

CHAPTER 425

TAXATION

HOUSE BILL 10-1267

BY REPRESENTATIVE(S) Kerr A., Fischer, Gardner C., Looper, McNulty, Merrifield, Miklosi, Apuan, Casso, Court, Frangas, Gerou, Hullinghorst, King S., Labuda, Pace, Peniston, Roberts, Ryden, Soper, Summers, Tyler, Vigil;
also SENATOR(S) Romer, Penry, Carroll M., Newell, Schwartz, Whitehead, Williams.

AN ACT**CONCERNING THE PROPERTY TAX TREATMENT OF AN INDEPENDENTLY OWNED RESIDENTIAL SOLAR ELECTRIC GENERATION FACILITY.**

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

SECTION 1. 39-1-102 (7) and (11), Colorado Revised Statutes, are 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:

(6.3) "IMPROVEMENTS" MEANS ALL STRUCTURES, BUILDINGS, FIXTURES, FENCES, AND WATER RIGHTS ERECTED UPON OR AFFIXED TO LAND, WHETHER OR NOT TITLE TO SUCH LAND HAS BEEN ACQUIRED.

(6.8) "INDEPENDENTLY OWNED RESIDENTIAL SOLAR ELECTRIC GENERATION FACILITY" MEANS PERSONAL PROPERTY THAT:

- (a) IS LOCATED ON RESIDENTIAL REAL PROPERTY;
- (b) IS OWNED BY A PERSON OTHER THAN THE OWNER OF THE RESIDENTIAL REAL PROPERTY;
- (c) IS INSTALLED ON THE CUSTOMER'S SIDE OF THE METER;
- (d) IS USED TO PRODUCE ELECTRICITY FROM SOLAR ENERGY PRIMARILY FOR USE IN THE RESIDENTIAL IMPROVEMENTS LOCATED ON THE RESIDENTIAL REAL PROPERTY;

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

AND

(e) HAS A PRODUCTION CAPACITY OF NO MORE THAN ONE HUNDRED KILOWATTS.

(7) "~~Improvements~~" means all structures, buildings, fixtures, fences, and water rights erected upon or affixed to land, whether or not title to such land has been acquired.

(11) "Personal property" means everything that is the subject of ownership and that is not included within the term "real property". "Personal property" includes machinery, equipment, and other articles related to a commercial or industrial operation that are either affixed or not affixed to the real property for proper utilization of such articles. Except as otherwise specified in articles 1 to 13 of this title, any pipeline, telecommunications line, utility line, cable television line, or other similar business asset or article installed through an easement, right-of-way, or leasehold for the purpose of commercial or industrial operation and not for the enhancement of real property shall be deemed to be personal property, including, without limitation, oil and gas distribution and transmission pipelines, gathering system pipelines, flow lines, process lines, and related water pipeline collection, transportation, and distribution systems. Structures and other buildings installed on an easement, right-of-way, or leasehold that are not specifically referenced in this subsection (11) shall be deemed to be improvements pursuant to ~~subsection (7)~~ SUBSECTION (6.3) of this section.

SECTION 2. 39-3-102 (1), Colorado Revised Statutes, is amended to read:

39-3-102. Household furnishings - exemption. (1) Household furnishings, including free-standing household appliances, wall-to-wall carpeting, AN INDEPENDENTLY OWNED RESIDENTIAL SOLAR ELECTRIC GENERATION FACILITY, and security devices and systems ~~which~~ THAT are not used for the production of income at any time shall be exempt from the levy and collection of property tax. If any household furnishings are used for the production of income for any period of time during the taxable year, such household furnishings shall be taxable for the entire taxable year. AN INDEPENDENTLY OWNED RESIDENTIAL SOLAR ELECTRIC GENERATION FACILITY SHALL NOT BE CONSIDERED TO BE USED FOR THE PRODUCTION OF INCOME UNLESS THE FACILITY PRODUCES INCOME FOR THE OWNER OF THE RESIDENTIAL REAL PROPERTY ON WHICH THE FACILITY IS LOCATED. FOR PROPERTY TAX PURPOSES ONLY, REBATES, OFFSETS, CREDITS, AND REIMBURSEMENTS SPECIFIED IN SECTION 40-2-124, C.R.S., SHALL NOT CONSTITUTE THE PRODUCTION OF INCOME. For purposes of this subsection (1), for property tax purposes only, security devices and systems shall include, but shall not be limited to, security doors, security bars, and alarm systems.

SECTION 3. 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 (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect

unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 11, 2010