

CHAPTER 332

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**TAXATION**

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**HOUSE BILL 02-1358**

BY REPRESENTATIVE(S) Alexander, Boyd, Cadman, Chavez, Cloer, Crane, Daniel, Dean, Fritz, Harvey, Hefley, Hoppe, Jahn, King, Lawrence, Miller, Paschall, Rhodes, Rippy, Schultheis, Scott, Sinclair, Smith, Spradley, Weddig, White, Williams S., Williams T., and Young;  
also SENATOR(S) Fitz-Gerald, Chlouber, Hanna, Hernandez, Hillman, Isgar, Lamborn, and Taylor.

**AN ACT**

**CONCERNING THE ASSESSMENT OF A BED AND BREAKFAST FOR PROPERTY TAX PURPOSES.**

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

**SECTION 1.** 39-1-102 (14.4), Colorado Revised Statutes, is amended, and the said 39-1-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

(2.5) "BED AND BREAKFAST" MEANS AN OVERNIGHT LODGING ESTABLISHMENT, WHETHER OWNED BY A NATURAL PERSON OR ANY LEGAL ENTITY, THAT IS A RESIDENTIAL DWELLING UNIT OR AN APPURTENANCE THERETO, IN WHICH THE INNKEEPER RESIDES, OR THAT IS A BUILDING DESIGNED BUT NOT NECESSARILY OCCUPIED AS A SINGLE FAMILY RESIDENCE THAT IS NEXT TO, OR DIRECTLY ACROSS THE STREET FROM, THE INNKEEPER'S RESIDENCE, AND IN EITHER CIRCUMSTANCE, IN WHICH:

- (a) LODGING ACCOMMODATIONS ARE PROVIDED FOR A FEE;
- (b) AT LEAST ONE MEAL PER DAY IS PROVIDED AT NO CHARGE OTHER THAN THE FEE FOR THE LODGING ACCOMMODATIONS; AND
- (c) THERE ARE NOT MORE THAN THIRTEEN SLEEPING ROOMS AVAILABLE FOR TRANSIENT GUESTS.

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

(3.1) "COMMERCIAL LODGING AREA" MEANS A GUEST ROOM OR A PRIVATE OR SHARED BATHROOM WITHIN A BED AND BREAKFAST THAT IS OFFERED FOR THE EXCLUSIVE USE OF PAYING GUESTS ON A NIGHTLY OR WEEKLY BASIS. CLASSIFICATION OF A GUEST ROOM OR A BATHROOM AS A "COMMERCIAL LODGING AREA" SHALL BE BASED ON WHETHER AT ANY TIME DURING A YEAR SUCH ROOMS ARE OFFERED BY AN INNKEEPER AS NIGHTLY OR WEEKLY LODGING TO GUESTS FOR A FEE. CLASSIFICATION SHALL NOT BE BASED ON THE NUMBER OF DAYS THAT SUCH ROOMS ARE ACTUALLY OCCUPIED BY PAYING GUESTS.

(5.6) "HOTELS AND MOTELS" AS DEFINED IN SUBSECTION (5.5) OF THIS SECTION SHALL NOT INCLUDE BED AND BREAKFASTS.

(7.1) "INNKEEPER" MEANS THE OWNER, OPERATOR, OR MANAGER OF A BED AND BREAKFAST.

(14.4) "Residential land" means a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and ~~which~~ THAT is used as a unit in conjunction with the residential improvements located thereon. The term includes parcels of land in a residential subdivision, the exclusive use of which land is established by the ownership of such residential improvements. The term does not include any portion of the land ~~which~~ THAT is used for any purpose ~~which~~ THAT would cause the land to be otherwise classified, EXCEPT AS PROVIDED FOR IN SECTION 39-1-103 (10.5). The term also does not include land underlying a residential improvement located on agricultural land.

