

2009 PROPERTY TAX LEGISLATION

Senate Bills

SB 09-040

Concerning the regulation of manufactured homes.

This bill was initiated by the manufactured home task force in an attempt to clean up legislative changes accomplished by HB 08-1260. The changes made were based on concerns of county offices and industry about the movement, title changes, identification numbers, definitions, and other issues relating to manufactured homes.

Section 1 of the bill amends paragraph 30-10-406(3)(a), C.R.S., excepting the Verification of Application form as defined in subsection 38-29-102(13), C.R.S., from the margin requirements for documents filed with the clerk and recorder's office.

Section 2 amends subsection 30-10-409(2), C.R.S., excepting documents filed and recorded pursuant to section 38-29-205, C.R.S., from the requirement that they be endorsed by 5 p.m. the same day if received on or before 1 p.m. or by 5 p.m. the following day if received after 1 p.m. Documents received pursuant to section 38-29-205, C.R.S., shall be endorsed by the clerk and recorder within three business days. This refers to documents concerning manufactured homes.

Section 3 of the bill amends section 38-29-107, C.R.S., with the addition of subsections (2) and (3), which specify the application requirements for obtaining a manufactured home title when the manufactured home is affixed to the ground. The application for a Certificate of Title shall be submitted to the Director of the Department of Revenue on a form provided by the Director, and it shall include the following documents.

- For a manufactured home that was permanently affixed to the ground prior to July 1, 2008, and for which a Certificate of Permanent Location was not filed and recorded, subsection 38-29-107(2), C.R.S., states that the application shall include: an Affidavit of Real Property, a verification of the identification number produced in accordance with paragraph 38-29-122(3)(a), C.R.S., a Certificate of Removal, and a copy of all deeds

recorded since the home was affixed to the ground.

- For a manufactured home affixed to the ground after July 1, 2008, and for which a Certificate of Permanent Location was filed and recorded, paragraph 38-29-107(3)(a), C.R.S., states that the application shall include: a copy of the recorded Certificate of Permanent Location, a Certificate of Removal, a verification of the identification number produced in accordance with paragraph 38-29-122(3)(a), C.R.S., and a copy of all deeds recorded since the home was affixed to the ground.
- For a manufactured home that was affixed to the ground after July 1, 2008, pursuant to a long-term lease with an express term of at least 10 years, paragraph 38-29-107(3)(b), C.R.S., states that the application shall include: a copy of the recorded Certificate of Permanent Location, a verification of the identification number produced in accordance with paragraph 38-29-122(3)(a), C.R.S., and copy of the recorded long-term lease.

Section 4 of the bill amends section 38-29-119, C.R.S., regarding the process by which an owner may bond for title.

Subsection 38-29-119(1), C.R.S., is amended to specify the documents that must accompany an application for a Certificate of Title when the manufactured home has been abandoned by a prior owner on the applicant's real property. The bill requires that the applicant provide the following evidence of his or her right to receive a Certificate of Title: a copy of an order or judgment for possession obtained through a civil eviction proceeding, proof of ownership of the real property, and proof of efforts to notify the prior owner of the potential issuance of a new title or movement of the manufactured home.

Subsection 38-29-119(2), C.R.S., is amended with the addition of paragraph (b), which specifies that surety for a manufactured home that is at least 25 years old is not required if the owner provides proof that all property taxes are paid, provides a verification of the identification number, and files a title application.

Section 5 amends section 38-29-122, C.R.S., with the addition of a new subsection (3), regarding the inspection and verification of a manufactured home identification number, and when necessary, the assignment of a new number. Paragraph 38-29-122(3)(a), C.R.S., authorizes the Department of Revenue to designate qualified VIN inspectors and allows an inspector to charge a reasonable fee for an inspection. An inspector shall verify the following: the identification number, the make, the year of manufacture, and any other information required by the department. If the inspector determines that the identification number has been removed, changed, altered, or obliterated, the owner shall request that the department assign an identification number pursuant to section 38-29-123, C.R.S. Paragraph 38-29-122(3)(b), C.R.S., states that a designated inspector may be: an authorized agent as defined in subsection 38-29-102(1), C.R.S., a person designated by an authorized agent, a Colorado law enforcement officer, a person registered to sell manufactured homes, or a county assessor.

Section 6 amends section 38-29-123, C.R.S., by adding that a new identification number can be assigned by the department to a manufactured home when the original number is missing or has been destroyed. The new number must be affixed to the home in either the door frame, fuse box, or as determined by the department. The assigned number is the identification number under which a Certificate of Title may be issued. If the manufactured home is permanently affixed to the ground, the owner shall file for recording with the county clerk and recorder the form on which the new number was issued.

