

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0529.02 Bob Lackner x4350

HOUSE BILL 22-1301

HOUSE SPONSORSHIP

Soper and Roberts, Holtorf, McLachlan, Pelton, Rich, Titone, Will

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE TREATMENT OF CONTROLLED ENVIRONMENT

102 AGRICULTURAL FACILITIES FOR PROPERTY TAX PURPOSES.

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>.)

A "controlled environment agricultural facility" (CEA facility) is a structure of not less than 1,000 square feet and related equipment and appurtenances that combines engineering, horticultural science, and computer management techniques to optimize hydroponic plant growing, plant quality, and food production efficiency from the land's water for human or livestock consumption. The primary purpose of growing crops

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

in a CEA facility is to obtain a monetary profit from the wholesale of plant-based food for human or animal consumption.

Commencing January 1, 2023, for property tax purposes:

- The definition of "agricultural and livestock products" includes crops grown within a CEA facility for human or livestock consumption. "Agricultural and livestock products" does not include marijuana and hemp, or any other nonfood agricultural products.
- The definition of "agricultural equipment" includes any personal property used in connection with the operation of a CEA facility for planting, growing, and harvesting crops;
- The definition of "agricultural land" includes any land underlying or integral to the operation of a CEA facility;
- "All other agricultural property" does not include a CEA facility that has been in production for at least 2 years; and
- Agricultural equipment that is used in any CEA facility is exempt from the levy and collection of property tax.

Under the bill, a CEA facility is valued for assessment purposes based on the net operating income derived from the production and sale of the crops grown within the facility and capitalized at the same rate as irrigated agricultural land. The value so determined must be reduced by 25% to determine the actual value of the CEA facility for property tax purposes.

If the primary use of the CEA facility is not the growing of crops for human or livestock consumption, then the property is classified and valued for assessment purposes as other agricultural property.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-1-102, **amend**
3 (1.1), (1.3) introductory portion, and (1.3)(b); and **add** (1.6)(a)(VI),
4 (1.6)(b)(III), and (3.3) as follows:

5 **39-1-102. Definitions.** As used in articles 1 to 13 of this title 39,
6 unless the context otherwise requires:

7 (1.1) "Agricultural and livestock products" means:

8 (a) Plant or animal products in a raw or unprocessed state that are
9 derived from the science and art of agriculture, regardless of the use of
10 the product after its sale and regardless of the entity that purchases the

1 product. "Agriculture", for the purposes of this subsection (1.1), means
2 farming, ranching, animal husbandry, and horticulture.

3 (b) ON AND AFTER JANUARY 1, 2023, FOR THE PURPOSES OF THIS
4 SUBSECTION (1.1), "AGRICULTURAL AND LIVESTOCK PRODUCTS" INCLUDES
5 CROPS GROWN WITHIN A CONTROLLED ENVIRONMENT AGRICULTURAL
6 FACILITY FOR HUMAN OR LIVESTOCK CONSUMPTION. FOR THE PURPOSES
7 OF THIS SUBSECTION (1.1)(b), "AGRICULTURAL AND LIVESTOCK
8 PRODUCTS" DOES NOT INCLUDE MARIJUANA AND HEMP, AS DEFINED IN
9 SECTION 44-10-103, OR ANY OTHER NONFOOD AGRICULTURAL PRODUCTS.

10 (1.3) "Agricultural equipment ~~which~~ THAT is used on the farm or
11 ranch OR IN A CEA FACILITY in the production of agricultural products":

12 (b) Includes:

13 (I) Any mechanical system used on the farm or ranch for the
14 conveyance and storage of animal products in a raw or unprocessed state,
15 regardless of whether or not such mechanical system is affixed to real
16 property; and

17 (II) Silviculture personal property that is designed, adapted, and
18 used for the planting, growing, maintenance, or harvesting of trees in a
19 raw or unprocessed state; AND

20 (III) ANY PERSONAL PROPERTY USED IN CONNECTION WITH THE
21 OPERATION OF A CONTROLLED ENVIRONMENT AGRICULTURAL FACILITY
22 FOR PLANTING, GROWING, AND HARVESTING CROPS.

