

CHAPTER 230

TAXATION

HOUSE BILL 14-1349

BY REPRESENTATIVE(S) Hullinghorst and DelGrosso, Court, Fields, Ginal, Kagan, Lebsock, Melton, Pettersen, Ryden, Williams, Young;
also SENATOR(S) Heath, Cadman, Crowder, Herpin, Jahn, Johnston, Kefalas, Kerr, King, Newell, Nicholson, Rivera, Scheffel, Tochtrop, Todd, Zenzinger.

AN ACT

CONCERNING THE CREATION OF AN EXEMPTION FROM PROPERTY TAXES FOR QUALIFYING BUSINESS ENTITIES CONTROLLED BY NONPROFIT ORGANIZATIONS THAT ARE FORMED FOR THE PURPOSE OF QUALIFYING FOR FEDERAL TAX CREDITS.

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

SECTION 1. In Colorado Revised Statutes, **add** 39-3-127.5 as follows:

39-3-127.5. Qualifying business entities - participation in federal tax credit transactions - exemption - requirements - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "QUALIFIED BUSINESS ENTITY" MEANS A LIMITED PARTNERSHIP OR A LIMITED LIABILITY COMPANY:

(I) THAT IS FORMED FOR THE PURPOSE OF OBTAINING FEDERAL TAX CREDITS AND THAT DOES OBTAIN SUCH CREDITS; AND

(II) THE GENERAL PARTNER OR MANAGING MEMBER OF WHICH IS AN ENTITY THAT WOULD QUALIFY FOR PROPERTY TAX EXEMPTION UNDER SECTIONS 39-3-106 TO 39-3-113.5.

(2) FOR PROPERTY TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2014, REAL AND PERSONAL PROPERTY IS EXEMPT FROM THE LEVY AND COLLECTION OF PROPERTY TAX IF:

(a) THE PROPERTY TAX IS OWED BY A QUALIFIED BUSINESS ENTITY; AND

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) THE PROPERTY IS USED FOR THE PURPOSES DESCRIBED IN SECTIONS 39-3-106 TO 39-3-113.5 AND 39-3-116.

(3) IN ADDITION TO ANY OTHER REQUIREMENT SPECIFIED IN THIS SECTION, ANY EXEMPTION CLAIMED PURSUANT TO THE PROVISIONS OF THIS SECTION MUST ALSO COMPLY WITH SECTION 39-2-117.

SECTION 2. In Colorado Revised Statutes, 22-54-115, **amend** (1) (a) as follows:

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 AND the certification of valuations for assessment to the state board pursuant to section 22-54-112 (1) and (2); ~~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 3. In Colorado Revised Statutes, 22-54.5-408, **amend** (1) (a) (I) as follows:

22-54.5-408. Distribution from state public school fund. (1) (a) No later than June 30 of each year, the state board shall determine the amount of the state share of each district's total program and the amount of investment moneys for each district for the budget year beginning on July 1, and the total for all districts. The amount for each district is payable from the state public school fund in twelve approximately equal monthly payments during the budget year; except that:

(I) The department shall adjust the payments following the certification of valuations for assessment to the state board pursuant to section 22-54.5-404; ~~and the certification of any payments in lieu of taxes received by districts pursuant to section 39-3-114.5, C.R.S.;~~

SECTION 4. In Colorado Revised Statutes, 39-1-102, **amend** (8.5) as follows:

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:~~

~~(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.~~

~~(H) 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 5. In Colorado Revised Statutes, **repeal** 39-3-114.5.

SECTION 6. Applicability. This act applies to property tax years commencing on or after January 1, 2014.

SECTION 7. 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 17, 2014