SENATE BILL 18-070

A BILL FOR AN ACT

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

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 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.

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

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

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

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

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

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

39-2-117. Applications for exemption - review - annual reports - procedures - rules. (1) (b) (II) Except as otherwise provided in this subparagraph (II) SUBSECTION (1)(b)(II), any application filed pursuant to paragraph (a) of this subsection (1) SUBSECTION (1)(a) OF THIS SECTION
claiming exemption from taxation pursuant to section 39-3-106 or
39-3-106.5 shall contain the following information: The legal description
and address of the real property or the address of the personal property
being claimed as exempt; the name and address of the owner of such the
property; the name and telephone number of the agent of such the
property; the name of a lessee, if any; the date the owner acquired such
the property; the date the owner or lessee commenced using the
property for religious purposes; a complete list of all uses of the property
other than by the owner or lessee thereof during the previous twelve
months; the total amount of gross income specified in section 39-3-106.5
(1)(b)(I) and the total amount of gross rental income resulting to the
owner or lessee of such the property during the previous twelve months
from uses for purposes other than the purposes specified in sections
39-3-106 to 39-3-113.5; and the total number of hours during the previous
twelve months that such the property was used for purposes other than
the purposes specified in sections 39-3-106 to 39-3-113.5. For purposes
of this subparagraph (II) subsection (1)(b)(II), if the owner did not own
the property being claimed as exempt during the entire twelve-month
period prior to filing such the application, the application shall contain
the required information for that portion of the twelve-month period for
which such the property was owned by the owner making application.
Such the application shall also include a declaration that sets forth the
religious mission and religious purposes of the owner or lessee of the
property being claimed as exempt and the uses of such the property that
are in the furtherance of such the mission and purposes. Such the
declaration shall be presumptive as to the religious purposes for which
such the property is used. If the administrator is unable to determine
whether the property qualifies for exemption based solely on the information specified in this subparagraph (II), the administrator may require additional information, but only to the extent that the additional information is necessary to determine the exemption status of the property. The administrator may challenge any declaration included in the application only upon the grounds that the religious mission and purposes are not religious beliefs sincerely held by the owner or lessee of such the property, that the property being claimed as exempt is not actually used for the purposes set forth in such the application, or that the property being claimed as exempt is used for private gain or corporate profit.

(3)(b)(II)(A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (II), any annual report filed pursuant to paragraph (a) of this subsection (3) claiming exemption from taxation pursuant to section 39-3-106 or 39-3-106.5 shall contain the following information: The legal description or address of the property being claimed as exempt; the name and address of the owner of such the property; the name of a lessee, if any; a complete list of all uses of such the property other than by the owner or lessee thereof during the previous calendar year; the amount of total gross income specified in section 39-3-106.5 (1)(b)(I) and the total amount of gross rental income resulting from uses of such the property that are not for the purposes set forth in sections 39-3-106 to 39-3-113.5; and the total number of hours that such the property was used for purposes other than the purposes specified in sections 39-3-106 to 39-3-113.5. Such the annual report shall also include a declaration of the religious mission and purposes of
the owner OR LESSEE of such THE property claimed as being exempt and
the uses of such THE property that are in the furtherance of such THE
mission and purposes. Such THE declaration shall be presumptive as to
the religious mission and religious purposes of the owner OR LESSEE of
such THE property. If the administrator is unable to determine whether the
property continues to qualify for exemption based solely on the
information specified in this subparagraph (II) SUBSECTION (3)(b)(II), the
administrator may require additional information, but only to the extent
that the additional information is necessary to determine the exemption
status of the property. The administrator may challenge any declaration
included in such THE annual report only upon the grounds that the
religious mission and purposes are not religious beliefs sincerely held by
the owner OR LESSEE of such THE property, that such THE property is not
actually used for the purposes set forth in the annual report, or that the
property being claimed as exempt is used for private gain or corporate
profit.

SECTION 4. Appropriation. For the 2018-19 state fiscal year,
$100,926 is appropriated to the department of local affairs. This
appropriation is from the general fund and is based on an assumption that
the department will require an additional 1.7 FTE. To implement this act,
the department may use this appropriation for the division of property
taxation.

SECTION 5. Act subject to petition - effective date -
applicability. (1) This act takes effect at 12:01 a.m. on the day following
the expiration of the ninety-day period after final adjournment of the
general assembly (August 8, 2018, if adjournment sine die is on May 9,
2018); except that, if a referendum petition is filed pursuant to section 1
(3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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