Section 7 amends subsection 38-29-133(1), C.R.S., to state that an extension made to an authorized agent does not need to be notarized if it is made under the penalties of perjury in the second degree as defined in section 18-8-503, C.R.S.

Subsection 38-29-133(2), C.R.S., is also amended by adding language which defines that upon receipt of a mortgage extension on a manufactured home, the authorized agent shall complete a record of the extension and shall issue a new Certificate of Title on which the extension is noted. If a mortgage noted on the Certificate of Title has not been released or extended after its maturity date,

the owner of the manufactured home may request that any references to the mortgages shown on the records of the authorized agent be removed, and upon request, the authorized agent shall remove such references.

Section 8 amends paragraph 38-29-201(2)(a), C.R.S., by removing Bill of Sale from the list of documents that must be recorded prior to the issuance of a Certificate of Title for a new manufactured home.

The bill also amends section 38-29-201, C.R.S., with the addition of a new subsection (3), which states that a Verification of Application form must comply with the federal "Driver's Privacy Protection Act of 1994."

Section 9 amends paragraphs 38-29-202 (1)(b) and (c), C.R.S., to specify requirements that pertain to the filing of a Certificate of Permanent Location for a manufactured home that occupies real property subject to a long-term lease of at least 10 years. When the certificate is filed with the authorized agent of the county pursuant to an application for purging the title pursuant to subsections 38-29-112(1.5) or 38-29-118(2), C.R.S., or when it is filed for recording pursuant to subsections 38-29-114(2) or 38-29-117(6), C.R.S., a copy of the lease must be filed along with the Certificate of Permanent Location.

This section also amends subsection 38-29-202(2), C.R.S., to list additional requirements for the Certificate of Permanent Location form. Paragraph (i) is amended, clarifying that the verification concerns whether the home is permanently affixed to the ground rather than on a permanent foundation. Paragraph (l) is amended to specify that the statement found on the certificate under which any owners of the manufactured home who are not owners of the real property relinquish their ownership of the manufactured home, shall not apply when the home will occupy land subject to a long-term lease of at least 10 years.

The bill amends section 38-29-202, C.R.S., with the addition of a new subsection (l.5), which requires that the Certificate of Permanent Location for a manufactured home that occupies real property subject to a long-term lease of at least 10 years, include a statement that the owners of the real property and manufactured home consent to the affixation of the manufactured home to the

land. It also requires an acknowledgement that, upon such affixation and upon the filing and recording of the Certificate of Permanent Location, the manufactured home will become a part of the real property, subject to the reversion of the manufactured home to the owners of the home upon termination of the long-term lease.

Section 10 amends section 38-29-203, C.R.S., by adding a new subsection (2.5), regarding the eviction of a tenant by a landlord for a manufactured home subject to a long-term lease of at least 10 years. The manufactured home can be removed from its permanent location without the owner first filing a Certificate of Removal if, within twenty days after removal, the landlord files a Certificate of Removal accompanied by a copy of the Notice of Judgment or Order for Possession allowing the eviction of the home and the address to which the home has been moved. The landlord shall file the Certificate of Removal and additional information with the authorized agent for the county.

Section 11 amends subsection 38-29-208(1), C.R.S., to clarify that any person can prove that a manufactured home and the land upon which it has been permanently affixed is real property by filing and recording the Affidavit of Real Property in the county in which the manufactured home is located.

Section 11 also amends section 38-29-208, C.R.S., with the addition of a new subsection (2), which concerns manufactured homes that are located on land subject to long-term lease of at least 10 years. For such properties, the Affidavit of Real Property shall be filed for recording along with a copy of the long-term lease and a statement from the county treasurer that the taxes have been paid separately on the manufactured home and the land upon which it is affixed.

Section 12 amends subsections 39-1-102(7.7), (7.8), (8), (14.3), C.R.S., and creates a new subsection (8.3), which define or redefine the terms “manufactured home,” “mobile home,” and “modular home,” for property tax purposes. The definition of “mobile home,” now located in subsection 39-1-102(8), C.R.S., is based on the definition found in paragraph 42-1-102(106)(b), C.R.S.

Section 13 amends subsection 39-14-101(1.5), C.R.S., to clarify that the term

“conveyance” includes the transfer of an interest in a “manufactured home.” The bill amends subsection 39-14-101(4), C.R.S., by eliminating the reference to a previously repealed statute and adding a reference to subsection 39-1-102(7.8), C.R.S.

Section 14 amends paragraph 39-14-103(1)(a), C.R.S., concerning the Manufactured Home Transfer Declaration. On or after July 1, 2009, a Manufactured Home Transfer Declaration shall accompany an application for a Certificate of Title only when the application is submitted pursuant to a conveyance.

Signed by Lt. Governor O'Brien: March 9, 2009
Effective Date: July 1, 2009

SB 09-042

Concerning the administration of the exempt status of property for property tax purposes.

