

CHAPTER 248

TAXATION

HOUSE BILL 11-1241

BY REPRESENTATIVE(S) DelGrosso, Court, Fields, Hamner, Holbert, Kefalas, Labuda, Massey, Priola, Schafer S., Summers, Todd, Vigil, Waller;
also SENATOR(S) Lundberg, Aguilar, Boyd, Giron, Guzman, Heath, Hodge, Newell, Steadman, Williams S.

AN ACT

CONCERNING THE CIRCUMSTANCES IN WHICH A NONPROFIT HOUSING PROVIDER THAT SELLS LOW-COST HOUSING TO LOW-INCOME APPLICANTS WHO ASSIST IN THE CONSTRUCTION OF THE HOUSING IS ENTITLED TO THE PROPERTY TAX EXEMPTION FOR PROPERTY USED STRICTLY FOR CHARITABLE PURPOSES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Part 1 of article 3 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-3-113.5. Property acquired by nonprofit housing provider for low-income housing - use for charitable purposes - exemption - limitations - definitions.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AREA MEDIAN INCOME" MEANS THE MEDIAN INCOME OF ANY COUNTY IN WHICH PROPERTY IS LOCATED IN RELATION TO FAMILY SIZE, AS PUBLISHED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(b) "INDICATORS OF INTENT" MEANS OFF-SITE ACTIVITIES OF A NONPROFIT HOUSING PROVIDER THAT ESTABLISH THE PROVIDER'S SPECIFIC INTENT TO USE PROPERTY FOR THE PURPOSE OF CONSTRUCTING OR REHABILITATING HOUSING TO BE SOLD TO LOW-INCOME APPLICANTS.

(c) "LOW-INCOME APPLICANT" MEANS AN INDIVIDUAL OR FAMILY WHOSE TOTAL INCOME IS NO GREATER THAN SIXTY PERCENT OF THE AREA MEDIAN INCOME AND WHO APPLIES TO A NONPROFIT HOUSING PROVIDER TO ASSIST IN THE CONSTRUCTION AND PURCHASE OF HOUSING TO BE CONSTRUCTED BY THE PROVIDER.

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

(d) "NONPROFIT HOUSING PROVIDER" MEANS AN ORGANIZATION THAT IS EXEMPT FROM FEDERAL INCOME TAX PURSUANT TO SECTION 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND THAT HAS A PRIMARY ORGANIZATIONAL MISSION OF WORKING WITH LOW-INCOME APPLICANTS TO CONSTRUCT OR REHABILITATE HOUSING THAT THE ORGANIZATION THEN SELLS TO THE LOW-INCOME APPLICANTS FOR THEIR RESIDENTIAL USE.

(2) SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2011, REAL PROPERTY ACQUIRED BY A NONPROFIT HOUSING PROVIDER UPON WHICH THE PROVIDER INTENDS TO CONSTRUCT OR REHABILITATE HOUSING TO BE SOLD TO LOW-INCOME APPLICANTS IS DEEMED TO BE BEING USED FOR STRICTLY CHARITABLE PURPOSES, REGARDLESS OF WHETHER OR NOT THERE IS ACTUAL PHYSICAL USE OF THE PROPERTY, AND SHALL BE EXEMPT FROM PROPERTY TAXATION IN ACCORDANCE WITH SECTION 5 OF ARTICLE X OF THE STATE CONSTITUTION. IN DETERMINING WHETHER A NONPROFIT HOUSING PROVIDER SATISFIES THE INTENT REQUIREMENT OF THIS SUBSECTION (2) WITH RESPECT TO PARTICULAR PROPERTY, THE ADMINISTRATOR MAY CONSIDER INDICATORS OF INTENT, INCLUDING BUT NOT LIMITED TO:

(a) THE ESTABLISHMENT BY THE NONPROFIT HOUSING PROVIDER OF A COMMITTEE OR OTHER STRUCTURE FOR THE PURPOSE OF PLANNING THE CONSTRUCTION OR REHABILITATION OF HOUSING ON THE PROPERTY;

(b) STEPS TAKEN BY THE NONPROFIT HOUSING PROVIDER TO OBTAIN ANY REQUIRED LOCAL GOVERNMENT APPROVALS FOR THE CONSTRUCTION OR REHABILITATION OF HOUSING ON THE PROPERTY;

(c) STEPS TAKEN BY THE NONPROFIT HOUSING PROVIDER TO DEVELOP AND IMPLEMENT A FINANCING PLAN FOR THE CONSTRUCTION OR REHABILITATION OF HOUSING ON THE PROPERTY;

(d) THE HIRING OF ARCHITECTS, CONTRACTORS, OR OTHER PROFESSIONALS BY THE NONPROFIT HOUSING PROVIDER IN PREPARATION FOR THE ACTUAL CONSTRUCTION OR REHABILITATION OF HOUSING ON THE PROPERTY; AND

(e) THE SOLICITATION OR ACCEPTANCE BY THE NONPROFIT HOUSING PROVIDER OF APPLICATIONS FROM LOW-INCOME APPLICANTS FOR HOUSING TO BE CONSTRUCTED OR REHABILITATED ON THE PROPERTY.

(3) THE PROPERTY TAX EXEMPTION ALLOWED TO A NONPROFIT HOUSING PROVIDER BY SUBSECTION (2) OF THIS SECTION IS SUBJECT TO THE FOLLOWING LIMITATIONS:

(a) THE EXEMPTION MAY BE ALLOWED FOR A MAXIMUM OF FIVE CONSECUTIVE PROPERTY TAX YEARS, BEGINNING WITH THE PROPERTY TAX YEAR IN WHICH THE NONPROFIT HOUSING PROVIDER OBTAINED TITLE TO THE PROPERTY; AND

(b) IF THE NONPROFIT HOUSING PROVIDER IS ALLOWED AN EXEMPTION FOR ANY PROPERTY TAX YEAR AND SUBSEQUENTLY SELLS, DONATES, OR LEASES THE PROPERTY TO ANY PERSON OTHER THAN A LOW-INCOME APPLICANT WHO ASSISTED

IN THE CONSTRUCTION OF HOUSING FOR THE APPLICANT'S RESIDENTIAL USE ON THE PROPERTY, THE PROVIDER SHALL BE LIABLE FOR ALL PROPERTY TAXES THAT THE PROVIDER DID NOT PREVIOUSLY PAY DUE TO THE EXEMPTION.

SECTION 2. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of education, for allocation to assistance to public schools, public school finance for the state share of districts' total program funding, for the fiscal year beginning July 1, 2011, the sum of eight hundred and forty-five dollars (\$845), or so much thereof as may be necessary, for the implementation of this act.

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 10, 2011, if adjournment sine die is on May 11, 2011); 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 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 2, 2011