

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0816.01 Nicole Myers x4326

HOUSE BILL 13-1246

HOUSE SPONSORSHIP

Court,

SENATE SPONSORSHIP

Steadman,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS IN CONNECTION WITH CURRENT
102 PROPERTY TAX EXEMPTIONS FOR NONPROFIT ORGANIZATIONS.

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>.)

Tax exempt property acquired by nonprofit housing provider for low-income housing: Current law allows a property tax exemption for real property acquired by a nonprofit housing provider upon which the provider intends to construct or rehabilitate housing to be sold to a low-income applicant. The bill modifies the property tax exemption by

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.

also allowing it to apply to real property acquired by a nonprofit housing provider that the provider intends to sell to a low-income applicant for the purpose of constructing or rehabilitating housing for the low-income applicant's residential use.

In addition, the bill changes the criteria to qualify as a low-income applicant from an individual or family whose total median income is no greater than 60% of the area median income to an individual or family whose total median income is no greater than 80% of the area median income.

Waiver of filing deadline for annual report from owners of tax-exempt property: An owner of property that is exempt from property tax as determined by the property tax administrator is required to file an annual report to the state board of equalization (state board) regarding the tax-exempt property. Currently, the state board may waive the filing deadline for the annual report under certain circumstances. The bill allows the state board to determine a deadline for the property owner to file the report when granting the waiver and specifies that the waiver is invalid after the date established by the state board.

Effective date of property tax exemptions when a public official has made an error: The property tax administrator is currently authorized to grant a property tax exemption for certain types of property. The property tax administrator may grant the exemption back to January 1 of the year preceding the year in which the application was filed, but no earlier. The bill allows the state board to authorize the property tax administrator to make an exemption effective earlier than is currently allowed when the property has been added back to the tax roll as omitted property and would otherwise have met all criteria for exemption during the time that it was omitted.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-3-113.5, **amend**
3 (1) (b), (1) (c), (1) (d), (2) introductory portion, and (3) (b) as follows:

4 **39-3-113.5. Property acquired by nonprofit housing provider**
5 **for low-income housing - use for charitable purposes - exemption -**
6 **limitations - definitions.** (1) As used in this section, unless the context
7 otherwise requires:

8 (b) "Indicators of intent" means off-site activities of a nonprofit
9 housing provider that establish the provider's specific intent to:

1 (I) Use property for the purpose of constructing or rehabilitating
2 housing to be sold to low-income applicants; OR

3 (II) SELL THE PROPERTY TO LOW-INCOME APPLICANTS FOR THE
4 PURPOSE OF CONSTRUCTING OR REHABILITATING HOUSING FOR THE
5 LOW-INCOME APPLICANTS.

6 (c) "Low-income applicant" means an individual or family whose
7 total income is no greater than ~~sixty~~ EIGHTY percent of the area median
8 income and who applies to a nonprofit housing provider to assist in the
9 construction and purchase of housing to be constructed by the provider.

10 (d) "Nonprofit housing provider" means an organization that is
11 exempt from federal income tax pursuant to section 501 (c) (3) of the
12 federal "Internal Revenue Code of 1986", as amended, and that has a
13 primary organizational mission of:

14 (I) Working with low-income applicants to construct or
15 rehabilitate housing that the organization then sells to the low-income
16 applicants for their residential use; OR

17 (II) SELLING PROPERTY TO LOW-INCOME APPLICANTS AND THEN
18 WORKING WITH THE LOW-INCOME APPLICANTS TO CONSTRUCT OR
19 REHABILITATE HOUSING FOR THEIR RESIDENTIAL USE.

20 (2) Subject to the limitations specified in subsection (3) of this
21 section, for property tax years commencing on or after January 1, 2011,
22 real property acquired by a nonprofit housing provider upon which the
23 provider intends to construct or rehabilitate housing to be sold to
24 low-income applicants OR WHICH THE PROVIDER INTENDS TO SELL TO
25 LOW-INCOME APPLICANTS FOR THE PURPOSE OF CONSTRUCTING OR
26 REHABILITATING HOUSING FOR THEIR RESIDENTIAL USE is deemed to be
27 being used for strictly charitable purposes, regardless of whether or not

1 there is actual physical use of the property, and shall be exempt from
2 property taxation in accordance with section 5 of article X of the state
3 constitution. IN THE CASE OF PROPERTY SOLD BY A NONPROFIT HOUSING
4 PROVIDER TO A LOW-INCOME APPLICANT, THE PROPERTY TAX EXEMPTION
5 PURSUANT TO THIS SUBSECTION (2) SHALL BE ALLOWED UNTIL A
6 CERTIFICATE OF OCCUPANCY IS ISSUED FOR THE HOUSING; EXCEPT THAT
7 THE PROPERTY TAX EXEMPTION SHALL NOT BE ALLOWED FOR LONGER
8 THAN ONE YEAR AFTER THE NONPROFIT HOUSING PROVIDER SELLS THE
9 PROPERTY TO THE LOW-INCOME APPLICANT. In determining whether a
10 nonprofit housing provider satisfies the intent requirement of this
11 subsection (2) with respect to particular property, the administrator may
12 consider indicators of intent, including but not limited to:

13 (3) The property tax exemption allowed to a nonprofit housing
14 provider by subsection (2) of this section is subject to the following
15 limitations:

16 (b) If the nonprofit housing provider is allowed an exemption for
17 any property tax year and subsequently sells, donates, or leases the
18 property to any person other than a low-income applicant who assisted OR
19 WILL ASSIST in the construction of housing for the applicant's residential
20 use on the property, the provider shall be liable for all property taxes that
21 the provider did not previously pay due to the exemption.

22 **SECTION 2.** In Colorado Revised Statutes, 39-9-109, **amend** (5);
23 and **add** (6) as follows:

24 **39-9-109. Power of state board - waiver of deadline.** (5) Acting
25 by majority vote and when the state board of equalization determines that
26 the interests of justice and equity would be served, the board may
27 authorize the waiver of the July 1 filing deadline described in section

1 39-2-117 (3) (a) for any annual report required to be filed pursuant to
2 section 39-2-117 if the report is not filed by the filing deadline or if the
3 report is filed by the filing deadline but is incomplete or otherwise
4 incorrect when filed. WHEN AUTHORIZING A WAIVER, THE STATE BOARD
5 MAY DETERMINE A DEADLINE FOR FILING THE REPORT, AFTER WHICH THE
6 WAIVER IS INVALID. THE DEADLINE FOR FILING THE REPORT MUST NOT BE
7 SOONER THAN THIRTY DAYS AFTER THE DATE THAT THE STATE BOARD
8 AUTHORIZES THE WAIVER.

9 (6) NOTWITHSTANDING THE PROVISIONS OF SECTION 39-2-117 (1)
10 (a), ACTING BY MAJORITY VOTE, THE STATE BOARD OF EQUALIZATION MAY
11 AUTHORIZE THE PROPERTY TAX ADMINISTRATOR TO MAKE AN EXEMPTION
12 EFFECTIVE FOR NOT MORE THAN THE TIME ALLOWED PURSUANT TO
13 SECTION 39-10-101 (2) (b) (II) WHEN THE PROPERTY HAS BEEN ADDED
14 BACK TO THE TAX ROLL AS OMITTED PROPERTY AND WOULD OTHERWISE
15 HAVE MET ALL CRITERIA FOR EXEMPTION DURING THAT TIME.

16 **SECTION 3. Applicability.** This act applies to applications for
17 exemption that are filed on or after January 1, 2013, or that are pending
18 on that date.

19 **SECTION 4. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2014 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.