This bill accomplishes four things related to the exemption of property from the property tax:

1. Broadens the definition of property overseen by the Property Tax Administrator (Administrator) that qualifies for an exemption to include property owned by organizations created to take advantage of the federal New Markets Income Tax Credit or Rehabilitation Tax Credits provided the property is operated by a nonprofit entity that would otherwise qualify for exemption.
2. Creates a payment in lieu of tax to be paid by property owners when property qualifies for exemption because it is funded through New Markets Tax Credits or Rehabilitation Tax Credits. This payment is to replace the tax that would have been paid to the school district total program had the property remained taxable.
3. Eliminates the directive that the Property Tax Administrator shall require owners of certain exempt residential properties to provide financial reports on their operations and tax returns from all their residents claimed to qualify for exemption. The Administrator may still collect that information if necessary but it is no longer required.

4. Requires the Property Tax Administrator to provide a list of pending applications for property tax exemptions annually to county assessors, treasurers, and boards of commissioners.

Section 1 amends subsection 39-1-102(8.5), C.R.S., to read that property ownership shall be deemed to have met the requirements of this subsection if: the property is owned by a nonprofit corporation or association whose property is irrevocably dedicated to charitable religious, or school purposes and no portion of its assets will inure to the benefit of any private person upon the liquidation, dissolution, or abandonment of such corporation or association; or

The operator of the property is a nonprofit entity that would otherwise qualify for property tax exemption under article 3 of this title and is a general partner or member of the owner and the property is owned by:

An entity organized for the purpose of obtaining tax credits through the federal New Markets Tax Credit Program or the Rehabilitation Tax Credit Program and is eligible for credits; and an entity that makes payments in lieu of property taxes pursuant to section 39-3-114.5, C.R.S. This will apply to applications for exemption filed on or after January 1, 2009, or that are pending on that date.

Section 2 amends paragraph 39-2-117 (1)(a), C.R.S., by adding a new subparagraph (III), which states that no later than June 1 of each year, the Administrator shall provide the assessor, treasurer, and board of county commissioners of each county a list of all pending property tax exemption applications.

Section 3 amends article 3, title 39 by adding a new section 114.5., titled "Charitable exemption-owner claiming federal tax credit – fee in lieu of school district tax."

Whenever an entity organized for the purpose of obtaining tax credits through the federal New Markets Tax Credit Program or the Rehabilitation Tax Credit Program is granted an exemption, the entity shall pay annually to the treasurer of the county in which the property is located a payment in lieu of taxes, which payment shall not exceed the amount of taxes that would be due for total program for the school district in which the property is located if the interest were taxable. Each year during the regular tax

assessment period, the board of county commissioners shall provide to each entity that holds such real property interest the following information in the same manner as such information is provided to any other owner of real property in a county:

- The current assessed value of the real property interest expressed in dollars;
- The amount of the payment in lieu of taxes due on the real property interest based on the value and tax rate levied for total program for the school district in which the property is located that would be applicable to the real property interest if it were taxable;
- The date the payment in lieu of taxes is due for such real property interest based on the date property taxes within the county are due.

The treasurer of each county that receives a payment in lieu of taxes pursuant to this section shall pay to the appropriate school district the total payment deducting any costs incurred in administering this payment.

Each school district that receives a payment in lieu of taxes pursuant to this section shall certify the amount paid or received to the State Board of Education.

Section 4 amends section 39-3-114, C.R.S., by changing the "shall" statements to "may" statements in that:

"..the administrator *may* require the owner or operator of such property to annually submit a complete financial report on its operations and *may* require any occupants whose residential units are claimed to qualify for such exemption to submit copies of their federal or state income tax returns."

Section 5 amends subsections 39-3-137(2) and (3), C.R.S., by deleting "pursuant to section 39-9-109" and adding language which allows the Property Tax Administrator to reestablish tax-exempt status when authorized by the State Board of Equalization.

Section 6 amends paragraph 22-54-115(1)(a), C.R.S., by adding language establishing that the payment for the distribution of state funds to a school district will be adjusted by the certification of any

payments in lieu of taxes received by a school district.

Signed by Governor Ritter: April 22, 2009
Effective Date: August 5, 2009

SB 09-085

Concerning the creation of a legislative task force to study a property tax exemption for business personal property.

Section 1 of the bill amends article 2, title 2, C.R.S., by adding a new part 15, which creates a legislative task force on business personal property tax. It directs the task force to hold a minimum of six meetings public meetings and authorizes the task force to make legislative recommendations to the General Assembly no later than November 1, 2009. The task force is specifically prohibited from being staffed by Legislative Council staff and the office of Legislative Legal Services.