23 (1.6) (a) "Agricultural land", whether used by the owner of the
24 land or a lessee, means one of the following:

25 (VI) ANY LAND UNDERLYING OR INTEGRAL TO THE OPERATION OF
26 A CEA FACILITY.

27 (b) (III) ON AND AFTER JANUARY 1, 2023, "ALL OTHER

1 AGRICULTURAL PROPERTY" DOES NOT INCLUDE A CONTROLLED
2 ENVIRONMENT AGRICULTURAL FACILITY THAT HAS BEEN IN PRODUCTION
3 FOR AT LEAST TWO YEARS.

4 (3.3) "CONTROLLED ENVIRONMENT AGRICULTURAL FACILITY" OR
5 "CEA FACILITY" MEANS A STRUCTURE OF NO LESS THAN ONE THOUSAND
6 SQUARE FEET AND RELATED EQUIPMENT AND APPURTENANCES THAT
7 COMBINES ENGINEERING, HORTICULTURAL SCIENCE, AND COMPUTERIZED
8 MANAGEMENT TECHNIQUES TO OPTIMIZE HYDROPONIC PLANT GROWING,
9 PLANT QUALITY, AND FOOD PRODUCTION EFFICIENCY FROM THE LAND'S
10 WATER FOR HUMAN OR LIVESTOCK CONSUMPTION. THE PRIMARY PURPOSE
11 OF GROWING CROPS IN A CEA FACILITY IS TO OBTAIN A MONETARY PROFIT
12 FROM THE WHOLESALE OF PLANT-BASED FOOD FOR HUMAN OR LIVESTOCK
13 CONSUMPTION.

14 **SECTION 2.** In Colorado Revised Statutes, **amend** 39-3-122 as
15 follows:

16 **39-3-122. Agricultural equipment used in production of**
17 **agricultural products - CEA facilities - exemption.** (1) Agricultural
18 equipment ~~which~~ THAT is used on any farm or ranch in the production of
19 agricultural products ~~shall be~~ IS exempt from the levy and collection of
20 property tax.

21 (2) ON AND AFTER JANUARY 1, 2023, AGRICULTURAL EQUIPMENT
22 THAT IS USED IN ANY CEA FACILITY IS EXEMPT FROM THE LEVY AND
23 COLLECTION OF PROPERTY TAX.

24 **SECTION 3.** In Colorado Revised Statutes, **add** 39-5-134 as
25 follows:

26 **39-5-134. Controlled environment agricultural facility -**
27 **valuation - definition.** (1) AS USED IN THIS SECTION, "CONTROLLED

1 ENVIRONMENT AGRICULTURAL FACILITY" OR "CEA FACILITY" HAS THE
2 SAME MEANING AS SPECIFIED IN SECTION 39-1-102 (3.3).

3 (2) A CEA FACILITY IS VALUED FOR ASSESSMENT PURPOSES BASED
4 ON THE NET OPERATING INCOME DERIVED FROM THE PRODUCTION AND
5 SALE OF THE CROPS GROWN WITHIN THE FACILITY, AND CAPITALIZED AT
6 THE SAME RATE AS IRRIGATED AGRICULTURAL LAND. THE VALUE SO
7 DETERMINED MUST BE REDUCED BY TWENTY FIVE PERCENT TO DETERMINE
8 THE ACTUAL VALUE OF THE CEA FACILITY FOR PROPERTY TAX PURPOSES.

9 (3) IF THE PRIMARY USE OF THE CEA FACILITY IS NOT THE
10 GROWING OF CROPS FOR HUMAN OR LIVESTOCK CONSUMPTION, THEN THE
11 PROPERTY IS CLASSIFIED AND VALUED FOR ASSESSMENT PURPOSES AS
12 OTHER AGRICULTURAL PROPERTY.

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly; except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article V
17 of the state constitution against this act or an item, section, or part of this
18 act within such period, then the act, item, section, or part will not take
19 effect unless approved by the people at the general election to be held in
20 November 2022 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.