

STATE OF COLORADO

Colorado General Assembly

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MEMORANDUM

TO: Peter Simmons and Laura Palmer
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: January 23, 2024
SUBJECT: Proposed initiative measure 2023-2024 #148, concerning a reduction in net real estate taxes for residential real property

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

An earlier version of this proposed initiative, proposed initiative 2023-2024 #137, was the subject of a memorandum dated January 12, 2024. Proposed initiative 2023-2024 #137 was discussed at a public meeting on January 16, 2024. The substantive and technical comments and questions raised in this memorandum will not include comments and questions that were addressed at the earlier meeting, except as necessary to fully understand the issues raised by the revised proposed initiative. However, the prior comments and questions that are not restated here continue to be relevant and are hereby incorporated by reference in this memorandum.

Purposes

The major purposes of the proposed amendments to the Colorado constitution and to the Colorado Revised Statutes appear to be:

1. To require that, for purposes of property taxation pursuant to section 3 of article X of the Colorado constitution, "beginning with the property tax year which commences January 1, 2024, the actual value of qualifying residential real property shall equal the amount of the property's most recent sale.";
2. To eliminate the requirement in section 3 (1)(a) of article X of the Colorado constitution that "the actual value of residential real property shall be determined solely by consideration of the cost approach and market approach to appraisal" to the extent that the requirement applies to "qualifying residential real property" as defined by the proposed initiative;
3. To clarify that the requirement for the actual value of all qualifying residential real property to equal the amount of the property's most recent sale does not change the applicability of the homestead exemption set forth in section 3.5 of article X of the Colorado constitution;
4. To enact a new subsection (14.6) in section 39-1-102 that defines "qualifying residential real property";
5. To amend section 20 (8)(c) of article X of the Colorado constitution so that "beginning with the property tax year which commences January 1, 2024, the actual value of qualifying residential real property shall be determined by the amount of the property's most recent sale" rather than solely by the market approach to appraisal;
6. To require that, for purposes of property taxation pursuant to section 39-1-103, "beginning with the property tax year which commences January 1, 2024, the actual value of qualifying residential real property shall equal the amount of the property's most recent sale";
7. To provide, in a new subsection (15.5) of section 39-1-103, that, "a taxpayer may protest the actual value of residential real property in accordance with section 39-5-121 (1)(a)(I) or may appeal the actual value of residential real property in accordance with section 39-5-122 (2). If the protest or appeal results in an actual value that is less than or equal to the value of the residential real property's most recent sale or appraisal, then the residential real property

shall be reappraised, pursuant to section 39-1-104 (10.2), and the actual value shall be the reappraised value until the residential real property is sold.";

8. To require that, for purposes of valuation for assessment of residential real property pursuant to section 39-1-104 "beginning with the property tax year which commences January 1, 2024, the actual value of qualifying residential real property shall be equal to the amount of the property's most recent sale.";
9. To set the assessment rate for residential real estate, beginning with the property tax year which commences January 1, 2024, at 6.7% and require approval of 51% of the registered voters of the state to increase that assessment rate; and
10. To set the mill rate for residential real estate, beginning with the property tax year which commences January 1, 2024, at the mill rate in the district as of January 1, 2021, and require approval of 51% of the registered voters of the taxing district to increase that mill rate.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Consider whether the new language added in section 39-1-103 (15.5), in section 4 on page 3 of the proposed initiative, inadvertently omits "qualifying" before "residential real property" throughout the subsection; and
2. Consider whether a protest or appeal resulting in an actual value "equal to the value of the residential real property's most recent sale or appraisal" should be included in the new requirement for reappraisal.
3. A "yes vote of 51% of the registered voters of the state of Colorado" is not the same as a simple majority vote because not all registered voters of the state vote at every election or on every ballot issue. If the intent in new subsections (15.6) and (15.7) of section 39-1-103 is to require a simple majority vote, consider instead saying something more like "a yes vote of a majority of the registered voters of the state voting on the question".

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these

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comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Each constitutional and statutory section being amended, repealed, or added is preceded by a separate amending clause explaining how the law is being changed. For example, "In the constitution of the state of Colorado, **amend** section 3 (1)(a) to article X as follows":
 - a. Revise the amending clause for section 2 to include parentheses around (14.6); and
 - b. Revise the amending clause and corresponding subsection number for new subsection (15.5) to eliminate (a) as there are no additional subparagraphs in that subsection.
2. It is standard drafting practice to use SMALL CAPITAL LETTERS [rather than ALL CAPS] to show the language being added to and stricken type, which appears as stricken type, to show language being removed from the Colorado constitution or the Colorado Revised Statutes.
 - a. Add stricken type in section 1 on page 1 of the proposed initiative to reflect proposed striking of the following language: "However, the actual value of residential real property shall be determined solely by the consideration of the cost approach and market approach to appraisal" from section 3 (1)(a) of article X of the Colorado constitution;
3. The following internal cross-references appear to be incorrect and should be changed as follows:
 - a. In the new language at the end of section 1 of the proposed initiative, the cross-reference to "this subsection (1)(a) of article X" should be changed to "this section 3 (1)(a) of article X";
 - b. In the new section 39-1-103 (15.5) (a), the cross-reference to "section 39-5-121 (1)(a)(I)" is incorrect; it should be changed to "section 39-5-121 (1)(b)"; and
 - c. In section 7, the cross-reference to "subsection (4) of section 1 of article V of the Colorado constitution" should be changed to "section 1 (4) of article V of the Colorado constitution."