

CHAPTER 177

GOVERNMENT - LOCAL

HOUSE BILL 16-1006

BY REPRESENTATIVE(S) Becker K. and Garnett, Kraft-Tharp, Mitsch Bush, Moreno, Priola, Ryden, Singer, Tyler, Winter, Young, Hullinghorst, Fields, Kagan, Lebsack, Lontine, Melton, Pabon, Pettersen, Williams;
also SENATOR(S) Hill, Garcia, Holbert, Jahn, Kefalas, Kerr, Ulibarri, Woods.

AN ACT

CONCERNING CLARIFICATION OF THE SCOPE OF THE EXEMPTION FROM GOVERNMENT CHARGES FOR PROPERTY OWNED BY OR LEASED TO A HOUSING AUTHORITY OR OWNED BY, LEASED TO, OR UNDER CONSTRUCTION BY AN ENTITY THAT IS WHOLLY OWNED BY AN AUTHORITY, AN ENTITY IN WHICH AN AUTHORITY HAS AN OWNERSHIP INTEREST, OR AN ENTITY IN WHICH AN ENTITY WHOLLY OWNED BY AN AUTHORITY OR OF WHICH AN AUTHORITY IS THE SOLE MEMBER HAS AN OWNERSHIP INTEREST.

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

SECTION 1. Legislative declaration - no fiscal impact. (1) The general assembly hereby finds and declares that:

(a) The purpose of this act is to clarify the law regarding tax exemptions for public housing authorities that the general assembly extended to subsidiaries of housing authorities in 2000 so that the department of revenue again allows the exemptions to such subsidiaries to the same extent that it had been allowing them before reinterpreting the law to disallow certain exemptions beginning in 2013;

(b) The legislative council staff revenue forecasts relied on by the general assembly during its fiscal year 2015-16 budgeting process did not specifically take into account additional tax revenue that the state might have received due to the department of revenue's 2013 reinterpretation of the law, and the general assembly therefore did not rely on the existence of any such additional revenue in developing the fiscal year 2015-16 budget; and

(c) The clarification of the law provided for in this act therefore has no fiscal year 2015-16 fiscal impact on the state.

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

SECTION 2. In Colorado Revised Statutes, **amend 29-4-227** as follows:

29-4-227. Tax exemptions. (1) (a) ~~The AN authority is exempt from the payment of any taxes or fees to the state or any subdivision thereof, or to any officer or employee of the state or any subdivision thereof~~ COUNTY, CITY AND COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE. ~~The ALL property of an authority shall be~~ is exempt from all local and municipal taxes. Bonds, notes, debentures, and other evidences of indebtedness of an authority are declared to be issued for a public purpose and to be public instruments, and, together with interest thereon, ~~shall be~~ ARE exempt from taxes. All property leased to ~~the~~ AN authority for the purposes of a project ~~shall likewise be~~ IS ALSO exempt from taxation, as ~~shall~~ IS the income derived from the authority by the lessor under ~~such~~ THE lease. ~~The portion of a project that is not used as a store, office, or other commercial facility that is occupied by persons of low income and that is owned by or leased to an entity that is wholly owned by an authority, an entity in which an authority has an ownership interest, or an entity in which an entity wholly owned by an authority has an ownership interest shall likewise be exempt from taxation, and the income derived from the above entities by the lessor under a lease shall likewise be exempt from taxation.~~

(b) A PROJECT THAT IS OWNED BY, LEASED TO, OR UNDER CONSTRUCTION BY AN ENTITY THAT IS WHOLLY OWNED BY AN AUTHORITY, AN ENTITY IN WHICH AN AUTHORITY HAS AN OWNERSHIP INTEREST, OR AN ENTITY IN WHICH AN ENTITY WHOLLY OWNED BY AN AUTHORITY OR OF WHICH AN AUTHORITY IS THE SOLE MEMBER HAS AN OWNERSHIP INTEREST IS EXEMPT FROM BOTH PROPERTY TAX AND, DURING CONSTRUCTION, FROM THE PAYMENT OF SALES TAX AND USE TAX TO THE STATE OR ANY COUNTY, CITY AND COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE IN PROPORTION TO THE PERCENTAGE OF THE PROJECT THAT IS FOR OCCUPANCY BY PERSONS OF LOW INCOME. THE DETERMINATION BY AN AUTHORITY OF THE PERCENTAGE OF THE PROJECT THAT QUALIFIES FOR THE EXEMPTIONS FROM PAYMENT OF PROPERTY TAXES AND SALES AND USE TAXES MAY BE MADE ON THE BASIS OF EITHER THE RELATIVE SQUARE FOOTAGE OR COST AND IS PRESUMED VALID ABSENT MANIFEST ERROR.

(2) THIS SECTION, AS AMENDED, APPLIES TO PROPERTY OWNED BY OR LEASED TO AN AUTHORITY AND PROPERTY OWNED BY, LEASED TO, OR UNDER CONSTRUCTION BY AN ENTITY IN WHICH AN AUTHORITY HAS AN OWNERSHIP INTEREST, OR AN ENTITY IN WHICH AN ENTITY WHOLLY OWNED BY AN AUTHORITY OR OF WHICH AN AUTHORITY IS THE SOLE MEMBER HAS AN OWNERSHIP INTEREST ON OR AFTER AUGUST 2, 2000. NOTHING IN THIS SECTION, AS AMENDED, ENTITLES OR SHALL BE INTERPRETED TO ENTITLE ANY ENTITY TO A REFUND OF TAXES FROM THE STATE FOR ANY PERIOD BEGINNING BEFORE JANUARY 1, 2013, OR TO A REFUND OF TAXES FROM ANY COUNTY, CITY AND COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE PAID PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED. NOTWITHSTANDING THE PROVISIONS OF SECTION 39-26-703 (2) (d), C.R.S., FROM THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, UNTIL DECEMBER 31, 2016, AN ENTITY MAY FILE A CLAIM FOR A REFUND OF ALL STATE TAXES OVERPAID UNDER THIS SECTION FOR THE PERIOD FROM JANUARY 1, 2013, TO THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED. ON AND AFTER JANUARY 1, 2017, ALL CLAIMS FOR REFUND UNDER THIS SECTION ARE SUBJECT TO THE PROVISIONS OF SECTION 39-26-703 (2) (d) C.R.S.

SECTION 3. In Colorado Revised Statutes, 39-26-704, **add** (1.5) as follows:

39-26-704. Miscellaneous sales tax exemptions - governmental entities - hotel residents - schools - exchange of property. (1.5) ALL TRANSACTIONS SPECIFIED IN SECTION 29-4-227 (1), C.R.S., ARE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PARTS 1 AND 2 OF THIS ARTICLE.

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 10, 2016, if adjournment sine die is on May 11, 2016); 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 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 18, 2016