

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT
10.1.21

BILL 9

LLS NO. 22-0168.01 Ed DeCecco x4216

INTERIM COMMITTEE BILL

Legislative Oversight Committee Concerning Tax Policy

BILL TOPIC: "Short-term Rental Units Property Tax"

A BILL FOR AN ACT

101 **CONCERNING THE PROPERTY TAX TREATMENT OF REAL PROPERTY**
102 **THAT IS USED TO PROVIDE LODGING FOR SHORT-TERM STAYS.**

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/>.)

Legislative Oversight Committee Concerning Tax Policy. The bill establishes the property tax classification of a short-term rental unit, which is an improvement that is designed and used as a place of residency by a person, a family, or families, but that is also leased for overnight lodging for less than 30 consecutive days in exchange for a monetary payment (short-term stay), and the land upon which the improvement is

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

located. Based on the use in the prior property tax year, a short-term rental unit is apportioned between residential real property and lodging property, which is a subclass of nonresidential real property as follows:

- For the portion of the previous property tax year that the short-term rental unit was leased for a short-term stay, the short-term rental unit is classified as a lodging property; and
- For the remainder of the previous property tax year, the short-term rental unit is classified as residential real property.

One exception to this apportionment, however, is that if the short-term rental unit is leased for 30 or fewer days, then the short-term rental unit is classified entirely as residential real property. In the absence of any contrary information, the apportionment is based on an affidavit that the homeowner is required to file with the county assessor about use of the short-term rental unit during the previous property tax year.

The bill also specifies that a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families but that is actually used, or available for use, to provide short-term stays only is a hotel and motel.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-1-102, **add**
3 (5.5)(b.5), (15.7), and (15.8) as follows:

4 **39-1-102. Definitions.** As used in articles 1 to 13 of this title 39,
5 unless the context otherwise requires:

6 (5.5) (b.5) "HOTELS AND MOTELS" ALSO MEANS A BUILDING, OR
7 THAT PORTION OF A BUILDING, DESIGNED FOR USE PREDOMINANTLY AS A
8 PLACE OF RESIDENCY BY A PERSON, A FAMILY, OR FAMILIES, BUT THAT IS
9 ACTUALLY USED, OR AVAILABLE FOR USE, TO PROVIDE SHORT-TERM STAYS
10 ONLY; EXCEPT THAT THE TERM EXCLUDES ANY IMPROVEMENT THAT
11 QUALIFIES AS A BED AND BREAKFAST.

12 (15.7) "SHORT-TERM RENTAL UNIT" MEANS AN IMPROVEMENT
13 THAT IS DESIGNED AND USED AS A PLACE OF RESIDENCY BY A PERSON, A
14 FAMILY, OR FAMILIES, BUT THAT IS ALSO LEASED OR AVAILABLE TO BE

1 LEASED FOR ONE OR MORE SHORT-TERM STAYS. THE TERM ALSO INCLUDES
2 THE LAND UPON WHICH THE IMPROVEMENT IS LOCATED AND A PARCEL
3 THAT WOULD OTHERWISE BE CLASSIFIED ONLY AS RESIDENTIAL LAND
4 UNDER SUBSECTION (14.4)(a)(I)(C) OF THIS SECTION.

5 (15.8) "SHORT-TERM STAY" MEANS OVERNIGHT LODGING THAT IS
6 PROVIDED TO AN INDIVIDUAL OR BUSINESS FOR LESS THAN THIRTY
7 CONSECUTIVE DAYS IN EXCHANGE FOR MONETARY PAYMENT.

8 **SECTION 2.** In Colorado Revised Statutes, 39-1-103, **add** (10.7)
9 as follows:

10 **39-1-103. Actual value determined - when - legislative**
11 **declaration.** (10.7) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND
12 DECLARES THAT:

13 (I) WHEN A HOTEL OR MOTEL HAS A GUEST FOR A LONG-TERM
14 STAY THAT LASTS THIRTY OR MORE DAYS, THE HOTEL OR MOTEL IS
15 TREATED AS A MIXED-USE PROPERTY WITH A PORTION OF THE PROPERTY
16 CLASSIFIED AND ASSESSED AS RESIDENTIAL REAL PROPERTY DUE TO THE
17 LONG-TERM STAY AND THE REMAINDER CLASSIFIED AND ASSESSED AS
18 LODGING PROPERTY;

19 (II) THE LAW DOES NOT ADEQUATELY ADDRESS THE INVERSE
20 SITUATION OF A SHORT-TERM RENTAL UNIT WHERE A RESIDENTIAL
21 IMPROVEMENT IS USED FOR THE COMMERCIAL PURPOSE OF PROVIDING
22 LODGING FOR LESS THAN THIRTY CONSECUTIVE DAYS IN EXCHANGE FOR
23 PAYMENT;

24 (III) SHORT-TERM RENTAL UNITS ARE IMPROVEMENTS AND LAND
25 THAT ARE USED BOTH AS A RESIDENTIAL REAL PROPERTY AND LODGING
26 PROPERTY;

27 (IV) WHILE SHORT-TERM RENTAL UNITS ARE NOT A NEW

1 PHENOMENON, THEY HAVE BECOME MORE PREVALENT WITH THE INCREASE
2 OF INTERNET HOSPITALITY SERVICES;

3 (V) AS A RESULT, SOME COLORADO COMMUNITIES NOW HAVE A
4 SIGNIFICANT PORTION OF THEIR HOUSING STOCK BEING USED AS
5 SHORT-TERM RENTAL UNITS; AND

6 (VI) THE CURRENT STATUTORY STRUCTURE DOES NOT PROVIDE
7 COUNTY ASSESSORS WITH AN ADEQUATE MEANS TO PROPERLY CLASSIFY
8 AND ASSESS THESE MIXED-USED PROPERTIES.

