

CHAPTER 113

TAXATION

SENATE BILL 03-032

BY SENATOR(S) Phillips and Teck;
also REPRESENTATIVE(S) StengeI, Hodge, King, McFadyen, and Weddig.

AN ACT

**CONCERNING THE PROCEDURES FOR REVIEWING MATERIALS SUBMITTED BY AN OWNER CLAIMING A
PROPERTY TAX EXEMPTION FOR PROPERTY USED FOR RELIGIOUS PURPOSES.**

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

SECTION 1. 39-2-117 (1) (b) (II) and (3) (b) (II) (A), Colorado Revised Statutes, are amended to read:

39-2-117. Applications for exemption - review - annual reports - procedures.

(1) (b) (II) Except as otherwise provided in this subparagraph (II), any application filed pursuant to paragraph (a) of this subsection (1) claiming exemption from taxation pursuant to section 39-3-106 or 39-3-106.5 shall contain the following information: The legal description and address of the real property or the address of the personal property being claimed as exempt; the name and address of the owner of such property; the name and telephone number of the agent of such property; the date the owner acquired such property; the date the owner commenced using the property for religious purposes; a complete list of all uses of the property other than by the owner thereof during the previous twelve months; the total amount of gross income specified in section 39-3-106.5 (1) (b) (I) and the total amount of gross rental income resulting to the owner of such property during the previous twelve months from uses for purposes other than the purposes specified in sections 39-3-106 to 39-3-113; and the total number of hours during the previous twelve months ~~which~~ **THAT** such property was used for purposes other than the purposes specified in sections 39-3-106 to 39-3-113. For purposes of this subparagraph (II), if the owner did not own the property being claimed as exempt during the entire twelve-month period prior to filing such application, the application shall contain the required information for that portion of the twelve-month period for which such property was owned by the owner making application. Such application shall also include a declaration ~~which~~ **THAT** sets forth the religious mission and religious purposes of the

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

owner of the property being claimed as exempt and the uses of such property ~~which~~ THAT are in the furtherance of such mission and purposes. Such declaration shall be presumptive as to the religious purposes for which such property is used. ~~The administrator shall not require any information other than the information specified in this subparagraph (II) unless the administrator has received written permission from the state board of equalization pursuant to the provisions of section 39-9-109~~ IF THE ADMINISTRATOR IS UNABLE TO DETERMINE WHETHER THE PROPERTY QUALIFIES FOR EXEMPTION BASED SOLELY ON THE INFORMATION SPECIFIED IN THIS SUBPARAGRAPH (II), THE ADMINISTRATOR MAY REQUIRE ADDITIONAL INFORMATION, BUT ONLY TO THE EXTENT THAT THE ADDITIONAL INFORMATION IS NECESSARY TO DETERMINE THE EXEMPTION STATUS OF THE PROPERTY. The administrator may challenge any declaration included in the application ~~only upon approval of the state board of equalization pursuant to section 39-9-109, and such challenge shall be based~~ only upon the grounds that the religious mission and purposes are not religious beliefs sincerely held by the owner of such property, that the property being claimed as exempt is not actually used for the purposes set forth in such application, or that the property being claimed as exempt is used for private gain or corporate profit.

(3) (b) (II) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (II), any annual report filed pursuant to paragraph (a) of this subsection (3) claiming exemption from taxation pursuant to section 39-3-106 or 39-3-106.5 shall contain the following information: The legal description or address of the property being claimed as exempt; the name and address of the owner of such property; a complete list of all uses of such property other than by the owner thereof during the previous calendar year; the amount of total gross income specified in section 39-3-106.5 (1) (b) (I) and the total amount of gross rental income resulting from uses of such property ~~which~~ THAT are not for the purposes set forth in sections 39-3-106 to 39-3-113; and the total number of hours ~~which~~ THAT such property was used for purposes other than the purposes specified in sections 39-3-106 to 39-3-113. Such annual report shall also include a declaration of the religious mission and purposes of the owner of such property claimed as being exempt and the uses of such property ~~which~~ THAT are in the furtherance of such mission and purposes. Such declaration shall be presumptive as to the religious mission and religious purposes of the owner of such property. ~~The administrator shall not require any information other than the information specified in this subparagraph (II) unless the administrator has received written permission from the state board of equalization pursuant to the provisions of section 39-9-109~~ IF THE ADMINISTRATOR IS UNABLE TO DETERMINE WHETHER THE PROPERTY CONTINUES TO QUALIFY FOR EXEMPTION BASED SOLELY ON THE INFORMATION SPECIFIED IN THIS SUBPARAGRAPH (II), THE ADMINISTRATOR MAY REQUIRE ADDITIONAL INFORMATION, BUT ONLY TO THE EXTENT THAT THE ADDITIONAL INFORMATION IS NECESSARY TO DETERMINE THE EXEMPTION STATUS OF THE PROPERTY. The administrator may challenge any declaration included in such annual report ~~only upon approval of the state board of equalization pursuant to section 39-9-109, and such challenge shall be based~~ only upon the grounds that the religious mission and purposes are not religious beliefs sincerely held by the owner of such property, that such property is not actually used for the purposes set forth in the annual report, or that the property being claimed as exempt is used for private gain or corporate profit.

SECTION 2. Repeal. 39-9-109 (1), (2), (3), and (4), Colorado Revised Statutes, are repealed as follows:

~~39-9-109. Power of state board - waiver of deadline. (1) The state board of equalization may authorize the administrator to require additional information from any owner claiming exemption from the levy and collection of property tax pursuant to the provisions of section 39-3-106 or 39-3-106.5 only upon the filing of any application by the administrator that shows that:~~

~~(a) Probable cause exists that such owner is not properly reporting information required pursuant to the provisions of section 39-2-117 (1) and (3); or~~

~~(b) Such owner no longer satisfies the requirements of section 39-3-106 or 39-3-106.5.~~

~~(2) A copy of any application filed with the state board of equalization pursuant to the provisions of subsection (1) or (3) of this section shall be given or sent to the owner involved.~~

~~(3) The state board of equalization may authorize the administrator to challenge any declaration included in an application or annual report made pursuant to the provisions of section 39-2-117 (1) and (3) only upon the filing of an application by the administrator that probable cause exists that:~~

~~(a) The religious mission and purposes set forth in such declaration are not beliefs sincerely held by the owner making such declaration;~~

~~(b) The property being claimed as exempt is not actually used for the purposes set forth in the application; or~~

~~(c) The property being claimed as exempt is used for private gain or corporate profit.~~

~~(4) (a) Any authorization granted to the administrator by the state board of equalization pursuant to subsection (1) of this section shall be in writing and shall specify the information which the administrator is authorized to require.~~

~~(b) Any authorization granted to the administrator by the state board of equalization pursuant to subsection (3) of this section shall be in writing and shall specify the ground on which the administrator is authorized to bring such challenge.~~

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 2003