An Act

HOUSE BILL 11-1146

BY REPRESENTATIVE(S) Massey, Casso, Court, Ferrandino, Fields, Fischer, Hamner, Hullinghorst, Jones, Labuda, McCann, Pace, Ryden, Schafer S., Todd, Vigil, Wilson, McNulty, Tyler;
also SENATOR(S) Steadman, Aguilar, Bacon, Foster, Guzman, Heath, Nicholson, Tochtrop.

CONCERNING A REQUIREMENT THAT A RESIDENCE BE INTEGRAL TO AN AGRICULTURAL OPERATION IN DETERMINING WHETHER TWO ACRES OR LESS ASSOCIATED WITH THE RESIDENCE SATISFIES THE DEFINITION OF AGRICULTURAL LAND FOR PROPERTY TAX PURPOSES.

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

SECTION 1. 39-1-102 (1.6) (a) (I) and (14.4), Colorado Revised Statutes, are amended to read:

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

(1.6) (a) "Agricultural land", whether used by the owner of the land or a lessee, means one of the following:

(I) (A) A parcel of land, whether located in an incorporated or

---

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

unincorporated area and regardless of the uses for which such land is zoned, that was used the previous two years and presently is used as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section, or that is in the process of being restored through conservation practices. Such land must have been classified or eligible for classification as "agricultural land", consistent with this subsection (1.6), during the ten years preceding the year of assessment. Such land must continue to have actual agricultural use. "Agricultural land" under this subparagraph (I) ~~includes land underlying any residential improvement located on such~~ SHALL NOT INCLUDE TWO ACRES OR LESS OF LAND ON WHICH A RESIDENTIAL IMPROVEMENT IS LOCATED UNLESS THE IMPROVEMENT IS INTEGRAL TO AN AGRICULTURAL OPERATION CONDUCTED ON SUCH LAND. "Agricultural land" ~~and~~ also includes the land underlying other improvements if such improvements are an integral part of the farm or ranch and if such other improvements and the land area dedicated to such other improvements are typically used as an ancillary part of the operation. The use of a portion of such land for hunting, fishing, or other wildlife purposes, for monetary profit or otherwise, shall not affect the classification of agricultural land. For purposes of this subparagraph (I), a parcel of land shall be "in the process of being restored through conservation practices" if: The land has been placed in a conservation reserve program established by the natural resources conservation service pursuant to 7 U.S.C. secs. 1 to 5506; or a conservation plan approved by the appropriate conservation district has been implemented for the land for up to a period of ten crop years as if the land has been placed in such a conservation reserve program.

(B) A RESIDENTIAL IMPROVEMENT SHALL BE DEEMED TO BE "INTEGRAL TO AN AGRICULTURAL OPERATION" FOR PURPOSES OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) IF AN INDIVIDUAL OCCUPYING THE RESIDENTIAL IMPROVEMENT EITHER REGULARLY CONDUCTS, SUPERVISES, OR ADMINISTERS MATERIAL ASPECTS OF THE AGRICULTURAL OPERATION OR IS THE SPOUSE OR A PARENT, GRANDPARENT, SIBLING, OR CHILD OF THE INDIVIDUAL.

(14.4) "Residential land" means a parcel or contiguous parcels of land under common ownership upon which residential improvements are located and that is used as a unit in conjunction with the residential improvements located thereon. The term includes parcels of land in a residential subdivision, the exclusive use of which land is established by the ownership of such residential improvements. THE TERM ALSO INCLUDES

TWO ACRES OR LESS OF LAND ON WHICH A RESIDENTIAL IMPROVEMENT IS LOCATED WHERE THE IMPROVEMENT IS NOT INTEGRAL TO AN AGRICULTURAL OPERATION CONDUCTED ON SUCH LAND. The term does not include any portion of the land that is used for any purpose that would cause the land to be otherwise classified, except as provided for in section 39-1-103 (10.5). The term also does not include land underlying a residential improvement located on agricultural land.

