

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 14-0744.01 Bob Lackner x4350

HOUSE BILL 14-1349

HOUSE SPONSORSHIP

Hullinghorst and DelGrosso,

SENATE SPONSORSHIP

Heath,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

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

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>.)

For property tax years beginning on or after January 1, 2014, **section 1** of the bill exempts real and personal property from the levy and

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
2nd Reading Unamended
April 10, 2014

collection of property tax if:

- ! The property tax is owed by a qualified business entity; and
- ! The property is used for charitable, religious, or educational purposes in accordance with existing property tax exemptions.

Section 1 of the bill also defines "qualified business entity" to mean a limited partnership or a limited liability company:

- ! That is formed for the purpose of obtaining federal tax credits and that does obtain such credits; and
- ! The general partner or managing member of which is an entity that would qualify for an existing property tax exemption for charitable, religious, or educational purposes.

Sections 2, 3, 4, and 5 of the bill repeal statutory provisions that had required an entity formed to obtain the federal new markets tax credits or federal rehabilitation tax credits and that claims a property tax exemption to pay annually to the applicable county a payment in lieu of property taxes.

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

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

4 **39-3-127.5. Qualifying business entities - participation in**
5 **federal tax credit transactions - exemption - requirements -**
6 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
7 OTHERWISE REQUIRES:

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

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

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

15 (2) FOR PROPERTY TAX YEARS BEGINNING ON OR AFTER JANUARY

1 1, 2014, REAL AND PERSONAL PROPERTY IS EXEMPT FROM THE LEVY AND
2 COLLECTION OF PROPERTY TAX IF:

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

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

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

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

12 **22-54-115. Distribution from state public school fund.** (1) No
13 later than June 30 of each year, the state board shall determine the amount
14 of the state's share of the district's total program for the budget year
15 beginning on July 1, and the total thereof for all districts, which amount
16 shall be payable in twelve approximately equal monthly payments during
17 such budget year; except that:

18 (a) Such payments shall be adjusted following the certification of
19 pupil enrollments AND the certification of valuations for assessment to the
20 state board pursuant to section 22-54-112 (1) and (2); ~~and the certification~~
21 ~~of any payments in lieu of taxes received by school districts pursuant to~~
22 ~~section 39-3-114.5, C.R.S.;~~

23 **SECTION 3.** In Colorado Revised Statutes, 22-54.5-408, **amend**
24 (1) (a) (I) as follows:

25 **22-54.5-408. Distribution from state public school fund.**
26 (1) (a) No later than June 30 of each year, the state board shall determine
27 the amount of the state share of each district's total program and the

1 amount of investment moneys for each district for the budget year
2 beginning on July 1, and the total for all districts. The amount for each
3 district is payable from the state public school fund in twelve
4 approximately equal monthly payments during the budget year; except
5 that:

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

10 **SECTION 4.** In Colorado Revised Statutes, 39-1-102, **amend**
11 (8.5) as follows:

12 **39-1-102. Definitions.** As used in articles 1 to 13 of this title,
13 unless the context otherwise requires:

14 (8.5) "Not for private gain or corporate profit" means the
15 ownership and use of property whereby no person with any connection to
16 the owner thereof shall receive any pecuniary benefit except for
17 reasonable compensation for services rendered and any excess income
18 over expenses derived from the operation or use of the property and all
19 proceeds from the sale of the property of the owner shall be devoted to
20 the furthering of any exempt purpose. ~~Property ownership shall be~~
21 ~~deemed to have met the requirements of this subsection (8.5) if:~~

22 ~~(a) The property is owned by a nonprofit corporation or~~
23 ~~association whose property is irrevocably dedicated to charitable,~~
24 ~~religious, or school purposes and no portion of its assets will inure to the~~
25 ~~benefit of any private person upon the liquidation, dissolution, or~~
26 ~~abandonment of such corporation or association; or~~

27 (b) ~~(I) The operator of the property is a nonprofit entity that would~~

1 otherwise qualify for property tax exemption under article 3 of this title
2 and is a general partner or member of the owner, and the property is
3 owned by:

4 (A) ~~An entity organized for the purpose of obtaining tax credits~~
5 ~~through the new markets tax credit program under 26 U.S.C. sec. 45 D of~~
6 ~~the federal "Internal Revenue Code of 1986", as amended, or the~~
7 ~~rehabilitation tax credit program under 26 U.S.C. sec. 47 of the federal~~
8 ~~"Internal Revenue Code of 1986", as amended, and is eligible for credits;~~
9 and

10 (B) ~~An entity that makes payments in lieu of property taxes~~
11 ~~pursuant to section 39-3-114.5.~~

12 (H) ~~The provisions of this paragraph (b) shall apply to~~
13 ~~applications for exemption filed on or after January 1, 2009, or that are~~
14 ~~pending on that date.~~

15 **SECTION 5.** In Colorado Revised Statutes, **repeal** 39-3-114.5.

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

18 **SECTION 7. 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.