9 (b) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE
10 1, AND EXCEPT AS SET FORTH IN SUBSECTION (10.7)(b)(II) OF THIS
11 SECTION, FOR PROPERTY TAX YEARS COMMENCING ON AND AFTER
12 JANUARY 1, 2023, A SHORT-TERM RENTAL UNIT IS A MIXED-USE PROPERTY
13 THAT IS CLASSIFIED AS BOTH RESIDENTIAL REAL PROPERTY AND LODGING
14 PROPERTY. THE APPORTIONMENT BETWEEN THE TWO CLASSES IS BASED ON
15 THE USE OF THE PROPERTY DURING THE PREVIOUS PROPERTY TAX YEAR AS
16 FOLLOWS:

17 (A) FOR THE PORTION OF THE PREVIOUS PROPERTY TAX YEAR THAT
18 THE SHORT-TERM RENTAL UNIT WAS LEASED FOR A SHORT-TERM STAY,
19 THE SHORT-TERM RENTAL UNIT IS CLASSIFIED AS LODGING PROPERTY FOR
20 THE CURRENT YEAR; AND

21 (B) FOR THE REMAINDER OF THE PREVIOUS PROPERTY TAX YEAR,
22 THE SHORT-TERM RENTAL UNIT IS CLASSIFIED AS RESIDENTIAL REAL
23 PROPERTY FOR THE CURRENT YEAR.

24 (II) IF, DURING THE PREVIOUS PROPERTY TAX YEAR, THE TOTAL
25 NUMBER OF DAYS THAT A SHORT-TERM RENTAL UNIT WAS LEASED FOR
26 SHORT-TERM STAYS WAS LESS THAN OR EQUAL TO THIRTY DAYS, THEN THE
27 SHORT-TERM RENTAL UNIT IS CLASSIFIED AS RESIDENTIAL REAL PROPERTY

1 FOR THE ENTIRE PROPERTY TAX YEAR.

2 (III) THE ACTUAL VALUE OF EACH PORTION OF A SHORT-TERM
3 RENTAL UNIT IS DETERMINED BY THE APPLICATION OF THE APPROPRIATE
4 APPROACHES TO APPRAISAL SPECIFIED IN SUBSECTION (5) OF THIS SECTION.

5 (c) (I) ON OR BEFORE JANUARY 15, 2023, AND JANUARY 15 OF
6 EACH YEAR THEREAFTER, AN OWNER OF A SHORT-TERM RENTAL UNIT
7 SHALL SUBMIT TO THE ASSESSOR OF THE COUNTY IN WHICH THE PROPERTY
8 IS LOCATED AN AFFIDAVIT SIGNED BY THE OWNER UNDER THE PENALTY OF
9 PERJURY IN THE SECOND DEGREE IDENTIFYING THE TOTAL NUMBER OF
10 DAYS DURING THE PREVIOUS PROPERTY TAX YEAR THAT THE SHORT-TERM
11 RENTAL UNIT WAS LEASED FOR SHORT-TERM STAYS. IN THE ABSENCE OF
12 CONTRARY INFORMATION, THE ASSESSOR SHALL USE THE INFORMATION IN
13 THE AFFIDAVIT FOR PURPOSES OF APPLYING SUBSECTION (10.7)(b) OF THIS
14 SECTION.

15 (II) THE ADMINISTRATOR SHALL ESTABLISH THE FORM OF THE
16 AFFIDAVIT REQUIRED UNDER SUBSECTION (10.7)(c)(I) OF THIS SECTION,
17 AND A TAXPAYER MUST USE THIS FORM.

18 (d) IF A SHORT-TERM RENTAL UNIT ALSO QUALIFIES AS A BED AND
19 BREAKFAST, THEN IT IS ASSESSED AS A BED AND BREAKFAST IN
20 ACCORDANCE WITH SUBSECTION (10.5) OF THIS SECTION.

21 (e) IN THE TAXPAYER'S ANNUAL NOTICE OF VALUATION OR IN A
22 SEPARATE NOTICE MAILED PRIOR TO THE DEADLINE FOR THE ANNUAL
23 NOTICE OF VALUATION, A COUNTY ASSESSOR SHALL IDENTIFY THE PORTION
24 OF A SHORT-TERM RENTAL UNIT THAT IS RESIDENTIAL REAL PROPERTY OR
25 LODGING PROPERTY BASED ON THIS SUBSECTION (10.7).

26 **SECTION 3.** In Colorado Revised Statutes, 39-1-104, **amend**
27 (1.6)(a) as follows:

1 **39-1-104. Valuation for assessment - definitions.**

2 (1.6) (a) Hotels, motels, bed and breakfasts, PORTIONS OF SHORT-TERM
3 RENTAL UNITS, AS SPECIFIED IN SECTION 39-1-103 (10.7), and ALL personal
4 property located at a hotel, motel, ~~or~~ bed and breakfast, OR A SHORT-TERM
5 RENTAL UNIT are classified as lodging property, which is a subclass of
6 nonresidential property for purposes of the valuation for assessment.
7 Classification as a lodging property does not affect a partial allocation as
8 residential real property if a lodging property is a mixed-use property.

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