

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
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BILL 2

LLS NO. 19-0211.01 Ed DeCecco x4216

INTERIM COMMITTEE BILL

Alternatives to the Gallagher Amendment Interim Study Committee

BILL TOPIC: "Prop Tax Classification Short-term Rental Units"

A BILL FOR AN ACT

101 **CONCERNING THE PROPERTY TAX CLASSIFICATION OF REAL PROPERTY**
102 **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

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-1-102, **amend**
3 (5.5)(b)(II), (5.5)(b)(III), and (14.3); and **add** (5.5)(b.5), (15.7), and
4 (15.8) as follows:

5 **39-1-102. Definitions.** As used in articles 1 to 13 of this title 39,
6 unless the context otherwise requires:

7 (5.5) (b) If any time share estate, time share use period, undivided
8 interest, or other partial ownership interest in any hotel unit is owned by
9 any non-hotel unit owner, then, unless a declaration or other express
10 agreement binding on the non-hotel unit owners and the hotel unit owners
11 provides otherwise:

12 (II) Each non-hotel unit owner shall pay that portion of the taxes
13 on the hotel unit equal to the non-hotel unit owner's ownership or usage
14 percentage of the hotel unit multiplied by the property tax that would have
15 been levied on the hotel unit if the actual value and valuation for
16 assessment of the hotel unit had been determined as if the hotel unit was
17 residential real property; EXCEPT THAT, IF THE HOTEL UNIT QUALIFIES AS

1 A SHORT-TERM RENTAL UNIT, THEN THIS CALCULATION IS DONE AS IF THE
2 ACTUAL VALUE AND VALUATION FOR ASSESSMENT OF THE HOTEL UNIT
3 HAD BEEN DETERMINED IN ACCORDANCE WITH SECTION 39-1-103 (10.7).

4 (III) For purposes of determining the amount due from any hotel
5 unit owner or non-hotel unit owner pursuant to ~~subparagraph (H) of this~~
6 ~~paragraph (b)~~ SUBSECTION (5.5)(b)(ii) OF THIS SECTION, the assessor shall,
7 upon the request of any hotel unit owner or non-hotel unit owner,
8 calculate the property tax that would have been levied on the hotel unit if
9 the actual value and valuation for assessment of the hotel unit had been
10 determined as if the hotel unit were residential real property; EXCEPT
11 THAT, IF THE HOTEL UNIT QUALIFIES AS A SHORT-TERM RENTAL UNIT, THEN
12 THIS CALCULATION IS DONE AS IF THE ACTUAL VALUE AND VALUATION FOR
13 ASSESSMENT OF THE HOTEL UNIT HAD BEEN DETERMINED IN ACCORDANCE
14 WITH SECTION 39-1-103 (10.7). A hotel unit owner or non-hotel unit
15 owner may petition the county board of equalization for review of the
16 assessor's calculation pursuant to the procedures set forth in section
17 39-10-114. Any appeal from the decision of the county board shall be
18 governed by section 39-10-114.5.

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

25 (14.3) "Residential improvements" means a building, or that
26 portion of a building, designed for use predominantly as a place of
27 residency by a person, a family, or families. The term includes buildings,

1 structures, fixtures, fences, amenities, and water rights that are an integral
2 part of the residential use. The term also includes a manufactured home
3 as defined in subsection (7.8) of this section, a mobile home as defined
4 in subsection (8) of this section, and a modular home as defined in
5 subsection (8.3) of this section, AND A SHORT-TERM RENTAL UNIT AS
6 DEFINED IN SUBSECTION (15.7) OF THIS SECTION AS PROVIDED IN SECTION
7 39-1-103 (10.7).

8 (15.7) "SHORT-TERM RENTAL UNIT" MEANS AN IMPROVEMENT
9 THAT IS DESIGNED AND USED AS A PLACE OF RESIDENCY BY A PERSON, A
10 FAMILY, OR FAMILIES, BUT THAT IS ALSO LEASED OR AVAILABLE TO BE
11 LEASED FOR ONE OR MORE SHORT-TERM STAYS.

