

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0054.01 Ed DeCecco x4216

HOUSE BILL 22-1006

HOUSE SPONSORSHIP

Roberts and Van Winkle,

SENATE SPONSORSHIP

Donovan and Smallwood,

House Committees

Public & Behavioral Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PROPERTY TAX EXEMPTION FOR PROPERTY USED AS
102 AN INTEGRAL PART OF A CHILD CARE CENTER.

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://leg.colorado.gov>.)

Under the state constitution, property that is used solely and exclusively for charitable purposes is exempt from property tax, unless otherwise provided by general law. Under this constitutional authority, there is currently an exemption for property used as an integral part of a child care center. **Section 2** of the bill modifies this exemption by repealing the requirement that the property must be owned for strictly

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

charitable purposes and not for private gain or corporate profit, and that the property must be irrevocably dedicated to a charitable purpose. These changes allow property that is used by a tenant or subtenant to operate a child care center to be eligible for the exemption, and the bill specifies that in such case, only the operator's use is to be considered for purposes of determining whether the property is eligible for the exemption.

Section 3 requires such an operator, or the operator's authorized agent, to sign the exemption application form and to provide the property tax administrator with any requested information related to the exemption. **Sections 4 and 5** make conforming amendments.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Section 5 of article X of the state constitution provides that
5 property that is used solely and exclusively for strictly charitable purposes
6 is exempt from property tax, unless otherwise provided by law;

7 (b) Under its constitutional authority to limit or modify this
8 exemption, the general assembly originally established a property tax
9 exemption that is more stringent than the constitutional requirement by
10 mandating ownership and irrevocable dedication of property in order for
11 a child care center's property to qualify for the statutory exemption;

12 (c) The state constitution requires only use for a strictly charitable
13 purpose and not ownership or irrevocable dedication of property to
14 qualify for the exemption;

15 (d) The act modifies the child care center exemption by repealing
16 the statutory ownership and irrevocable dedication requirements, which
17 are not expressly required by the state constitution;

18 (e) As such, whether property qualifies for the child care center
19 exemption will depend on whether it is used solely and exclusively for the
20 charitable purpose of operating a qualified child care facility;

1 (f) These changes allow property that is used by a tenant or
2 subtenant to operate a qualified child care center for strictly charitable
3 purposes to be eligible for the exemption;

4 (g) This policy change recognizes the critical link between child
5 care, economic development, and security for Colorado's families; and

6 (h) Providing this property tax exemption for landlords may
7 incentivize new spaces or reduced rents for tenants operating these types
8 of child care centers and could help reverse the loss of child care spots in
9 communities around the state and help workers, especially women, return
10 to work.

11 **SECTION 2.** In Colorado Revised Statutes, 39-3-110, **amend** (1)
12 introductory portion, (1)(f), (1)(g), and (1.5); and **repeal** (1)(h) as
13 follows:

14 **39-3-110. Property - integral part of child care center -**
15 **charitable purposes - exemption - limitations.** (1) Property, real and
16 personal, ~~which~~ THAT is ~~owned and~~ used solely and exclusively for
17 strictly charitable purposes ~~and not for private gain or corporate profit~~
18 ~~shall be~~ IS exempt from the levy and collection of property tax if such
19 property is used as an integral part of a child care center:

20 (f) The operation of which does not materially enhance, directly
21 or indirectly, the private gain of any individual except as reasonable
22 compensation for services rendered or goods furnished; AND

23 (g) The property of which is claimed for exemption does not
24 exceed the amount of property reasonably necessary for the
25 accomplishment of the exempt purpose. ~~and~~

26 (h) ~~The property of which is irrevocably dedicated to a charitable~~
27 ~~purpose.~~

1 (1.5) (a) No requirement shall be imposed that use of property,
2 which is otherwise exempt pursuant to the provisions of this section, shall
3 benefit the people of Colorado in order to qualify for said exemption.

4 (b) IF A CHILD CARE CENTER IS OPERATED BY A PERSON OTHER
5 THAN THE OWNER OF THE PROPERTY, THEN THE OTHER PERSON'S USE OF
6 THE PROPERTY IS THE SOLE BASIS FOR DETERMINING WHETHER THE
7 PROPERTY MEETS THE REQUIREMENTS FOR THE EXEMPTION SET FORTH IN
8 SUBSECTION (1) OF THIS SECTION.

