

CHAPTER 289

TAXATION

HOUSE BILL 22-1006

BY REPRESENTATIVE(S) Roberts and Van Winkle, Bacon, Bernett, Bird, Cutter, Esgar, Exum, Herod, Hooton, Jodeh, Kennedy, Kipp, Lindsay, McCluskie, McCormick, Michaelson Jenet, Mullica, Pico, Ricks, Sandridge, Titone, Valdez A., Valdez D., Van Beber, Williams, Young, Froelich, Lontine, Sirota;
also SENATOR(S) Donovan and Smallwood, Buckner, Danielson, Fields, Ginal, Gonzales, Hinrichsen, Hisey, Jaquez Lewis, Lee, Moreno, Pettersen, Priola, Simpson, Sonnenberg, Story, Winter, Zenzinger, Fenberg.

AN ACT**CONCERNING THE PROPERTY TAX EXEMPTION FOR PROPERTY USED AS AN INTEGRAL PART OF A CHILD CARE CENTER.**

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Section 5 of article X of the state constitution provides that property that is used solely and exclusively for strictly charitable purposes is exempt from property tax, unless otherwise provided by law;

(b) Under its constitutional authority to limit or modify this exemption, the general assembly originally established a property tax exemption that is more stringent than the constitutional requirement by mandating ownership and irrevocable dedication of property in order for a child care center's property to qualify for the statutory exemption;

(c) The state constitution requires only use for a strictly charitable purpose and not ownership or irrevocable dedication of property to qualify for the exemption;

(d) The act modifies the child care center exemption by repealing the statutory ownership and irrevocable dedication requirements, which are not expressly required by the state constitution;

(e) As such, whether property qualifies for the child care center exemption will

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

depend on whether it is used solely and exclusively for the charitable purpose of operating a qualified child care facility;

(f) These changes allow property that is used by a tenant or subtenant to operate a qualified child care center for strictly charitable purposes to be eligible for the exemption;

(g) This policy change recognizes the critical link between child care, economic development, and security for Colorado's families; and

(h) Providing this property tax exemption for landlords may incentivize new spaces or reduced rents for tenants operating these types of child care centers and could help reverse the loss of child care spots in communities around the state and help workers, especially women, return to work.

SECTION 2. In Colorado Revised Statutes, 39-3-110, **amend** (1) introductory portion, (1)(f), (1)(g), and (1.5); and **repeal** (1)(h) as follows:

39-3-110. Property - integral part of child care center - charitable purposes - exemption - limitations. (1) Property, real and personal, ~~which~~ THAT IS OWNED and used solely and exclusively for strictly charitable purposes ~~and not for private gain or corporate profit shall be~~ is exempt from the levy and collection of property tax if such property is used as an integral part of a child care center:

(f) The operation of which does not materially enhance, directly or indirectly, the private gain of any individual except as reasonable compensation for services rendered or goods furnished; AND

(g) The property of which is claimed for exemption does not exceed the amount of property reasonably necessary for the accomplishment of the exempt purpose. ~~and~~

~~(h) The property of which is irrevocably dedicated to a charitable purpose.~~

(1.5) (a) No requirement shall be imposed that use of property, which is otherwise exempt pursuant to the provisions of this section, shall benefit the people of Colorado in order to qualify for said exemption.

(b) IF A CHILD CARE CENTER IS OPERATED BY A PERSON OTHER THAN THE OWNER OF THE PROPERTY, THEN THE OTHER PERSON'S USE OF THE PROPERTY IS THE SOLE BASIS FOR DETERMINING WHETHER THE PROPERTY MEETS THE REQUIREMENTS FOR THE EXEMPTION SET FORTH IN SUBSECTION (1) OF THIS SECTION.

(c) TO THE EXTENT THAT REAL PROPERTY TAXES ARE SHARED AND PAYABLE BY ONE OR MORE TENANTS UNDER THE LEASE OF PROPERTY THAT ARE NOT THE CHILD CARE CENTER, REAL PROPERTY TAXES OTHERWISE DUE BUT FOR THE APPLICATION OF THIS SECTION ARE DEEMED TAXES PAID BY THE PROPERTY OWNER OR THE LANDLORD OF A PROPERTY LEASED IN PART TO THE CHILD CARE CENTER.

