

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0248.02 Esther van Mourik

HOUSE BILL 11-1042

HOUSE SPONSORSHIP

Levy,

SENATE SPONSORSHIP

Nicholson,

House Committees

Local Government
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CLASSIFICATION OF RESIDENTIAL LAND WHEN THE**
102 **RESIDENTIAL IMPROVEMENT IS TEMPORARILY REMOVED.**

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://www.leg.state.co.us/billsummaries>.)

The bill specifies that when residential improvements are destroyed, demolished, or relocated on or after January 1, 2010, that, were it not for their destruction, demolition, or relocation, would have qualified the land upon which the improvements were located as residential land for the following property tax year, the residential land classification is

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

to remain in place for the year of destruction, demolition, or relocation and the 2 subsequent property tax years unless:

- ! A new residential improvement is not constructed or placed on the land in accordance with applicable land use regulations before the end of the period;
- ! The assessor determines that the classification at the time of destruction, demolition, or relocation was erroneous; or
- ! A change of use, other than the destruction, demolition, or relocation of the residential improvement, has occurred.

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

2 **SECTION 1.** 39-1-102 (14.4), Colorado Revised Statutes, is
3 amended, and the said 39-1-102 is further amended BY THE ADDITION
4 OF A NEW SUBSECTION, to read:

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

7 (8.4) "NATURAL DISASTER" MEANS FIRE, FLOOD, TORNADO,
8 ACTION OF THE ELEMENTS, ACT OF WAR OR TERROR, OR SIMILAR CAUSE
9 THAT IS BEYOND THE CONTROL OF THE PARTY HOLDING TITLE TO THE
10 PROPERTY DESTROYED.

11 (14.4) (a) "Residential land" means a parcel or contiguous parcels
12 of land under common ownership upon which residential improvements
13 are located and that is used as a unit in conjunction with the residential
14 improvements located thereon. The term includes parcels of land in a
15 residential subdivision, the exclusive use of which land is established by
16 the ownership of such residential improvements. THE TERM INCLUDES
17 LAND UPON WHICH RESIDENTIAL IMPROVEMENTS WERE DESTROYED BY
18 NATURAL DISASTER AFTER THE DATE OF THE LAST ASSESSMENT AS
19 ESTABLISHED IN SECTION 39-1-104 (10.2). The term does not include any
20 portion of the land that is used for any purpose that would cause the land

1 to be otherwise classified, except as provided for in section 39-1-103
2 (10.5). The term also does not include land underlying a residential
3 improvement located on agricultural land.

4 (b) (I) NOTWITHSTANDING SECTION 39-1-103 (5) (c) AND EXCEPT
5 AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), WHEN
6 RESIDENTIAL IMPROVEMENTS ARE DESTROYED, DEMOLISHED, OR
7 RELOCATED AS A RESULT OF A NATURAL DISASTER ON OR AFTER JANUARY
8 1, 2010, THAT, WERE IT NOT FOR THEIR DESTRUCTION, DEMOLITION, OR
9 RELOCATION DUE TO SUCH NATURAL DISASTER, WOULD HAVE QUALIFIED
10 THE LAND UPON WHICH THE IMPROVEMENTS WERE LOCATED AS
11 RESIDENTIAL LAND FOR THE FOLLOWING PROPERTY TAX YEAR, THE
12 RESIDENTIAL LAND CLASSIFICATION SHALL REMAIN IN PLACE FOR THE
13 YEAR OF DESTRUCTION, DEMOLITION, OR RELOCATION AND THE TWO
14 SUBSEQUENT PROPERTY TAX YEARS.

15 (II) THE RESIDENTIAL LAND CLASSIFICATION OF THE LAND
16 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL CHANGE
17 ACCORDING TO CURRENT USE IF:

18 (A) A NEW RESIDENTIAL IMPROVEMENT OR PART OF A NEW
19 RESIDENTIAL IMPROVEMENT IS NOT CONSTRUCTED OR PLACED ON THE
20 LAND IN ACCORDANCE WITH APPLICABLE LAND USE REGULATIONS PRIOR
21 TO THE JANUARY 1 AFTER THE PERIOD DESCRIBED IN SUBPARAGRAPH (I)
22 OF THIS PARAGRAPH (b);

23 (B) THE ASSESSOR DETERMINES THAT THE CLASSIFICATION AT THE
24 TIME OF DESTRUCTION, DEMOLITION, OR RELOCATION AS A RESULT OF A
25 NATURAL DISASTER WAS ERRONEOUS; OR

26 (C) A CHANGE OF USE HAS OCCURRED. FOR PURPOSES OF THIS
27 SUB-SUBPARAGRAPH (C), A CHANGE OF USE SHALL NOT INCLUDE THE

1 TEMPORARY LOSS OF THE RESIDENTIAL USE DUE TO THE DESTRUCTION,
2 DEMOLITION, OR RELOCATION AS A RESULT OF A NATURAL DISASTER OF
3 THE RESIDENTIAL IMPROVEMENT.

4 **SECTION 2.** 39-1-103 (5) (c), Colorado Revised Statutes, is
5 amended to read:

6 **39-1-103. Actual value determined - when.** (5) (c) EXCEPT AS
7 PROVIDED IN SECTION 39-1-102 (14.4) (b), once any property is classified
8 for property tax purposes, it shall remain so classified until such time as
9 its actual use changes or the assessor discovers that the classification is
10 erroneous. The property owner shall endeavor to comply with the
11 reasonable requests of the assessor to supply information which cannot
12 be ascertained independently but which is necessary to determine actual
13 use and properly classify the property when the assessor has evidence that
14 there has been a change in the use of the property. Failure to supply such
15 information shall not be the sole reason for reclassifying the property.
16 Any such request for such information shall be accompanied by a notice
17 that states that failure on the part of the property owner to supply such
18 information will not be used as the sole reason for reclassifying the
19 property in question. Subject to the availability of funds under the
20 assessor's budget for such purpose, no later than May 1 of each year, the
21 assessor shall inform each person whose property has been reclassified
22 from agricultural land to any other classification of property of the
23 reasons for such reclassification including, but not limited to, the basis for
24 the determination that the actual use of the property has changed or that
25 the classification of such property is erroneous.

26 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.