

## CHAPTER 138

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**TAXATION**

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**HOUSE BILL 11-1042**

BY REPRESENTATIVE(S) Levy, Gardner D., Gerou, Hamner, Jones, Kagan, Kefalas, Massey, Nikkel, Pace, Priola, Ryden, Schafer S., Wilson, McNulty, Fields, Hullinghorst, Kerr A., Murray, Summers, Vigil;  
also SENATOR(S) Nicholson, Aguilar, Bacon, Boyd, Foster, Giron, Grantham, Guzman, Heath, Lambert, Lundberg, Newell, Roberts, Shaffer B., White, Williams S.

**AN ACT****CONCERNING THE CLASSIFICATION OF RESIDENTIAL LAND WHEN THE RESIDENTIAL IMPROVEMENT IS TEMPORARILY REMOVED.**

*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 A NEW SUBSECTION, to read:

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

(8.4) "NATURAL CAUSE" MEANS FIRE, EXPLOSION, FLOOD, TORNADO, ACTION OF THE ELEMENTS, ACT OF WAR OR TERROR, OR SIMILAR CAUSE BEYOND THE CONTROL OF AND NOT CAUSED BY THE PARTY HOLDING TITLE TO THE PROPERTY DESTROYED.

(14.4) (a) "Residential land" means a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and 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 INCLUDES LAND UPON WHICH RESIDENTIAL IMPROVEMENTS WERE DESTROYED BY NATURAL CAUSE AFTER THE DATE OF THE LAST ASSESSMENT AS ESTABLISHED IN SECTION 39-1-104 (10.2). The term does not include any portion of the land that is used for any purpose 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.

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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.*

(b) (I) NOTWITHSTANDING SECTION 39-1-103 (5) (c) AND EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), WHEN RESIDENTIAL IMPROVEMENTS ARE DESTROYED, DEMOLISHED, OR RELOCATED AS A RESULT OF A NATURAL CAUSE ON OR AFTER JANUARY 1, 2010, THAT, WERE IT NOT FOR THEIR DESTRUCTION, DEMOLITION, OR RELOCATION DUE TO SUCH NATURAL CAUSE, WOULD HAVE QUALIFIED THE LAND UPON WHICH THE IMPROVEMENTS WERE LOCATED AS RESIDENTIAL LAND FOR THE FOLLOWING PROPERTY TAX YEAR, THE RESIDENTIAL LAND CLASSIFICATION SHALL REMAIN IN PLACE FOR THE YEAR OF DESTRUCTION, DEMOLITION, OR RELOCATION AND THE TWO SUBSEQUENT PROPERTY TAX YEARS. THE RESIDENTIAL LAND CLASSIFICATION MAY REMAIN IN PLACE FOR ADDITIONAL SUBSEQUENT PROPERTY TAX YEARS, NOT TO EXCEED A TOTAL OF FIVE SUBSEQUENT PROPERTY TAX YEARS, IF THE ASSESSOR DETERMINES THERE IS EVIDENCE THE OWNER INTENDS TO REBUILD OR LOCATE A RESIDENTIAL IMPROVEMENT ON THE LAND. FOR PURPOSES OF THIS DETERMINATION, THE ASSESSOR MAY CONSIDER, BUT SHALL NOT BE LIMITED TO CONSIDERING, A BUILDING PERMIT OR OTHER LAND DEVELOPMENT PERMIT FOR THE LAND, CONSTRUCTION PLANS FOR SUCH RESIDENTIAL IMPROVEMENT, EFFORTS BY THE OWNER TO OBTAIN FINANCING FOR A RESIDENTIAL IMPROVEMENT, OR ONGOING EFFORTS TO SETTLE AN INSURANCE CLAIM RELATED TO THE DESTRUCTION, DEMOLITION, OR RELOCATION OF THE RESIDENTIAL IMPROVEMENT DUE TO A NATURAL CAUSE.

(II) THE RESIDENTIAL LAND CLASSIFICATION OF THE LAND DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL CHANGE ACCORDING TO CURRENT USE IF:

(A) A NEW RESIDENTIAL IMPROVEMENT OR PART OF A NEW RESIDENTIAL IMPROVEMENT IS NOT CONSTRUCTED OR PLACED ON THE LAND IN ACCORDANCE WITH APPLICABLE LAND USE REGULATIONS PRIOR TO THE JANUARY 1 AFTER THE PERIOD DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b);

(B) THE ASSESSOR DETERMINES THAT THE CLASSIFICATION AT THE TIME OF DESTRUCTION, DEMOLITION, OR RELOCATION AS A RESULT OF A NATURAL CAUSE WAS ERRONEOUS; OR

(C) A CHANGE OF USE HAS OCCURRED. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (C), A CHANGE OF USE SHALL NOT INCLUDE THE TEMPORARY LOSS OF THE RESIDENTIAL USE DUE TO THE DESTRUCTION, DEMOLITION, OR RELOCATION AS A RESULT OF A NATURAL CAUSE OF THE RESIDENTIAL IMPROVEMENT.

**SECTION 2.** 39-1-103 (5) (c), Colorado Revised Statutes, is amended to read:

**39-1-103. Actual value determined - when.** (5) (c) EXCEPT AS PROVIDED IN SECTION 39-1-102 (14.4) (b), once any property is classified for property tax purposes, it shall remain so classified until such time as its actual use changes or the assessor discovers that the classification is erroneous. The property owner shall endeavor to comply with the reasonable requests of the assessor to supply information which cannot be ascertained independently but which is necessary to determine actual use and properly classify the property when the assessor has evidence that there has been a change in the use of the property. Failure to supply such information shall not be the sole reason for reclassifying the property. Any

such request for such information shall be accompanied by a notice that states that failure on the part of the property owner to supply such information will not be used as the sole reason for reclassifying the property in question. Subject to the availability of funds under the assessor's budget for such purpose, no later than May 1 of each year, the assessor shall inform each person whose property has been reclassified from agricultural land to any other classification of property of the reasons for such reclassification including, but not limited to, the basis for the determination that the actual use of the property has changed or that the classification of such property is erroneous.

**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: May 4, 2011