12 (15.8) "SHORT-TERM STAY" MEANS OVERNIGHT LODGING THAT IS
13 PROVIDED TO AN INDIVIDUAL OR BUSINESS FOR LESS THAN THIRTY
14 CONSECUTIVE DAYS IN EXCHANGE FOR MONETARY PAYMENT.

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

17 **39-1-103. Actual value determined - when - legislative**
18 **declaration - definition.** (9) (a) In the case of an improvement ~~which~~
19 THAT is used as a residential dwelling unit and is also used for any other
20 purpose, the actual value and valuation for assessment of such
21 improvement shall be determined as provided in this ~~paragraph (a)~~
22 SUBSECTION (9)(a), UNLESS SUBSECTION (10.7) OF THIS SECTION APPLIES.
23 The actual value of each portion of the improvement shall be determined
24 by application of the appropriate approaches to appraisal specified in
25 subsection (5) of this section. The actual value of the land containing such
26 an improvement shall be determined by application of the appropriate
27 approaches to appraisal specified in subsection (5) of this section. The

1 land containing such an improvement shall be allocated to the appropriate
2 classes based upon the proportion that the actual value of each of the
3 classes to which the improvement is allocated bears to the total actual
4 value of the improvement. The appropriate valuation for assessment ratio
5 shall then be applied to the actual value of each portion of the land and of
6 the improvement.

7 (10.7) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
8 THAT:

9 (I) WHEN A HOTEL OR MOTEL HAS A GUEST FOR A LONG-TERM
10 STAY, THE HOTEL OR MOTEL IS TREATED AS A MIXED-USE PROPERTY WITH
11 A PORTION OF THE PROPERTY CLASSIFIED AND ASSESSED AS RESIDENTIAL
12 PROPERTY DUE TO THE LONG-TERM STAY AND THE REMAINDER CLASSIFIED
13 AND ASSESSED AS NONRESIDENTIAL PROPERTY;

14 (II) THE LAW DOES NOT ADEQUATELY ADDRESS THE INVERSE
15 SITUATION OF A SHORT-TERM RENTAL UNIT WHERE A RESIDENTIAL
16 IMPROVEMENT IS USED FOR THE COMMERCIAL PURPOSE OF PROVIDING
17 LODGING FOR LESS THAN THIRTY CONSECUTIVE DAYS IN EXCHANGE FOR
18 PAYMENT;

19 (III) SHORT-TERM RENTAL UNITS ARE IMPROVEMENTS THAT ARE
20 USED BOTH AS A RESIDENTIAL AND NONRESIDENTIAL IMPROVEMENT;

21 (IV) WHILE SHORT-TERM RENTAL UNITS ARE NOT A NEW
22 PHENOMENON, THEY HAVE BECOME MORE PREVALENT WITH THE INCREASE
23 OF INTERNET HOSPITALITY SERVICES;

24 (V) AS A RESULT, SOME COLORADO COMMUNITIES NOW HAVE A
25 SIGNIFICANT PORTION OF THEIR HOUSING STOCK BEING USED AS
26 SHORT-TERM RENTAL UNITS; AND

27 (VI) THE CURRENT STATUTORY STRUCTURE DOES NOT PROVIDE

1 COUNTY ASSESSORS WITH AN ADEQUATE MEANS TO PROPERLY CLASSIFY
2 AND ASSESS SHORT-TERM RENTAL UNITS.

3 (b) THEREFORE, NOTWITHSTANDING ANY OTHER PROVISION OF
4 THIS ARTICLE 1, THE ACTUAL VALUE AND VALUATION FOR ASSESSMENT OF
5 A SHORT-TERM RENTAL UNIT IS DETERMINED IN ACCORDANCE WITH THIS
6 SUBSECTION (10.7) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
7 JANUARY 1, 2020. THE SHORT-TERM RENTAL UNIT IS APPORTIONED
8 BETWEEN RESIDENTIAL REAL PROPERTY AND NONRESIDENTIAL REAL
9 PROPERTY BASED ON THE USE IN THE PRIOR PROPERTY TAX YEAR AS
10 FOLLOWS:

