

CHAPTER 203

TAXATION

HOUSE BILL 13-1246

BY REPRESENTATIVE(S) Court, Exum, Fields, Ginal, Holbert, Labuda, Lebsack, Mitsch Bush, Moreno, Pettersen, Priola, Rosenthal, Saine, Salazar, Schafer, Singer, Waller, Young;
also SENATOR(S) Steadman.

AN ACT**CONCERNING MODIFICATIONS IN CONNECTION WITH CURRENT PROPERTY TAX EXEMPTIONS FOR NONPROFIT ORGANIZATIONS.**

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

SECTION 1. In Colorado Revised Statutes, 39-3-113.5, **amend** (1) (b), (1) (c), (1) (d), (2) introductory portion, and (3) (b) as follows:

39-3-113.5. Property acquired by nonprofit housing provider for low-income housing - use for charitable purposes - exemption - limitations - definitions.

(1) As used in this section, unless the context otherwise requires:

(b) "Indicators of intent" means off-site activities of a nonprofit housing provider that establish the provider's specific intent to:

(I) Use property for the purpose of constructing or rehabilitating housing to be sold to low-income applicants; OR

(II) SELL THE PROPERTY TO LOW-INCOME APPLICANTS FOR THE PURPOSE OF CONSTRUCTING OR REHABILITATING HOUSING FOR THE LOW-INCOME APPLICANTS.

(c) "Low-income applicant" means an individual or family whose total income is no greater than ~~sixty~~ ^{SIXTY} EIGHTY percent of the area median income and who applies to a nonprofit housing provider to assist in the construction and purchase of housing to be constructed by the provider.

(d) "Nonprofit housing provider" means an organization that is exempt from federal income tax pursuant to section 501 (c) (3) of the federal "Internal Revenue

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

Code of 1986", as amended, and that has a primary organizational mission of:

(I) Working with low-income applicants to construct or rehabilitate housing that the organization then sells to the low-income applicants for their residential use; OR

(II) SELLING PROPERTY TO LOW-INCOME APPLICANTS AND THEN WORKING WITH THE LOW-INCOME APPLICANTS TO CONSTRUCT OR REHABILITATE HOUSING FOR THEIR RESIDENTIAL USE.

(2) Subject to the limitations specified in subsection (3) of this section, for property tax years commencing on or after January 1, 2011, real property acquired by a nonprofit housing provider upon which the provider intends to construct or rehabilitate housing to be sold to low-income applicants OR WHICH THE PROVIDER INTENDS TO SELL TO LOW-INCOME APPLICANTS FOR THE PURPOSE OF CONSTRUCTING OR REHABILITATING HOUSING FOR THEIR RESIDENTIAL USE is deemed to be being used for strictly charitable purposes, regardless of whether or not there is actual physical use of the property, and shall be exempt from property taxation in accordance with section 5 of article X of the state constitution. IN THE CASE OF PROPERTY SOLD BY A NONPROFIT HOUSING PROVIDER TO A LOW-INCOME APPLICANT, THE PROPERTY TAX EXEMPTION PURSUANT TO THIS SUBSECTION (2) SHALL BE ALLOWED UNTIL A CERTIFICATE OF OCCUPANCY IS ISSUED FOR THE HOUSING; EXCEPT THAT THE PROPERTY TAX EXEMPTION SHALL NOT BE ALLOWED FOR LONGER THAN ONE YEAR AFTER THE NONPROFIT HOUSING PROVIDER SELLS THE PROPERTY TO THE LOW-INCOME APPLICANT. In determining whether a nonprofit housing provider satisfies the intent requirement of this subsection (2) with respect to particular property, the administrator may consider indicators of intent, including but not limited to:

(3) The property tax exemption allowed to a nonprofit housing provider by subsection (2) of this section is subject to the following limitations:

(b) If the nonprofit housing provider is allowed an exemption for any property tax year and subsequently sells, donates, or leases the property to any person other than a low-income applicant who assisted OR WILL ASSIST in the construction of housing for the applicant's residential use on the property, the provider shall be liable for all property taxes that the provider did not previously pay due to the exemption.

SECTION 2. In Colorado Revised Statutes, 39-9-109, **amend** (5); and **add** (6) as follows:

39-9-109. Power of state board - waiver of deadline. (5) Acting by majority vote and when the state board of equalization determines that the interests of justice and equity would be served, the board may authorize the waiver of the July 1 filing deadline described in section 39-2-117 (3) (a) for any annual report required to be filed pursuant to section 39-2-117 if the report is not filed by the filing deadline or if the report is filed by the filing deadline but is incomplete or otherwise incorrect when filed. WHEN AUTHORIZING A WAIVER, THE STATE BOARD MAY DETERMINE A DEADLINE FOR FILING THE REPORT, AFTER WHICH THE WAIVER IS INVALID. THE DEADLINE FOR FILING THE REPORT MUST NOT BE SOONER THAN THIRTY DAYS AFTER THE DATE THAT THE STATE BOARD AUTHORIZES THE WAIVER.

(6) NOTWITHSTANDING THE PROVISIONS OF SECTION 39-2-117 (1) (a), ACTING BY MAJORITY VOTE, THE STATE BOARD OF EQUALIZATION MAY AUTHORIZE THE PROPERTY TAX ADMINISTRATOR TO MAKE AN EXEMPTION EFFECTIVE FOR NOT MORE THAN THE TIME ALLOWED PURSUANT TO SECTION 39-10-101 (2) (b) (II) WHEN THE PROPERTY HAS BEEN ADDED BACK TO THE TAX ROLL AS OMITTED PROPERTY AND WOULD OTHERWISE HAVE MET ALL CRITERIA FOR EXEMPTION DURING THAT TIME.

SECTION 3. Applicability. This act applies to applications for exemption that are filed on or after January 1, 2013, or that are pending on that date.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); 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 such period, 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 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 11, 2013