SECTION 2. Part 1 of article 5 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-5-133. 2011 modification of statutory definition of "agricultural land" - TABOR election - adjustment of district mill levy. (1) (a) THE REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION (1) SHALL ONLY APPLY:

(I) TO A DISTRICT, AS DEFINED IN SECTION 20 (2) (b) OF ARTICLE X OF THE STATE CONSTITUTION, THAT HAS NOT OBTAINED VOTER APPROVAL TO RETAIN AND SPEND REVENUES IN EXCESS OF THE FISCAL YEAR SPENDING AND PROPERTY TAX REVENUE LIMITS IMPOSED ON THE DISTRICT BY SECTION 20 (7) (b) AND (c) OF ARTICLE X OF THE STATE CONSTITUTION SUFFICIENT TO ALLOW THE RETENTION OF ALL ADDITIONAL PROPERTY TAX REVENUES; AND

(II) WHERE THE DISTRICT HAS ADDITIONALLY DETERMINED, ON THE BASIS OF THE BEST AVAILABLE INFORMATION, THAT IMPLEMENTATION OF THE MODIFICATION OF THE DEFINITION OF "AGRICULTURAL LAND" REQUIRED BY HOUSE BILL 11-1146, ENACTED IN 2011, WILL CAUSE A NET PROPERTY TAX REVENUE GAIN TO THE DISTRICT SUFFICIENT TO CAUSE THE DISTRICT TO EXCEED SUCH LIMITS.

(b) IN THE CASE OF A DISTRICT THAT MEETS THE REQUIREMENTS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1), THE DISTRICT MAY PLACE BEFORE THE VOTERS OF THE DISTRICT AT ANY ELECTION AT WHICH SUCH BALLOT ISSUE MAY BE PLACED ON THE BALLOT THE QUESTION OF WHETHER THE DISTRICT MAY RETAIN AND SPEND REVENUES IN EXCESS OF THE LIMITS IMPOSED ON THE DISTRICT BY SECTION 20 (7) (b) AND (c) OF ARTICLE X OF THE STATE CONSTITUTION SUFFICIENT TO ALLOW THE RETENTION OF THE NET PROPERTY TAX REVENUE GAIN TO THE DISTRICT RESULTING FROM THE IMPLEMENTATION OF THE MODIFICATION OF THE DEFINITION OF "AGRICULTURAL LAND" REQUIRED BY HOUSE BILL 11-1146,

ENACTED IN 2011.

(c) IF A MAJORITY OF THE VOTERS OF THE DISTRICT FAIL TO APPROVE THE BALLOT ISSUE SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1), OR IF NO BALLOT ISSUE HAS BEEN SUBMITTED TO THE VOTERS, THE DISTRICT SHALL ADJUST THE NUMBER OF MILLS LEVIED BY THE DISTRICT TO ELIMINATE ANY NET PROPERTY TAX REVENUE GAIN TO THE DISTRICT RESULTING FROM THE MODIFICATION OF THE DEFINITION OF "AGRICULTURAL LAND" REQUIRED BY HOUSE BILL 11-1146, ENACTED IN 2011.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY TO ANY DISTRICT, REGARDLESS OF WHETHER OR NOT IT SATISFIES THE REQUIREMENTS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, THAT HAS DETERMINED, ON THE BASIS OF THE BEST AVAILABLE INFORMATION, THAT IMPLEMENTATION OF THE MODIFICATION OF THE DEFINITION OF "AGRICULTURAL LAND" REQUIRED BY HOUSE BILL 11-1146, ENACTED IN 2011, WILL NOT CAUSE A NET PROPERTY TAX REVENUE GAIN TO THE DISTRICT.

SECTION 3. 39-8-106, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-8-106. Petitions for appeal. (1.7) ANY PERSON WHO OBJECTS TO THE APPLICATION OF THE TERM "INTEGRAL TO AN AGRICULTURAL OPERATION" TO THEIR PROPERTY IN ACCORDANCE WITH SECTION 39-1-102 (1.6) (a) (I) AND (14.4) AND WHOSE OBJECTIONS OR PROTESTS HAVE BEEN DENIED BY THE ASSESSOR MAY SUBMIT A PETITION FOR APPEAL TO THE COUNTY BOARD OF EQUALIZATION TO THE SAME EXTENT AS ANY OTHER PROTEST OR OBJECTION FOR WHICH AN APPEAL TO THE BOARD IS PROVIDED UNDER LAW AND SHALL SATISFY ALL REQUIREMENTS FOR THE PROSECUTION OF SUCH APPEAL AS PROVIDED BY LAW.

SECTION 4. Effective date - applicability. This act shall take effect January 1, 2012, and shall apply to property tax years commencing on or after said date.

SECTION 5. 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.

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED 2:53 PM May 9, 2011

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO