

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0353.01 Bob Lackner

HOUSE BILL 11-1146

HOUSE SPONSORSHIP

Massey,

SENATE SPONSORSHIP

Steadman,

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

Agriculture, Natural Resources, and Energy

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT A RESIDENCE BE INTEGRAL TO AN**
102 **AGRICULTURAL OPERATION IN DETERMINING WHETHER TWO**
103 **ACRES OR LESS ASSOCIATED WITH THE RESIDENCE SATISFIES**
104 **THE DEFINITION OF AGRICULTURAL LAND FOR PROPERTY TAX**
105 **PURPOSES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill amends the existing statutory definition of agricultural

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 29, 2011

HOUSE
Amended 2nd Reading
March 18, 2011

land for purposes of the property tax to exclude up to 2 acres of land associated with a residential improvement located on such agricultural land unless the residence is integral to an agricultural operation conducted on the land.

The bill requires the property tax administrator to define the phrase "integral to the agricultural operation" in manuals, appraisal procedures, and instructions promulgated by the administrator. The bill specifies certain factors the administrator is to consider in promulgating the definition. Any person who objects to the application of the term "integral to an agricultural operation" to their property and whose objections or protests have been denied by the county assessor may submit a petition for appeal to the county board of equalization.

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

2 **SECTION 1.** 39-1-102 (1.6) (a) (I) and (14.4), Colorado Revised
3 Statutes, are amended to read:

4 **39-1-102. Definitions.** As used in articles 1 to 13 of this title,
5 unless the context otherwise requires:

6 (1.6) (a) "Agricultural land", whether used by the owner of the
7 land or a lessee, means one of the following:

8 (I) (A) A parcel of land, whether located in an incorporated or
9 unincorporated area and regardless of the uses for which such land is
10 zoned, that was used the previous two years and presently is used as a
11 farm or ranch, as defined in subsections (3.5) and (13.5) of this section,
12 or that is in the process of being restored through conservation practices.
13 Such land must have been classified or eligible for classification as
14 "agricultural land", consistent with this subsection (1.6), during the ten
15 years preceding the year of assessment. Such land must continue to have
16 actual agricultural use. "Agricultural land" under this subparagraph (I)
17 ~~includes land underlying any residential improvement located on such~~
18 SHALL NOT INCLUDE TWO ACRES OR LESS OF LAND ON WHICH A
19 RESIDENTIAL IMPROVEMENT IS LOCATED UNLESS THE IMPROVEMENT IS

1 INTEGRAL TO AN AGRICULTURAL OPERATION CONDUCTED ON SUCH LAND.
2 "Agricultural land" ~~and~~ also includes the land underlying other
3 improvements if such improvements are an integral part of the farm or
4 ranch and if such other improvements and the land area dedicated to such
5 other improvements are typically used as an ancillary part of the
6 operation. The use of a portion of such land for hunting, fishing, or other
7 wildlife purposes, for monetary profit or otherwise, shall not affect the
8 classification of agricultural land. For purposes of this subparagraph (I),
9 a parcel of land shall be "in the process of being restored through
10 conservation practices" if: The land has been placed in a conservation
11 reserve program established by the natural resources conservation service
12 pursuant to 7 U.S.C. secs. 1 to 5506; or a conservation plan approved by
13 the appropriate conservation district has been implemented for the land
14 for up to a period of ten crop years as if the land has been placed in such
15 a conservation reserve program.

16 (B) A RESIDENTIAL IMPROVEMENT SHALL BE DEEMED TO BE
17 "INTEGRAL TO AN AGRICULTURAL OPERATION" FOR PURPOSES OF
18 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) IF AN INDIVIDUAL
19 OCCUPYING THE RESIDENTIAL IMPROVEMENT EITHER REGULARLY
20 CONDUCTS, SUPERVISES, OR ADMINISTERS MATERIAL ASPECTS OF THE
21 AGRICULTURAL OPERATION OR IS THE SPOUSE OR A PARENT,
22 GRANDPARENT, SIBLING, OR CHILD OF THE INDIVIDUAL.

23 (14.4) "Residential land" means a parcel or contiguous parcels of
24 land under common ownership upon which residential improvements are
25 located and that is used as a unit in conjunction with the residential
26 improvements located thereon. The term includes parcels of land in a
27 residential subdivision, the exclusive use of which land is established by

1 the ownership of such residential improvements. THE TERM ALSO
2 INCLUDES TWO ACRES OR LESS OF LAND ON WHICH A RESIDENTIAL
3 IMPROVEMENT IS LOCATED WHERE THE IMPROVEMENT IS NOT INTEGRAL TO
4 AN AGRICULTURAL OPERATION CONDUCTED ON SUCH LAND. The term
5 does not include any portion of the land that is used for any purpose that
6 would cause the land to be otherwise classified, except as provided for in
7 section 39-1-103 (10.5). The term also does not include land underlying
8 a residential improvement located on agricultural land.

