

CHAPTER 176

TAXATION

SENATE BILL 09-042

BY SENATOR(S) Tapia;
also REPRESENTATIVE(S) Vigil and Peniston, Gerou, Schafer S., Summers.

AN ACT**CONCERNING THE ADMINISTRATION OF THE EXEMPT STATUS OF PROPERTY FOR PROPERTY TAX PURPOSES.**

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

SECTION 1. 39-1-102 (8.5), Colorado Revised Statutes, is amended to read:

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

(8.5) "Not for private gain or corporate profit" means the ownership and use of property whereby no person with any connection to the owner thereof shall receive any pecuniary benefit except for reasonable compensation for services rendered and any excess income over expenses derived from the operation or use of the property and all proceeds from the sale of the property of the owner shall be devoted to the furthering of any exempt purpose. PROPERTY OWNERSHIP SHALL BE DEEMED TO HAVE MET THE REQUIREMENTS OF THIS SUBSECTION (8.5) IF:

(a) THE PROPERTY IS OWNED BY A NONPROFIT CORPORATION OR ASSOCIATION WHOSE PROPERTY IS IRREVOCABLY DEDICATED TO CHARITABLE, RELIGIOUS, OR SCHOOL PURPOSES AND NO PORTION OF ITS ASSETS WILL INURE TO THE BENEFIT OF ANY PRIVATE PERSON UPON THE LIQUIDATION, DISSOLUTION, OR ABANDONMENT OF SUCH CORPORATION OR ASSOCIATION; OR

(b) (I) THE OPERATOR OF THE PROPERTY IS A NONPROFIT ENTITY THAT WOULD OTHERWISE QUALIFY FOR PROPERTY TAX EXEMPTION UNDER ARTICLE 3 OF THIS TITLE AND IS A GENERAL PARTNER OR MEMBER OF THE OWNER, AND THE PROPERTY IS OWNED BY:

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

(A) AN ENTITY ORGANIZED FOR THE PURPOSE OF OBTAINING TAX CREDITS THROUGH THE NEW MARKETS TAX CREDIT PROGRAM UNDER 26 U.S.C. SEC. 45 D OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OR THE REHABILITATION TAX CREDIT PROGRAM UNDER 26 U.S.C. SEC. 47 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND IS ELIGIBLE FOR CREDITS; AND

(B) AN ENTITY THAT MAKES PAYMENTS IN LIEU OF PROPERTY TAXES PURSUANT TO SECTION 39-3-114.5.

(II) THE PROVISIONS OF THIS PARAGRAPH (b) SHALL APPLY TO APPLICATIONS FOR EXEMPTION FILED ON OR AFTER JANUARY 1, 2009, OR THAT ARE PENDING ON THAT DATE.

SECTION 2. 39-2-117 (1) (a), Colorado Revised Statutes, is amended to read:

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

(1) (a) (I) Every application filed on or after January 1, 1990, claiming initial exemption of real and personal property from general taxation pursuant to the provisions of sections 39-3-106 to 39-3-113 and 39-3-116 shall be made on forms prescribed and furnished by the administrator, shall contain such information as specified in paragraph (b) of this subsection (1), and shall be signed by the owner of such property or his or her authorized agent under the penalty of perjury in the second degree and, except as otherwise provided in this paragraph (a), shall be accompanied by a payment of one hundred fifty dollars, which shall be credited to the property tax exemption fund created in subsection (8) of this section. The administrator shall examine and review each application submitted, and, if it is determined that the exemption therein claimed is justified and in accordance with the intent of the law, the exemption shall be granted, the same to be effective upon such date in the year of application as the administrator shall determine, but in no event shall the exemption apply to any year prior to the year preceding the year in which application is made. THE DECISION OF THE ADMINISTRATOR SHALL BE ISSUED IN WRITING AND A COPY THEREOF FURNISHED TO THE APPLICANT AND TO THE ASSESSOR, TREASURER, AND BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(II) On all properties for which an application is pending in the office of the administrator, taxes shall not be due and payable until such determination has been made. Such property shall not be listed for the tax sale, and no delinquent interest will be charged on any portion of the exemption that is denied. ~~The decision of the administrator shall be issued in writing and a copy thereof furnished to the applicant and to the assessor, treasurer, and board of county commissioners of the county wherein such property is located.~~

(III) NO LATER THAN JUNE 1 OF EACH YEAR, THE ADMINISTRATOR SHALL PROVIDE TO THE ASSESSOR, TREASURER, AND BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY A LIST OF ALL APPLICATIONS FOR PROPERTY TAX EXEMPTION CURRENTLY PENDING IN THE OFFICE OF THE ADMINISTRATOR.

