

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0203.01 Ed DeCecco x4216

SENATE BILL 18-070

SENATE SPONSORSHIP

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HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 CONCERNING THE ELIMINATION OF OWNERSHIP AS A REQUIREMENT TO
102 QUALIFY FOR THE PROPERTY TAX EXEMPTION FOR PROPERTY
103 THAT IS USED SOLELY AND EXCLUSIVELY FOR RELIGIOUS
104 PURPOSES, AND, IN CONNECTION THEREWITH, ENACTING THE
105 "CHURCH PROPERTY TAX FAIRNESS ACT".

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 religious worship is exempt from property tax, unless

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.

otherwise provided by general law. By statute, the property must be owned and used solely and exclusively for religious purposes to qualify for the exemption. The bill eliminates the ownership requirement, which is not expressly included in the state constitution, so that a property leased to a church or other organization that uses it solely and exclusively for religious purposes is exempt from property tax.

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

2 **SECTION 1. Short title.** The short title of this act is the "Church
3 Property Tax Fairness Act".

4 **SECTION 2.** In Colorado Revised Statutes, 39-3-106, **amend** (1)
5 and (3) as follows:

6 **39-3-106. Property - religious purposes - exemption -**
7 **legislative declaration.** (1) Property, real and personal, ~~which~~ THAT is
8 ~~owned and~~ used solely and exclusively for religious purposes and not for
9 private gain or corporate profit ~~shall be~~ IS exempt from the levy and
10 collection of property tax.

11 (3) For the purpose of claiming an exemption pursuant to this
12 section, property that is ~~owned and~~ used by a charitable trust that is
13 exempt from taxation under section 501 (c)(3) of the federal "Internal
14 Revenue Code of 1986", as amended, shall be treated the same as
15 property that is ~~owned and~~ used by any other type of nonprofit
16 organization.

17 **SECTION 3.** In Colorado Revised Statutes, 39-2-117, **amend**
18 (1)(b)(II) and (3)(b)(II)(A) as follows:

19 **39-2-117. Applications for exemption - review - annual reports**
20 **- procedures - rules.** (1) (b) (II) Except as otherwise provided in this
21 ~~subparagraph (H)~~ SUBSECTION (1)(b)(II), any application filed pursuant
22 to ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION

1 claiming exemption from taxation pursuant to section 39-3-106 or
2 39-3-106.5 shall contain the following information: The legal description
3 and address of the real property or the address of the personal property
4 being claimed as exempt; the name and address of the owner of ~~such~~ THE
5 property; the name and telephone number of the agent of ~~such~~ THE
6 property; THE NAME OF A LESSEE, IF ANY; the date the owner acquired ~~such~~
7 THE property; the date the owner OR LESSEE commenced using the
8 property for religious purposes; a complete list of all uses of the property
9 other than by the owner OR LESSEE thereof during the previous twelve
10 months; the total amount of gross income specified in section 39-3-106.5
11 (1)(b)(I) and the total amount of gross rental income resulting to the
12 owner OR LESSEE of ~~such~~ THE property during the previous twelve months
13 from uses for purposes other than the purposes specified in sections
14 39-3-106 to 39-3-113.5; and the total number of hours during the previous
15 twelve months that ~~such~~ THE property was used for purposes other than
16 the purposes specified in sections 39-3-106 to 39-3-113.5. For purposes
17 of this ~~subparagraph (H)~~ SUBSECTION (1)(b)(II), if the owner did not own
18 the property being claimed as exempt during the entire twelve-month
19 period prior to filing ~~such~~ THE application, the application shall contain
20 the required information for that portion of the twelve-month period for
21 which ~~such~~ THE property was owned by the owner making application.
22 ~~Such~~ THE application shall also include a declaration that sets forth the
23 religious mission and religious purposes of the owner OR LESSEE of the
24 property being claimed as exempt and the uses of ~~such~~ THE property that
25 are in the furtherance of ~~such~~ THE mission and purposes. ~~Such~~ THE
26 declaration shall be presumptive as to the religious purposes for which
27 ~~such~~ THE property is used. If the administrator is unable to determine

1 whether the property qualifies for exemption based solely on the
2 information specified in this ~~subparagraph (H)~~ SUBSECTION (1)(b)(II), the
3 administrator may require additional information, but only to the extent
4 that the additional information is necessary to determine the exemption
5 status of the property. The administrator may challenge any declaration
6 included in the application only upon the grounds that the religious
7 mission and purposes are not religious beliefs sincerely held by the owner
8 OR LESSEE of ~~such~~ THE property, that the property being claimed as
9 exempt is not actually used for the purposes set forth in ~~such~~ THE
10 application, or that the property being claimed as exempt is used for
11 private gain or corporate profit.

12 (3) (b) (II) (A) Except as otherwise provided in ~~sub-subparagraph~~
13 ~~(B) of this subparagraph (H)~~ SUBSECTION (3)(b)(II)(B) OF THIS SECTION,
14 any annual report filed pursuant to ~~paragraph (a) of this subsection (3)~~
15 SUBSECTION (3)(a) OF THIS SECTION claiming exemption from taxation
16 pursuant to section 39-3-106 or 39-3-106.5 shall contain the following
17 information: The legal description or address of the property being
18 claimed as exempt; the name and address of the owner of ~~such~~ THE
19 property; THE NAME OF A LESSEE, IF ANY; a complete list of all uses of
20 ~~such~~ THE property other than by the owner OR LESSEE thereof during the
21 previous calendar year; the amount of total gross income specified in
22 section 39-3-106.5 (1)(b)(I) and the total amount of gross rental income
23 resulting from uses of ~~such~~ THE property that are not for the purposes set
24 forth in sections 39-3-106 to 39-3-113.5; and the total number of hours
25 that ~~such~~ THE property was used for purposes other than the purposes
26 specified in sections 39-3-106 to 39-3-113.5. ~~Such~~ THE annual report
27 shall also include a declaration of the religious mission and purposes of

1 the owner OR LESSEE of ~~such~~ THE property claimed as being exempt and
2 the uses of ~~such~~ THE property that are in the furtherance of ~~such~~ THE
3 mission and purposes. ~~Such~~ THE declaration shall be presumptive as to
4 the religious mission and religious purposes of the owner OR LESSEE of
5 ~~such~~ THE property. If the administrator is unable to determine whether the
6 property continues to qualify for exemption based solely on the
7 information specified in this ~~subparagraph (H)~~ SUBSECTION (3)(b)(II), the
8 administrator may require additional information, but only to the extent
9 that the additional information is necessary to determine the exemption
10 status of the property. The administrator may challenge any declaration
11 included in ~~such~~ THE annual report only upon the grounds that the
12 religious mission and purposes are not religious beliefs sincerely held by
13 the owner OR LESSEE of ~~such~~ THE property, that ~~such~~ THE property is not
14 actually used for the purposes set forth in the annual report, or that the
15 property being claimed as exempt is used for private gain or corporate
16 profit.

17 **SECTION 4. Act subject to petition - effective date -**
18 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
19 the expiration of the ninety-day period after final adjournment of the
20 general assembly (August 8, 2018, if adjournment sine die is on May 9,
21 2018); except that, if a referendum petition is filed pursuant to section 1
22 (3) of article V of the state constitution against this act or an item, section,
23 or part of this act within such period, then the act, item, section, or part
24 will not take effect unless approved by the people at the general election
25 to be held in November 2018 and, in such case, will take effect on the
26 date of the official declaration of the vote thereon by the governor.

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