9 **SECTION 2.** Part 1 of article 5 of title 39, Colorado Revised
10 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
11 read:

12 **39-5-133. 2011 modification of statutory definition of**
13 **"agricultural land" - TABOR election - adjustment of district mill**
14 **levy. (1) (a) THE REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION**
15 **(1) SHALL ONLY APPLY:**

16 **(I) TO A DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF ARTICLE**
17 **X OF THE STATE CONSTITUTION, THAT HAS NOT OBTAINED VOTER**
18 **APPROVAL TO RETAIN AND SPEND REVENUES IN EXCESS OF THE FISCAL**
19 **YEAR SPENDING AND PROPERTY TAX REVENUE LIMITS IMPOSED ON THE**
20 **DISTRICT BY SECTION 20 (7) (b) AND (c) OF ARTICLE X OF THE STATE**
21 **CONSTITUTION SUFFICIENT TO ALLOW THE RETENTION OF ALL ADDITIONAL**
22 **PROPERTY TAX REVENUES; AND**

23 **(II) WHERE THE DISTRICT HAS ADDITIONALLY DETERMINED, ON**
24 **THE BASIS OF THE BEST AVAILABLE INFORMATION, THAT IMPLEMENTATION**
25 **OF THE MODIFICATION OF THE DEFINITION OF "AGRICULTURAL LAND"**
26 **REQUIRED BY HOUSE BILL 11-1146, ENACTED IN 2011, WILL CAUSE A NET**
27 **PROPERTY TAX REVENUE GAIN TO THE DISTRICT SUFFICIENT TO CAUSE THE**

1 DISTRICT TO EXCEED SUCH LIMITS.

2 (b) IN THE CASE OF A DISTRICT THAT MEETS THE REQUIREMENTS
3 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1), THE DISTRICT MAY
4 PLACE BEFORE THE VOTERS OF THE DISTRICT AT ANY ELECTION AT WHICH
5 SUCH BALLOT ISSUE MAY BE PLACED ON THE BALLOT THE QUESTION OF
6 WHETHER THE DISTRICT MAY RETAIN AND SPEND REVENUES IN EXCESS OF
7 THE LIMITS IMPOSED ON THE DISTRICT BY SECTION 20 (7) (b) AND (c) OF
8 ARTICLE X OF THE STATE CONSTITUTION SUFFICIENT TO ALLOW THE
9 RETENTION OF THE NET PROPERTY TAX REVENUE GAIN TO THE DISTRICT
10 RESULTING FROM THE IMPLEMENTATION OF THE MODIFICATION OF THE
11 DEFINITION OF "AGRICULTURAL LAND" REQUIRED BY HOUSE BILL 11-1146,
12 ENACTED IN 2011.

13 (c) IF A MAJORITY OF THE VOTERS OF THE DISTRICT FAIL TO
14 APPROVE THE BALLOT ISSUE SPECIFIED IN PARAGRAPH (b) OF THIS
15 SUBSECTION (1), OR IF NO BALLOT ISSUE HAS BEEN SUBMITTED TO THE
16 VOTERS, THE DISTRICT SHALL ADJUST THE NUMBER OF MILLS LEVIED BY
17 THE DISTRICT TO ELIMINATE ANY NET PROPERTY TAX REVENUE GAIN TO
18 THE DISTRICT RESULTING FROM THE MODIFICATION OF THE DEFINITION OF
19 "AGRICULTURAL LAND" REQUIRED BY HOUSE BILL 11-1146, ENACTED IN
20 2011.

21 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
22 PROVISIONS OF SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY TO ANY
23 DISTRICT, REGARDLESS OF WHETHER OR NOT IT SATISFIES THE
24 REQUIREMENTS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION,
25 THAT HAS DETERMINED, ON THE BASIS OF THE BEST AVAILABLE
26 INFORMATION, THAT IMPLEMENTATION OF THE MODIFICATION OF THE
27 DEFINITION OF "AGRICULTURAL LAND" REQUIRED BY HOUSE BILL 11-1146,

1 ENACTED IN 2011, WILL NOT CAUSE A NET PROPERTY TAX REVENUE GAIN
2 TO THE DISTRICT.

3 **SECTION 3.** 39-8-106, Colorado Revised Statutes, is amended
4 BY THE ADDITION OF A NEW SUBSECTION to read:

5 **39-8-106. Petitions for appeal.** (1.7) ANY PERSON WHO
6 OBJECTS TO THE APPLICATION OF THE TERM "INTEGRAL TO AN
7 AGRICULTURAL OPERATION" TO THEIR PROPERTY IN ACCORDANCE WITH
8 SECTION 39-1-102 (1.6) (a) (I) AND (14.4) AND WHOSE OBJECTIONS OR
9 PROTESTS HAVE BEEN DENIED BY THE ASSESSOR MAY SUBMIT A PETITION
10 FOR APPEAL TO THE COUNTY BOARD OF EQUALIZATION TO THE SAME
11 EXTENT AS ANY OTHER PROTEST OR OBJECTION FOR WHICH AN APPEAL TO
12 THE BOARD IS PROVIDED UNDER LAW AND SHALL SATISFY ALL
13 REQUIREMENTS FOR THE PROSECUTION OF SUCH APPEAL AS PROVIDED BY
14 LAW.

15 **SECTION 4. Effective date - applicability.** This act shall take
16 effect January 1, 2012, and shall apply to property tax years commencing
17 on or after said date.

18 **SECTION 5. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.