A BILL FOR AN ACT

CONCERNING THE PROPERTY TAX CLASSIFICATION OF REAL PROPERTY THAT IS USED TO PROVIDE LODGING FOR SHORT-TERM STAYS.

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.)

The bill establishes the property tax classification of a short-term rental unit, which is an improvement that is designed and used as a place of residency by a person, a family, or families, but that is also leased or available to be leased for overnight lodging for less than 30 consecutive days in exchange for a monetary payment (short-term stay). Based on the use in the prior property tax year, a short-term rental unit is apportioned...
between residential real property and nonresidential real property. When a short-term rental unit is leased or available to be leased for a short-term stay, the property is nonresidential real property, and the rest of the year it is residential. If the homeowner stays at the short-term rental unit when it is leased or available to be leased, then the property is classified as a residential improvement and nonresidential improvement as if it was a bed and breakfast for that portion of the year. For purposes of classifying a short-term rental unit, there is a rebuttable presumption that a short-term rental unit is leased or available for lease for all but one day of the property tax year, but a taxpayer may overcome this presumption by providing contrary evidence to the county assessor.

The bill also specifies that a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families but that is actually used, or available for use, to provide short-term stays only is a hotel and motel.

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

SECTION 1. In Colorado Revised Statutes, 39-1-102, amend (5.5)(b)(II), (5.5)(b)(III), and (14.3); and add (5.5)(b.5), (15.7), and (15.8) as follows:

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

(5.5) (b) If any time share estate, time share use period, undivided interest, or other partial ownership interest in any hotel unit is owned by any non-hotel unit owner, then, unless a declaration or other express agreement binding on the non-hotel unit owners and the hotel unit owners provides otherwise:

(II) Each non-hotel unit owner shall pay that portion of the taxes on the hotel unit equal to the non-hotel unit owner's ownership or usage percentage of the hotel unit multiplied by the property tax that would have been levied on the hotel unit if the actual value and valuation for assessment of the hotel unit had been determined as if the hotel unit was residential real property; EXCEPT THAT, IF THE HOTEL UNIT QUALIFIES AS
A SHORT-TERM RENTAL UNIT, THEN THIS CALCULATION IS DONE AS IF THE ACTUAL VALUE AND VALUATION FOR ASSESSMENT OF THE HOTEL UNIT HAD BEEN DETERMINED IN ACCORDANCE WITH SECTION 39-1-103 (10.7).

(III) For purposes of determining the amount due from any hotel unit owner or non-hotel unit owner pursuant to subparagraph (II) of this paragraph (b) of subsection (5.5)(b)(ii) of this section, the assessor shall, upon the request of any hotel unit owner or non-hotel unit owner, calculate the property tax that would have been levied on the hotel unit if the actual value and valuation for assessment of the hotel unit had been determined as if the hotel unit were residential real property; EXCEPT THAT, IF THE HOTEL UNIT QUALIFIES AS A SHORT-TERM RENTAL UNIT, THEN THIS CALCULATION IS DONE AS IF THE ACTUAL VALUE AND VALUATION FOR ASSESSMENT OF THE HOTEL UNIT HAD BEEN DETERMINED IN ACCORDANCE WITH SECTION 39-1-103 (10.7). A hotel unit owner or non-hotel unit owner may petition the county board of equalization for review of the assessor's calculation pursuant to the procedures set forth in section 39-10-114. Any appeal from the decision of the county board shall be governed by section 39-10-114.5.

(b.5) "HOTELS AND MOTELS" ALSO MEANS A BUILDING, OR THAT PORTION OF A BUILDING, DESIGNED FOR USE PREDOMINANTLY AS A PLACE OF RESIDENCY BY A PERSON, A FAMILY, OR FAMILIES, BUT THAT IS ACTUALLY USED, OR AVAILABLE FOR USE, TO PROVIDE SHORT-TERM STAYS ONLY; EXCEPT THAT THE TERM EXCLUDES ANY IMPROVEMENT THAT QUALIFIES AS A BED AND BREAKFAST.

(14.3) "Residential improvements" means a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families. The term includes buildings,
structures, fixtures, fences, amenities, and water rights that are an integral part of the residential use. The term also includes a manufactured home as defined in subsection (7.8) of this section, a mobile home as defined in subsection (8) of this section, and a modular home as defined in subsection (8.3) of this section, AND A SHORT-TERM RENTAL UNIT AS DEFINED IN SUBSECTION (15.7) OF THIS SECTION AS PROVIDED IN SECTION 39-1-103 (10.7).