**SECTION 2.** 39-1-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**39-1-103. Actual value determined - when.** (10.5) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT BED AND BREAKFASTS ARE UNIQUE MIXED-USE PROPERTIES; THAT ALL AREAS OF A BED AND BREAKFAST, EXCEPT FOR THE COMMERCIAL LODGING AREA, ARE SHARED AND COMMON AREAS THAT ALLOW INNKEEPERS AND GUESTS TO INTERACT IN A RESIDENTIAL SETTING; THAT THE LAND ON WHICH A BED AND BREAKFAST IS LOCATED AND THAT IS USED IN CONJUNCTION WITH THE BED AND BREAKFAST IS PRIMARILY RESIDENTIAL IN NATURE; AND THAT THERE APPEARS TO EXIST A WIDE DISPARITY IN HOW ASSESSORS CLASSIFY THE DIFFERENT PORTIONS OF BED AND BREAKFASTS.

(b) THEREFORE, NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A BED AND BREAKFAST SHALL BE ASSESSED AS PROVIDED IN THIS SUBSECTION (10.5). THE COMMERCIAL LODGING AREA OF A BED AND BREAKFAST SHALL BE ASSESSED AT THE RATE FOR NONAGRICULTURAL OR NONRESIDENTIAL IMPROVEMENTS. ANY PART OF THE BED AND BREAKFAST THAT IS NOT A COMMERCIAL LODGING AREA SHALL BE CONSIDERED A RESIDENTIAL IMPROVEMENT AND ASSESSED ACCORDINGLY. THE ACTUAL VALUE OF EACH PORTION OF THE BED AND BREAKFAST SHALL BE DETERMINED BY THE APPLICATION OF THE APPROPRIATE APPROACHES TO APPRAISAL SPECIFIED IN SUBSECTION (5) OF THIS SECTION. THE ACTUAL VALUE OF THE LAND CONTAINING A BED AND BREAKFAST SHALL BE DETERMINED BY THE APPLICATION OF THE APPROPRIATE APPROACHES TO APPRAISAL SPECIFIED IN SUBSECTION (5) OF THIS SECTION. THE LAND CONTAINING A BED AND BREAKFAST SHALL BE ASSESSED AS FOLLOWS:

(I) THE PORTION OF LAND DIRECTLY UNDERNEATH A BED AND BREAKFAST SHALL BE ASSESSED PURSUANT TO THE PROCEDURES PERTAINING TO LAND SET FORTH IN SUBSECTION (9) OF THIS SECTION.

(II) THERE SHALL BE A REBUTTABLE PRESUMPTION THAT ALL REMAINING LAND SHALL BE ASSESSED AS RESIDENTIAL LAND. SUCH PRESUMPTION SHALL ONLY BE OVERCOME IF THERE IS A NONRESIDENTIAL USE NOT REASONABLY ASSOCIATED WITH THE OPERATION OF THE BED AND BREAKFAST ON SOME PORTION OF THE REMAINING LAND, IN WHICH CASE, SUCH PORTION OF THE REMAINING LAND SHALL BE ASSESSED AS NONRESIDENTIAL LAND.

(III) SUBPARAGRAPHS (I) OR (II) OF THIS PARAGRAPH (b) SHALL NOT APPLY TO AGRICULTURAL LAND.

**SECTION 3. Repeal.** 39-1-102 (5.5) (a) (IV), Colorado Revised Statutes, as enacted by House Bill 02-1265, enacted at the Second Regular Session of the Sixty-third General Assembly, is repealed as follows:

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

(5.5) (a) (IV) ~~A residential improvement if a portion of the residential improvement is occupied by its owner or by one or more lessees of the owner as a primary residence and a portion of the residential improvement is offered to the general public for accommodations as a bed and breakfast or a similar operation. The actual value and valuation for assessment of such a residential improvement shall be determined as provided in section 39-1-103 (9) (a).~~

**SECTION 4. Effective date.** This act shall take effect January 1, 2003, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall take effect on the specified date only if approved by the people. Section 3 of this act shall take effect only if House Bill 02-1265 is enacted and becomes law.

Approved: June 7, 2002