

CHAPTER 99

TAXATION

SENATE BILL 06-070

BY SENATOR(S) Shaffer, Teck, Tupa, and Williams;
also REPRESENTATIVE(S) Plant, and Carroll M.

AN ACT**CONCERNING MONEYS PAID BY A LESSEE OF PERSONAL PROPERTY FOR THE PAYMENT OF PERSONAL PROPERTY TAX.**

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

SECTION 1. Article 1 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-1-119.5. Funds collected by lessors of personal property for payments of taxes - refund - damages. (1) IF A PERSONAL PROPERTY LESSEE IS REQUIRED TO MAKE PAYMENT TO A LESSOR PURSUANT TO THE TERMS OF ANY CONTRACT OR OTHER AGREEMENT ENTERED INTO BETWEEN THE LESSEE AND LESSOR FOR THE PAYMENT OF PERSONAL PROPERTY TAX DUE ON OR AFTER JANUARY 1, 2007, THOSE PAYMENTS SHALL BE ACCOUNTED FOR UPON THE TERMINATION OF THE LEASE ENTERED INTO BETWEEN THE LESSEE AND LESSOR. IF IT IS DETERMINED UPON THIS ACCOUNTING THAT A REFUND IS DUE TO THE LESSEE FOR OVERPAYMENT OF PERSONAL PROPERTY TAXES, THE LESSOR SHALL MAKE SUCH REFUND TO THE LESSEE ON OR BEFORE AUGUST 31 OF THE YEAR IN WHICH THE TAX IS DUE.

(2) THE LESSOR SHALL BASE THE ACCOUNTING AND REFUND ON THE ACTUAL PROPERTY TAX LIABILITY DUE IN EACH YEAR OF THE LEASE PERIOD.

(3) ANY LESSOR WHO WILLFULLY FAILS TO MAKE A REFUND IN VIOLATION OF SUBSECTION (1) OF THIS SECTION SHALL BE LIABLE TO THE LESSEE, IN A CIVIL ACTION, IN AN AMOUNT EQUAL TO THE SUM OF THREE TIMES THE AMOUNT OF ACTUAL DAMAGES SUSTAINED AND IN THE CASE OF ANY SUCCESSFUL ACTION TO ENFORCE SAID LIABILITY, THE COSTS OF THE ACTION TOGETHER WITH REASONABLE ATTORNEY FEES AS DETERMINED BY THE COURT.

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

(4) ANY ACTION BROUGHT UNDER THIS SECTION SHALL BE COMMENCED WITHIN THREE YEARS AFTER THE DATE ON WHICH THE FAILURE TO REFUND OCCURRED OR WITHIN THREE YEARS AFTER THE LESSEE DISCOVERED OR IN THE EXERCISE OF REASONABLE DILIGENCE SHOULD HAVE DISCOVERED THE LESSOR'S FAILURE TO REFUND. THE PERIOD OF LIMITATION PROVIDED IN THIS SECTION MAY BE EXTENDED FOR A PERIOD OF ONE YEAR IF THE LESSEE PROVES THAT FAILURE TO TIMELY COMMENCE THE ACTION WAS CAUSED BY THE LESSOR ENGAGING IN CONDUCT CALCULATED TO INDUCE THE LESSEE TO REFRAIN FROM OR POSTPONE THE COMMENCEMENT OF THE ACTION.

SECTION 2. Applicability. This act shall apply to lease agreements for personal property entered into on or after the effective date of this act.

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 4, 2006