9 **SECTION 3.** In Colorado Revised Statutes, 39-2-117, **amend**
10 (1)(b)(I) as follows:

11 **39-2-117. Applications for exemption - review - annual reports**
12 **- procedures - rules.** (1) (b) (I) Any users of real and personal property
13 for which exemption from general taxation is requested pursuant to any
14 of the provisions of sections 39-3-107 to 39-3-113.5 may be required to
15 provide such information as the property tax administrator determines to
16 be necessary. IF A CLAIM IS MADE FOR AN EXEMPTION UNDER SECTION
17 39-3-110, AND THE CHILD CARE CENTER IS OPERATED BY A PERSON OTHER
18 THAN THE OWNER OF THE PROPERTY, THEN THE OTHER PERSON, OR THE
19 OTHER PERSON'S AUTHORIZED AGENT, MUST:

20 (A) ALSO SIGN THE OWNER'S APPLICATION FORM REQUIRED BY
21 SUBSECTION (1)(a)(I) OF THIS SECTION, OR ANY OTHER FORM PRESCRIBED
22 AND FURNISHED BY THE ADMINISTRATOR, UNDER THE PENALTY OF
23 PERJURY IN THE SECOND DEGREE; AND

24 (B) PROVIDE THE ADMINISTRATOR WITH ANY REQUESTED
25 INFORMATION RELATED TO THE EXEMPTION.

26 **SECTION 4.** In Colorado Revised Statutes, **amend** 39-3-101 as
27 follows:

1 **39-3-101. Legislative declaration - presumption of charitable**
2 **purpose.** The general assembly recognizes that only the judiciary may
3 make a final decision as to whether or not any given property is used for
4 charitable purposes within the meaning of the Colorado constitution;
5 nevertheless, in order to guide members of the public and public officials
6 alike in the making of their day-to-day decisions and to assist in the
7 avoidance of litigation, the general assembly hereby finds, declares, and
8 determines that the uses of property ~~which~~ THAT are set forth in this part
9 1 as uses for charitable purposes benefit the people of Colorado and
10 lessen the burdens of government by performing services ~~which~~ THAT
11 government would otherwise be required to perform. Therefore, property
12 used for such purposes shall be presumed to be USED, OR owned and used,
13 AS APPLICABLE, solely and exclusively for strictly charitable purposes and
14 not for private gain or corporate profit, IF APPLICABLE, and, consequently,
15 property used for such purposes is entitled to be exempt from the levy and
16 collection of property tax pursuant to the provisions of this part 1 and the
17 Colorado constitution. This legislative finding, declaration, determination,
18 and presumption shall not be questioned by the administrator and shall be
19 entitled to great weight in any and every court.

20 **SECTION 5.** In Colorado Revised Statutes, 39-3-116, **amend** (1)
21 and (2) introductory portion; and **add** (2.5) as follows:

22 **39-3-116. Combination use of property - charitable, religious,**
23 **and educational purposes - exemption - limitations.** (1) Except as
24 otherwise provided in this section, property, real and personal, which is
25 USED, OR owned and used, AS APPLICABLE, by the owner thereof or by any
26 other person or organization solely and exclusively for any combination
27 of the purposes specified in sections 39-3-106 to 39-3-113.5, subject to

1 the limitations and requirements in said sections, ~~including but not limited~~
2 ~~to the requirement that property not be owned or used for private or~~
3 ~~corporate gain or profit, shall be~~ IS exempt from the levy and collection
4 of property tax. No requirement shall be imposed that use of property
5 ~~which~~ THAT is otherwise exempt pursuant to any of said sections shall
6 benefit the people of Colorado in order to qualify for said exemption.
7 Property ~~which~~ THAT is otherwise exempt pursuant to the provisions of
8 this section ~~shall be~~ IS subject to the provisions of section 39-3-129
9 relating to the proportional valuation of exempt property if such property
10 is partially leased, loaned, or otherwise made available for a portion of
11 any calendar year to any business conducted for profit.

12 (2) EXCEPT AS SET FORTH IN SUBSECTION (2.5) OF THIS SECTION,
13 in the event that such property is used by any person or organization other
14 than the owner:

15 (2.5) SUBSECTION (2) OF THIS SECTION DOES NOT APPLY TO
16 PROPERTY THAT IS USED AS AN INTEGRAL PART OF A CHILD CARE CENTER
17 OPERATED BY A PERSON OR ORGANIZATION OTHER THAN THE OWNER OF
18 THE PROPERTY AND THAT QUALIFIES FOR AN EXEMPTION UNDER SECTION
19 39-3-110.

20 **SECTION 6. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly; except that, if a referendum petition is filed pursuant
24 to section 1 (3) of article V of the state constitution against this act or an
25 item, section, or part of this act within such period, then the act, item,
26 section, or part will not take effect unless approved by the people at the
27 general election to be held in November 2022 and, in such case, will take

1 effect on the date of the official declaration of the vote thereon by the
2 governor.

3 (2) This act applies to property tax years commencing after the
4 applicable effective date of this act.