11 (I) FOR THE PORTION OF THE PROPERTY TAX YEAR THAT THE
12 SHORT-TERM RENTAL UNIT IS LEASED OR AVAILABLE FOR LEASE FOR A
13 SHORT-TERM STAY WHILE THE PROPERTY OWNER OR A LONG-TERM LESSEE
14 IS NOT STAYING AT THE PROPERTY, THE IMPROVEMENT IS A
15 NONRESIDENTIAL IMPROVEMENT;

16 (II) FOR THE PORTION OF THE PROPERTY TAX YEAR THAT THE
17 SHORT-TERM RENTAL UNIT IS LEASED OR AVAILABLE FOR LEASE FOR A
18 SHORT-TERM STAY WHILE THE PROPERTY OWNER OR A LONG-TERM LESSEE
19 IS STAYING AT THE PROPERTY, THE IMPROVEMENT IS CLASSIFIED AS A
20 RESIDENTIAL IMPROVEMENT AND NONRESIDENTIAL IMPROVEMENT AS IF IT
21 WAS A BED AND BREAKFAST; AND

22 (III) FOR THE REMAINDER OF THE PROPERTY TAX YEAR, THE
23 SHORT-TERM RENTAL UNIT IS A RESIDENTIAL IMPROVEMENT; AND

24 (IV) THE IMPROVEMENTS AND LAND SHALL BE CLASSIFIED AND
25 ASSESSED AS RESIDENTIAL AND NONRESIDENTIAL REAL PROPERTY FOR THE
26 PROPERTY TAX YEAR BASED ON THE PROPORTION OF THE RESIDENTIAL AND
27 NONRESIDENTIAL USES AS DETERMINED IN SUBSECTIONS (10.7)(b)(I)

1 THROUGH (10.7)(b)(III) OF THIS SECTION.

2 (c) THE ACTUAL VALUE OF EACH PORTION OF THE SHORT-TERM
3 RENTAL UNIT AND THE LAND CONTAINING A SHORT-TERM RENTAL UNIT IS
4 DETERMINED BY THE APPLICATION OF THE APPROPRIATE APPROACHES TO
5 APPRAISAL SPECIFIED IN SUBSECTION (5) OF THIS SECTION.

6 (d) THERE IS A REBUTTABLE PRESUMPTION THAT A SHORT-TERM
7 RENTAL UNIT IS LEASED OR AVAILABLE FOR LEASE FOR ALL BUT ONE DAY
8 OF THE PROPERTY TAX YEAR. A TAXPAYER MAY OVERCOME THIS
9 PRESUMPTION BY PROVIDING CONTRARY EVIDENCE TO THE COUNTY
10 ASSESSOR.

11 (e) IF A SHORT-TERM RENTAL UNIT ALSO QUALIFIES AS A BED AND
12 BREAKFAST, THEN IT IS ASSESSED AS A BED AND BREAKFAST IN
13 ACCORDANCE WITH SUBSECTION (10.5) OF THIS SECTION.

14 (f) IN THE TAXPAYER'S ANNUAL NOTICE OF VALUATION OR IN A
15 SEPARATE NOTICE MAILED PRIOR TO THE DEADLINE FOR THE ANNUAL
16 NOTICE OF VALUATION, A COUNTY ASSESSOR SHALL IDENTIFY THE PORTION
17 OF A SHORT-TERM RENTAL UNIT AND THE LAND ON WHICH IT IS LOCATED
18 THAT IS RESIDENTIAL OR NONRESIDENTIAL BASED ON THIS SUBSECTION
19 (10.7).

20 (g) AS USED IN THIS SUBSECTION (10.7), "LONG-TERM LESSEE"
21 MEANS A PERSON WHO LEASES A PROPERTY FROM THE PROPERTY OWNER
22 FOR A PERIOD THAT IS THIRTY OR MORE CONSECUTIVE DAYS.

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