SECTION 3. In Colorado Revised Statutes, 39-2-117, **amend** (1)(b)(I) as follows:

39-2-117. Applications for exemption - review - annual reports - procedures - rules. (1) (b) (I) Any users of real and personal property for which exemption from general taxation is requested pursuant to any of the provisions of sections 39-3-107 to 39-3-113.5 may be required to provide such information as the property tax administrator determines to be necessary. IF A CLAIM IS MADE FOR AN EXEMPTION UNDER SECTION 39-3-110, AND THE CHILD CARE CENTER IS OPERATED BY A PERSON OTHER THAN THE OWNER OF THE PROPERTY, THEN THE OTHER PERSON, OR THE OTHER PERSON'S AUTHORIZED AGENT, MUST:

(A) ALSO SIGN THE OWNER'S APPLICATION FORM REQUIRED BY SUBSECTION (1)(a)(I) OF THIS SECTION, OR ANY OTHER FORM PRESCRIBED AND FURNISHED BY THE ADMINISTRATOR, UNDER THE PENALTY OF PERJURY IN THE SECOND DEGREE; AND

(B) PROVIDE THE ADMINISTRATOR WITH ANY REQUESTED INFORMATION RELATED TO THE EXEMPTION.

SECTION 4. In Colorado Revised Statutes, **amend** 39-3-101 as follows:

39-3-101. Legislative declaration - presumption of charitable purpose. The general assembly recognizes that only the judiciary may make a final decision as to whether or not any given property is used for charitable purposes within the meaning of the Colorado constitution; nevertheless, in order to guide members of the public and public officials alike in the making of their day-to-day decisions and to assist in the avoidance of litigation, the general assembly hereby finds, declares, and determines that the uses of property ~~which~~ THAT are set forth in this part 1 as uses for charitable purposes benefit the people of Colorado and lessen the burdens of government by performing services ~~which~~ THAT government would otherwise be required to perform. Therefore, property used for such purposes shall be presumed to be USED, OR OWNED AND USED, AS APPLICABLE, solely and exclusively for strictly charitable purposes and not for private gain or corporate profit, IF APPLICABLE, and, consequently, property used for such purposes is entitled to be exempt from the levy and collection of property tax pursuant to the provisions of this part 1 and the Colorado constitution. This legislative finding, declaration, determination, and presumption shall not be questioned by the administrator and shall be entitled to great weight in any and every court.

SECTION 5. In Colorado Revised Statutes, 39-3-116, **amend** (1) and (2) introductory portion; and **add** (2.5) as follows:

39-3-116. Combination use of property - charitable, religious, and educational purposes - exemption - limitations. (1) Except as otherwise provided in this section, property, real and personal, which is USED, OR OWNED AND USED, AS APPLICABLE, by the owner thereof or by any other person or organization solely and exclusively for any combination of the purposes specified in sections 39-3-106 to 39-3-113.5, subject to the limitations and requirements in said sections, ~~including but not limited to the requirement that property not be owned or used for private or corporate gain or profit, shall be~~ IS exempt from the levy and collection of property tax. No requirement shall be imposed that use of property ~~which~~ THAT is otherwise exempt pursuant to any of said sections shall benefit the people of Colorado in order to qualify for said exemption. Property ~~which~~ THAT is otherwise exempt pursuant to the provisions of this section ~~shall be~~ IS subject to the provisions of section

39-3-129 relating to the proportional valuation of exempt property if such property is partially leased, loaned, or otherwise made available for a portion of any calendar year to any business conducted for profit.

(2) EXCEPT AS SET FORTH IN SUBSECTION (2.5) OF THIS SECTION, in the event that such property is used by any person or organization other than the owner:

(2.5) SUBSECTION (2) OF THIS SECTION DOES NOT APPLY TO PROPERTY THAT IS USED AS AN INTEGRAL PART OF A CHILD CARE CENTER OPERATED BY A PERSON OR ORGANIZATION OTHER THAN THE OWNER OF THE PROPERTY AND THAT QUALIFIES FOR AN EXEMPTION UNDER SECTION 39-3-110.

SECTION 6. Act subject to petition - effective date - applicability. (1) 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; 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to property tax years commencing after the applicable effective date of this act.

Approved: June 1, 2022