The task force is composed of the following:

- five members from the Senate,
 - three appointed by the President of the Senate,
 - two appointed by the Senate Minority Leader
- five members from the House of Representatives
 - three appointed by the Speaker of the House,
 - two appointed by the House Minority Leader
- the Property Tax Administrator,
- a representative of the Colorado Municipal League;
- a representative of Colorado Counties Inc;
- a member of a local chamber of commerce, appointed by the Governor;
- a small business representative, appointed by the Governor;
- a large business representative, appointed by the Governor
- a member of the public with expertise in tax policy, appointed by the Governor.

The task force may examine, but need not limit its consideration to, the following issues:

- business personal property tax exemptions that eliminate or phase out the tax;
- an analysis of the fiscal impact of the personal property exemptions on state and local governments; and
- methods to reimburse local governments for revenue lost as a result of the business personal property exemptions.

Signed by Governor Ritter: June 4, 2009
Effective Date: Upon signature.
Repeal Date: July 1, 2010

SB 09-105

Concerning removal of the statutory limit on the amount that may be raised in a single year by a special property tax levied by a board of county commissioners for the purpose of fighting specified types of fires in a county.

Current law allows counties, with voter approval, to impose a special property tax to generate funding for the purpose of fighting both forest and prairie fires. The tax cannot exceed one mill (\$1 per \$1,000 of taxable value) or \$500,000 per year, whichever is less.

The bill deletes a portion of section 30-10-513, C.R.S., to remove the mill levy limit and allow counties to impose any tax level approved by voters.

Signed by Governor Ritter: April 30, 2009
Effective Date: Upon signature.

SB 09-177

Concerning the valuation of new solar energy facilities for the purpose of property taxation.

This bill specifies that for purposes of property taxation, solar energy facilities that were first placed in production on or after January 1, 2009, and that generate more than two megawatts of energy to the interconnection meter, must be valued based solely on the income approach.

Section 1 of the bill amends paragraph 39-4-101(3)(a), C.R.S, by adding “solar energy facility” where appropriate. The bill also creates a new subsection (3.5) that defines “solar energy facility.”

Section 2 of the bill amends portions of section 39-4-102, C.R.S., by adding the terms “solar energy facility” and “solar energy devices” to the existing language. The bill establishes that the methodology used to determine the actual value of a solar energy facility is the same methodology used to value a wind energy facility.

Section 3 of the bill amends paragraph 39-5-104.7(1)(b), C.R.S., by adding “solar energy facilities” where appropriate.

Signed by Governor Ritter: April 22, 2009

Effective Date: Upon signature

NOTE: For property tax purposes, the bill is effective for new solar energy facilities first placed in production on or after January 1, 2009.

SB 09-276

Concerning the property tax exemption for qualifying seniors, and, in connection therewith, lowering for a specified property tax year the maximum amount of actual value of the primary owner-occupied residence of a qualifying senior that is partly exempt from property taxation, and making an appropriation in connection therewith.

The bill eliminates the senior exemption benefit for tax year 2009, payable in 2010. The disabled veteran exemption remains in place. (As originally introduced the bill would have eliminated both the senior and disabled veteran exemptions for tax years 2009 and 2010.)

Section 1 of the bill amends section 39-3-203, C.R.S., by reducing for one year the property tax exemption for a senior citizen’s primary residence to fifty percent of \$0 in actual value. For tax years 2010 and beyond, the exemption returns to fifty percent of the first \$200,000.

Signed by Governor Ritter: June 4, 2009

Effective Date: Upon signature

NOTE: Affects 2009 property taxes due in 2010

House Bills

HB 09-1005

Concerning the authority of a special district to establish special improvement districts within the boundaries of the special district.

This bill allows a special district to establish a special improvement district within its

boundaries to finance the cost of any improvements that the special district is authorized to finance.

Section 1 of the bill amends subsection 32-1-1101(1), C.R.S., by adding a new paragraph (g) that allows a special district to establish special improvement districts within the boundaries of the special district and the authority to levy special assessments on properties that will receive a direct benefit from the improvements.

Section 2 of the bill amends article 1, title 32, C.R.S., by adding a new section 1101.7, titled “Establishment of special improvement districts within the boundaries of a special district.” In order to establish a special improvement district, the power to levy assessments must be authorized in the special district’s service plan or statement of purposes or be approved by the county or municipality that approved the special district’s service plan or accepted the district’s statement of purposes.

If the special improvement district is established, the assessment must be levied on a frontage, area, zone, or other equitable basis upon voter approval of a majority of the eligible electors within the special improvement district or with the written consent of 100 percent of the owners of the property to be assessed.

The method of creating a special improvement district, levying, and collecting the assessments, and making the improvements, shall be provided in part 5, article 25, title 31, C.R.S., subject to some duties as noted in this new section.

Signed by Governor Ritter: April, 2, 2009

Effective Date: Upon signature