

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 10-0819.01 Ed DeCecco

HOUSE BILL 10-1267

HOUSE SPONSORSHIP

Kerr A., Fischer, Gardner C., Looper, McNulty, Merrifield, Miklosi

SENATE SPONSORSHIP

Romer, Penry

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROPERTY TAX TREATMENT OF AN INDEPENDENTLY**
102 **OWNED RESIDENTIAL SOLAR ELECTRIC GENERATION FACILITY.**

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>.)

Household furnishings that are not used for the production of income are exempt from property tax. The bill specifies that household furnishings include an independently owned residential solar electric generation facility. The bill further specifies that:

! An independently owned residential solar electric

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.

generation facility shall not be considered to be used for the production of income unless the facility produces income for the owner of the residential real property on which the facility is located; and

! Rebates, offsets, credits, and reimbursements made available by a utility shall not constitute the production of income.

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

2 **SECTION 1.** 39-1-102 (7) and (11), Colorado Revised Statutes,
3 are amended, and the said 39-1-102 is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

7 (6.3) "IMPROVEMENTS" MEANS ALL STRUCTURES, BUILDINGS,
8 FIXTURES, FENCES, AND WATER RIGHTS ERECTED UPON OR AFFIXED TO
9 LAND, WHETHER OR NOT TITLE TO SUCH LAND HAS BEEN ACQUIRED.

10 ~~(7) "Improvements" means all structures, buildings, fixtures,~~
11 ~~fences, and water rights erected upon or affixed to land, whether or not~~
12 ~~title to such land has been acquired.~~

13 (6.8) "INDEPENDENTLY OWNED RESIDENTIAL SOLAR ELECTRIC
14 GENERATION FACILITY" MEANS PERSONAL PROPERTY THAT:

15 (a) IS LOCATED ON RESIDENTIAL REAL PROPERTY;

16 (b) IS OWNED BY A PERSON OTHER THAN THE OWNER OF THE
17 RESIDENTIAL REAL PROPERTY;

18 (c) IS INSTALLED ON THE CUSTOMER'S SIDE OF THE METER;

19 (d) IS USED TO PRODUCE ELECTRICITY FROM SOLAR ENERGY
20 PRIMARILY FOR USE IN THE RESIDENTIAL IMPROVEMENTS LOCATED ON THE
21 RESIDENTIAL REAL PROPERTY; AND

22 (e) HAS A PRODUCTION CAPACITY OF NO MORE THAN ONE

1 HUNDRED KILOWATTS.

2 (11) "Personal property" means everything that is the subject of
3 ownership and that is not included within the term "real property".
4 "Personal property" includes machinery, equipment, and other articles
5 related to a commercial or industrial operation that are either affixed or
6 not affixed to the real property for proper utilization of such articles.
7 Except as otherwise specified in articles 1 to 13 of this title, any pipeline,
8 telecommunications line, utility line, cable television line, or other similar
9 business asset or article installed through an easement, right-of-way, or
10 leasehold for the purpose of commercial or industrial operation and not
11 for the enhancement of real property shall be deemed to be personal
12 property, including, without limitation, oil and gas distribution and
13 transmission pipelines, gathering system pipelines, flow lines, process
14 lines, and related water pipeline collection, transportation, and
15 distribution systems. Structures and other buildings installed on an
16 easement, right-of-way, or leasehold that are not specifically referenced
17 in this subsection (11) shall be deemed to be improvements pursuant to
18 ~~subsection (7)~~ SUBSECTION (6.3) of this section.

19 **SECTION 2.** 39-3-102 (1), Colorado Revised Statutes, is
20 amended to read:

21 **39-3-102. Household furnishings - exemption.** (1) Household
22 furnishings, including free-standing household appliances, wall-to-wall
23 carpeting, AN INDEPENDENTLY OWNED RESIDENTIAL SOLAR ELECTRIC
24 GENERATION FACILITY, and security devices and systems ~~which~~ THAT are
25 not used for the production of income at any time shall be exempt from
26 the levy and collection of property tax. If any household furnishings are
27 used for the production of income for any period of time during the

1 taxable year, such household furnishings shall be taxable for the entire
2 taxable year. AN INDEPENDENTLY OWNED RESIDENTIAL SOLAR ELECTRIC
3 GENERATION FACILITY SHALL NOT BE CONSIDERED TO BE USED FOR THE
4 PRODUCTION OF INCOME UNLESS THE FACILITY PRODUCES INCOME FOR THE
5 OWNER OF THE RESIDENTIAL REAL PROPERTY ON WHICH THE FACILITY IS
6 LOCATED. FOR PROPERTY TAX PURPOSES ONLY, REBATES, OFFSETS,
7 CREDITS, AND REIMBURSEMENTS SPECIFIED IN SECTION 40-2-124, C.R.S.,
8 SHALL NOT CONSTITUTE THE PRODUCTION OF INCOME. For purposes of
9 this subsection (1), for property tax purposes only, security devices and
10 systems shall include, but shall not be limited to, security doors, security
11 bars, and alarm systems.

12 **SECTION 3. Act subject to petition - effective date.** This act
13 shall take effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part shall not take effect
19 unless approved by the people at the general election to be held in
20 November 2010 and shall take effect on the date of the official
21 declaration of the vote thereon by the governor.