as such vehicle is defined
in section 42-1-102 (106)(b), C.R.S., after such manufactured home IT has
been once subject to the payment of sales tax by virtue of section 39-26-113, shall be exempt from taxation under part 1 of this article 26.

(2) The storage, use, or consumption of a manufactured home, as such vehicle is defined in section 42-1-102 (106)(b), C.R.S., after such the manufactured home has been once subject to the payment of use tax by virtue of section 39-26-208, shall be exempt from taxation under the provisions of part 2 of this article 26.

SECTION 3. Act subject to petition - effective date. This act takes effect September 1, 2019; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.