SECTION 3. Article 3 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-3-114.5. Charitable exemption - owner claiming federal tax credit - fee in lieu of school district tax. (1) WHENEVER AN ENTITY ORGANIZED FOR THE PURPOSE OF OBTAINING TAX CREDITS THROUGH THE NEW MARKETS TAX CREDIT PROGRAM UNDER 26 U.S.C. SEC. 45 D OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OR THE REHABILITATION TAX CREDIT PROGRAM UNDER 26 U.S.C. SEC. 47 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, OWNS AN INTEREST IN REAL PROPERTY FOR WHICH AN EXEMPTION IS CLAIMED, THE ENTITY SHALL PAY ANNUALLY TO THE TREASURER OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED A PAYMENT IN LIEU OF TAXES, WHICH PAYMENT SHALL NOT EXCEED THE AMOUNT OF TAXES THAT WOULD BE DUE FOR TOTAL PROGRAM FOR THE SCHOOL DISTRICT IN WHICH THE PROPERTY IS LOCATED IF THE INTEREST WERE TAXABLE.

(2) EACH YEAR DURING THE REGULAR TAX ASSESSMENT PERIOD, THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY IN WHICH A REAL PROPERTY INTEREST DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS LOCATED SHALL PROVIDE TO EACH ENTITY THAT HOLDS SUCH REAL PROPERTY INTEREST THE FOLLOWING INFORMATION IN THE SAME MANNER AS SUCH INFORMATION IS PROVIDED TO ANY OTHER OWNER OF REAL PROPERTY IN THE COUNTY:

(a) THE CURRENT ASSESSED VALUE OF THE REAL PROPERTY INTEREST EXPRESSED IN DOLLARS;

(b) THE AMOUNT OF THE PAYMENT IN LIEU OF TAXES DUE ON THE REAL PROPERTY INTEREST BASED ON THE VALUE AND TAX RATE LEVIED FOR TOTAL PROGRAM FOR THE SCHOOL DISTRICT IN WHICH THE PROPERTY IS LOCATED THAT WOULD BE APPLICABLE TO THE REAL PROPERTY INTEREST IF IT WERE TAXABLE; AND

(c) THE DATE THE PAYMENT IN LIEU OF TAXES IS DUE FOR SUCH REAL PROPERTY INTEREST BASED ON THE DATE PROPERTY TAXES WITHIN THE COUNTY ARE DUE.

(3) THE TREASURER OF EACH COUNTY THAT RECEIVES A PAYMENT IN LIEU OF TAXES PURSUANT TO THIS SECTION SHALL PAY OVER TO THE SCHOOL DISTRICT IN WHICH THE REAL PROPERTY INTEREST DESCRIBED IN SUBSECTION (1) OF THIS SECTION IS LOCATED THE AMOUNT OF THE TOTAL PAYMENT; EXCEPT THAT THE TREASURER MAY DEDUCT THE COSTS INCURRED BY THE TREASURER IN ADMINISTERING THIS SUBSECTION (3).

(4) EACH SCHOOL DISTRICT THAT RECEIVES A PAYMENT IN LIEU OF TAXES PURSUANT TO THIS SECTION SHALL CERTIFY THE AMOUNT PAID OR RECEIVED TO THE STATE BOARD OF EDUCATION.

SECTION 4. 39-3-114, Colorado Revised Statutes, is amended to read:

39-3-114. Burden - claim for charitable exemption. The burden shall be on the owner and operator of any residential property for which an exemption is claimed pursuant to any of the provisions of sections 39-3-109 and 39-3-112 to show facts sufficient to support the exemption claimed. In determining whether or not a particular property is entitled to such an exemption provided for in any of said sections, the administrator ~~shall~~ MAY require the owner or operator of such property to annually submit a complete financial report on its operations and ~~shall~~ MAY

require any occupants whose residential units are claimed to qualify for such exemption to submit copies of their federal or state income tax returns.

SECTION 5. 39-3-137 (2) and (3), Colorado Revised Statutes, are amended to read:

39-3-137. Organizations with tax exempt status - forgiveness of taxes owed.

(2) Any waiver of the balance of taxes owed by an organization pursuant to subsection (1) of this section shall be contingent upon the reestablishment of the organization's tax-exempt status by the PROPERTY TAX ADMINISTRATOR, AS AUTHORIZED BY THE state board of equalization. ~~pursuant to section 39-9-109.~~

(3) The state board of equalization may AUTHORIZE THE PROPERTY TAX ADMINISTRATOR TO reestablish tax-exempt status ~~pursuant to section 39-9-109~~ for any organization that meets the criteria specified in paragraphs (a) to (d) of subsection (1) of this section and that paid all or any portion of a property tax bill for a year or years in which the organization was denied tax-exempt status.

SECTION 6. 22-54-115 (1) (a), Colorado Revised Statutes, is amended to read:

22-54-115. Distribution from state public school fund. (1) No later than June 30 of each year, the state board shall determine the amount of the state's share of the district's total program for the budget year beginning on July 1, and the total thereof for all districts, which amount shall be payable in twelve approximately equal monthly payments during such budget year; except that:

(a) Such payments shall be adjusted following the certification of pupil enrollments, the certification of valuations for assessment to the state board pursuant to section 22-54-112 (1) and (2), ~~and~~ the certification of the amount of any impact assistance grants on behalf of school districts pursuant to section 30-25-302, C.R.S., AND THE CERTIFICATION OF ANY PAYMENTS IN LIEU OF TAXES RECEIVED BY SCHOOL DISTRICTS PURSUANT TO SECTION 39-3-114.5, C.R.S.;

SECTION 7. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of 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, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if 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, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 22, 2009