

CHAPTER 63

TAXATION

HOUSE BILL 95-1268

BY REPRESENTATIVES Dyer, Acquafresca, DeGette, George, Gordon, Kerns, Knox, Lamm, and Linkhart;
also SENATORS Bishop, Casey, Feeley, Gallagher, Hopper, Matsunaka, Pascoe, Perlmutter, L. Powers, Rupert, Tanner, Tebedo,
Thiebaut, Weddig, and Weissmann.

AN ACT

CONCERNING MODIFICATIONS TO PROPERTY TAX LAWS FOR THE PURPOSE OF ENCOURAGING LAND CONSERVATION.

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

SECTION 1. The introductory portion to 39-1-102 (1.6) (a), Colorado Revised Statutes, 1994 Repl. Vol., is amended, and the said 39-1-102 (1.6) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

39-1-102. Definitions. As used in articles 1 to 13 of this title, unless the context otherwise requires:

(1.6) (a) "Agricultural land" means ~~either~~ ONE of the following:

(III) A PARCEL OF LAND THAT CONSISTS OF AT LEAST EIGHTY ACRES, OR OF LESS THAN EIGHTY ACRES IF SUCH PARCEL DOES NOT CONTAIN ANY RESIDENTIAL IMPROVEMENTS, AND THAT IS SUBJECT TO A PERPETUAL CONSERVATION EASEMENT, IF SUCH LAND WAS CLASSIFIED BY THE ASSESSOR AS AGRICULTURAL LAND UNDER SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH (a) AT THE TIME SUCH EASEMENT WAS GRANTED, IF THE GRANT OF THE EASEMENT WAS TO A QUALIFIED ORGANIZATION, IF THE EASEMENT WAS GRANTED EXCLUSIVELY FOR CONSERVATION PURPOSES, AND IF ALL CURRENT AND CONTEMPLATED FUTURE USES OF THE LAND ARE DESCRIBED IN THE CONSERVATION EASEMENT. "AGRICULTURAL LAND" UNDER THIS SUBPARAGRAPH (III) DOES NOT INCLUDE ANY PORTION OF SUCH LAND THAT IS ACTUALLY USED FOR NONAGRICULTURAL COMMERCIAL OR RESIDENTIAL PURPOSES.

SECTION 2. 39-1-102, Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

39-1-102. Definitions. As used in articles 1 to 13 of this title, unless the context otherwise requires:

(3.2) "CONSERVATION PURPOSE" MEANS ANY OF THE FOLLOWING PURPOSES AS SET FORTH IN SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED:

(a) THE PRESERVATION OF LAND AREAS FOR OUTDOOR RECREATION, THE EDUCATION OF THE PUBLIC, OR THE PROTECTION OF A RELATIVELY NATURAL HABITAT FOR FISH, WILDLIFE, PLANTS, OR SIMILAR ECOSYSTEMS; OR

(b) THE PRESERVATION OF OPEN SPACE, INCLUDING FARMLAND AND FOREST LAND, WHERE SUCH PRESERVATION IS FOR THE SCENIC ENJOYMENT OF THE PUBLIC OR IS PURSUANT TO A CLEARLY DELINEATED FEDERAL, STATE, OR LOCAL GOVERNMENT CONSERVATION POLICY AND WHERE SUCH PRESERVATION WILL YIELD A SIGNIFICANT PUBLIC BENEFIT.

(8.7) "PERPETUAL CONSERVATION EASEMENT" MEANS A CONSERVATION EASEMENT IN GROSS, AS DESCRIBED IN ARTICLE 30.5 OF TITLE 38, C.R.S., THAT QUALIFIES AS A PERPETUAL CONSERVATION RESTRICTION PURSUANT TO SECTION 170 (h) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND ANY REGULATIONS ISSUED THEREUNDER.

(13.2) "QUALIFIED ORGANIZATION" MEANS A QUALIFIED ORGANIZATION AS DEFINED IN SECTION 170 (h) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

SECTION 3. 39-1-103 (5) (a), Colorado Revised Statutes, 1994 Repl. Vol., is amended, and the said 39-1-103 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

39-1-103. Actual value determined - when. (5) (a) All real and personal property shall be appraised and the actual value thereof for property tax purposes determined by the assessor of the county wherein such property is located. The actual value of such property, other than agricultural lands exclusive of building improvements thereon and other than residential real property and other than producing mines and lands or leaseholds producing oil or gas, shall be that value determined by appropriate consideration of the cost approach, the market approach, and the income approach to appraisal. The assessor shall consider and document all elements of such approaches that are applicable prior to a determination of actual value. Despite any orders of the state board of equalization, no assessor shall arbitrarily increase the valuations for assessment of all parcels represented within the abstract of a county or within a class or subclass of parcels on that abstract by a common multiple in response to the order of said board. If an assessor is required, pursuant to the order of said board, to increase or decrease valuations for assessment, such changes shall be made only upon individual valuations for assessment of each and every parcel, using each of the approaches to appraisal specified in this paragraph (a), if applicable. The actual value of agricultural lands, exclusive of building improvements thereon, shall be determined by consideration of the earning or productive capacity of such lands during a reasonable period of time, capitalized at

a rate of thirteen percent. LAND THAT IS VALUED AS AGRICULTURAL AND THAT BECOMES SUBJECT TO A PERPETUAL CONSERVATION EASEMENT SHALL CONTINUE TO BE VALUED AS AGRICULTURAL NOTWITHSTANDING ITS DEDICATION FOR CONSERVATION PURPOSES; EXCEPT THAT, IF ANY PORTION OF SUCH LAND IS ACTUALLY USED FOR NONAGRICULTURAL COMMERCIAL OR RESIDENTIAL PURPOSES, THAT PORTION SHALL BE VALUED ACCORDING TO SUCH USE. The actual value of residential real property shall be determined solely by consideration of the cost approach and the market approach to appraisal. The valuation for assessment of producing mines and of lands or leaseholds producing oil or gas shall be determined pursuant to articles 6 and 7 of this title.

(d) IF A PARCEL OF LAND IS CLASSIFIED AS AGRICULTURAL LAND AS DEFINED IN SECTION 39-1-102 (1.6) (a) (III) AND THE PERPETUAL CONSERVATION EASEMENT IS TERMINATED, VIOLATED, OR SUBSTANTIALLY MODIFIED SO THAT THE EASEMENT IS NO LONGER GRANTED EXCLUSIVELY FOR CONSERVATION PURPOSES, THE ASSESSOR MAY REASSESS THE LAND RETROACTIVELY FOR A PERIOD OF SEVEN YEARS AND THE ADDITIONAL TAXES, IF ANY, THAT WOULD HAVE BEEN LEVIED ON THE LAND DURING THE SEVEN YEAR PERIOD PRIOR TO THE TERMINATION, VIOLATION, OR MODIFICATION SHALL BECOME DUE.

SECTION 4. Applicability. This act shall apply to property tax years commencing on and after January 1, 1996.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 1995