(15.7) "SHORT-TERM RENTAL UNIT" MEANS AN IMPROVEMENT THAT IS DESIGNED AND USED AS A PLACE OF RESIDENCY BY A PERSON, A FAMILY, OR FAMILIES, BUT THAT IS ALSO LEASED OR AVAILABLE TO BE LEASED FOR ONE OR MORE SHORT-TERM STAYS.

(15.8) "SHORT-TERM STAY" MEANS OVERNIGHT LODGING THAT IS PROVIDED TO AN INDIVIDUAL OR BUSINESS FOR LESS THAN THIRTY CONSECUTIVE DAYS IN EXCHANGE FOR MONETARY PAYMENT.

SECTION 2. In Colorado Revised Statutes, 39-1-103, amend (9)(a); and add (10.7) as follows:

39-1-103. Actual value determined - when - legislative declaration - definition. (9) (a) In the case of an improvement which THAT is used as a residential dwelling unit and is also used for any other purpose, the actual value and valuation for assessment of such improvement shall be determined as provided in this paragraph (a) SUBSECTION (9)(a), UNLESS SUBSECTION (10.7) OF THIS SECTION APPLIES.

The actual value of each portion of the improvement shall be determined by application of the appropriate approaches to appraisal specified in subsection (5) of this section. The actual value of the land containing such an improvement shall be determined by application of the appropriate approaches to appraisal specified in subsection (5) of this section. The
land containing such an improvement shall be allocated to the appropriate classes based upon the proportion that the actual value of each of the classes to which the improvement is allocated bears to the total actual value of the improvement. The appropriate valuation for assessment ratio shall then be applied to the actual value of each portion of the land and of the improvement.

(10.7) (a) The General Assembly hereby finds and declares that:

(I) When a hotel or motel has a guest for a long-term stay, the hotel or motel is treated as a mixed-use property with a portion of the property classified and assessed as residential property due to the long-term stay and the remainder classified and assessed as nonresidential property;

(II) The law does not adequately address the inverse situation of a short-term rental unit where a residential improvement is used for the commercial purpose of providing lodging for less than thirty consecutive days in exchange for payment;

(III) Short-term rental units are improvements that are used both as a residential and nonresidential improvement;

(IV) While short-term rental units are not a new phenomenon, they have become more prevalent with the increase of internet hospitality services;

(V) As a result, some Colorado communities now have a significant portion of their housing stock being used as short-term rental units; and

(VI) The current statutory structure does not provide
COUNTY ASSESSORS WITH AN ADEQUATE MEANS TO PROPERLY CLASSIFY
AND ASSESS SHORT-TERM RENTAL UNITS.

(b) Therefore, notwithstanding any other provision of
this Article 1, the actual value and valuation for assessment of
a short-term rental unit is determined in accordance with this
subsection (10.7) for property tax years commencing on or after
January 1, 2020. The short-term rental unit is apportioned
between residential real property and nonresidential real
property based on the use in the prior property tax year as
follows:

(I) For the portion of the property tax year that the
short-term rental unit is leased or available for lease for a
short-term stay while the property owner or a long-term lessee
is not staying at the property, the improvement is a
nonresidential improvement;

(II) For the portion of the property tax year that the
short-term rental unit is leased or available for lease for a
short-term stay while the property owner or a long-term lessee
is staying at the property, the improvement is classified as a
residential improvement and nonresidential improvement as if it
was a bed and breakfast; and

(III) For the remainder of the property tax year, the
short-term rental unit is a residential improvement; and

(IV) The improvements and land shall be classified and
assessed as residential and nonresidential real property for the
property tax year based on the proportion of the residential and
nonresidential uses as determined in subsections (10.7)(b)(I)
THROUGH (10.7)(b)(III) OF THIS SECTION.

(c) The actual value of each portion of the short-term rental unit and the land containing a short-term rental unit is determined by the application of the appropriate approaches to appraisal specified in subsection (5) of this section.

(d) There is a rebuttable presumption that a short-term rental unit is leased or available for lease for all but one day of the property tax year. A taxpayer may overcome this presumption by providing contrary evidence to the county assessor.

(e) If a short-term rental unit also qualifies as a bed and breakfast, then it is assessed as a bed and breakfast in accordance with subsection (10.5) of this section.

(f) In the taxpayer's annual notice of valuation or in a separate notice mailed prior to the deadline for the annual notice of valuation, a county assessor shall identify the portion of a short-term rental unit and the land on which it is located that is residential or nonresidential based on this subsection (10.7).

(g) As used in this subsection (10.7), "LONG-TERM LESSEE" means a person who leases a property from the property owner for a period that is thirty or more consecutive days.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.