

# CIVIL LAW

*Research Notes are prepared by Legislative Council Staff's nonpartisan research and committee staff. Research notes provide a summary of the bill, background information on the bill, and information on committee hearings and amendments adopted on the bill as it moves through the legislative process. Legislative Council Staff prepares final research notes for bills passed by the General Assembly as well as select bills that were considered but not adopted, and may be accessed through the links below. Research notes are provided for informational purposes only and should not be relied upon as an official record of action by the General Assembly.*

## **Probate Law**

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Access Safe Deposit Box of Decedent

## **Real Property**

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Homestead Exemption Recorded Instrument

**HB 15-1357** *(Enacted)*

Assessment Ratio for Residential  
Real Property

**SB 15-049** *(Enacted)*

Real Estate Title Vests in Entity Once  
Formed

## **Miscellaneous**

**SB 15-283** *(Enacted)*

Debt Collections Actions and Exemptions

**Date:** June 30, 2015

**Version:** Final



# Legislative Council Staff

## Research Note

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**Bill Number:** HB15-1357

**Short Title:** *Assessment Ratio For Residential Real Property*

**Prime Sponsors:** Representative Court  
Senator Neville T.

**Research Analyst:** Damion Pechota (x4789)

### Current Status

This research note reflects the final version of the bill. The bill was signed by the governor and became effective on June 5, 2015.

### Summary

The bill sets the ratio of valuation for assessment for real property at 7.96 percent for the 2015 and 2016 tax years.

### Background

Section 3 (1)(b) of Article X of the State Constitution, commonly known as the Gallagher Amendment, requires the General Assembly to set the residential assessment rate every two years at a rate that satisfies the requirements of the amendment. The Gallagher Amendment is structured to keep the residential share of the property tax base constant by increasing or decreasing the assessment rate. When residential property appreciates at a different rate than non-residential property, the residential assessment rate is adjusted each assessment cycle to maintain the share of the residential property tax base. Since 1982, the residential assessment rate has decreased from 29 percent to 7.96 percent in 2003. However, in 1999 and each of the last five reassessment cycles the residential assessment rate should have increased but remained unchanged because of TABOR restrictions on increasing assessment rates without a vote of the people. Consequently, the residential share of the property tax base under current law is less than anticipated under the Gallagher Amendment alone.

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## House Action

**House Local Government Committee (April 22, 2015).** At the hearing, a representative of the Division of Property Taxation in the Department of Local Affairs spoke for information purposes only.

The committee referred the bill, unamended, to the House Committee of the Whole.

**House second reading (April 23, 2015).** The House Committee of the Whole passed the bill, unamended, on second reading.

**House third reading (April 27, 2015).** The House passed the bill, unamended, on third reading.

## Senate Action

**Senate Local Government Committee (April 29, 2015).** At the hearing, a representative of the Division of Property Taxation spoke for information purposes only.

The committee referred the bill, unamended, to the Senate Committee of the Whole with a recommendation that it be placed on the consent calendar.

**Senate second reading (April 30, 2015).** The Senate Committee of the Whole passed the bill, unamended, on second reading.

**Senate third reading (May 1, 2015).** The Senate passed the bill, unamended, on third reading.



# Legislative Council Staff

## Research Note

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**Bill Number:** House Bill 15-1069

**Short Title:** *Homestead Exemption Recorded Instrument Requirements*

**Prime Sponsors:** Representative Ryden  
Senator Holbert

**Research Analyst:** Damion Pechota

### Current Status

This research note reflects the final version of the bill, which becomes effective on August 5, 2015, assuming no referendum petition is filed.

### Summary

This bill changes the required information for a recorded homestead exemption document. Specifically, the bill requires that the name of the owner of the real property be included in the document claiming a homestead exemption.

### Background

Colorado's homestead exemption laws exempt qualified homesteads, up to a certain value, from judgements arising due to a property owner's debt.

**Current homestead exemption laws.** Current law requires a recorded homestead exemption document to include the following information:

- a description of the nature and source of the owner's interest in the real property; and
- a statement that the owner or the owner's spouse is homesteading the property.

Current law only requires a description of the property and does not require the name of the owner.

**Record search.** In Colorado, land title records are filed and searched by the name of the

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property owner. Due to the omission of a name, homestead exemptions are currently searched by matching the property descriptions.

## **House Action**

**House Local Government Committee (January 28, 2015).** At the hearing, representatives from the Colorado Bar Association and the Land Title Association of Colorado testified in support of the bill.

The committee referred the bill, unamended, to the House Committee on Finance.

**House Finance Committee (February 4, 2015).** At the hearing, a representative from the Land Title Association of Colorado testified in support of the bill.

The committee referred the bill, unamended, to the House Committee of the Whole.

**House second reading (February 9, 2015).** The House Committee of the Whole passed the bill, unamended, on second reading.

**House third reading (February 10, 2015).** The House passed the bill, unamended, on third reading.

## **Senate Action**

**Senate Committee on Finance (February 24, 2015).** At the hearing, representatives from the Land Title Association of Colorado and the Colorado Bar Association spoke in favor of the bill.

The committee referred the bill to the Senate Committee of the Whole.

**Senate second reading (February 27, 2015).** The Senate Committee of the Whole passed the bill, unamended, on second reading.

**Senate third reading (March 2, 2015).** The Senate approved the bill, unamended, on third reading and final passage.

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# Legislative Council Staff

## Research Note

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**Bill Number:** HB15-1064

**Short Title:** *Access Safe Deposit Box Of Decedent*

**Prime Sponsors:** Representative Nordberg  
Senator Holbert

**Research Analyst:** Bo Pogue (x5390)

### Current Status

This research note reflects the final version of the bill, which becomes effective August 5, 2015, assuming no referendum petition is filed.

### Summary

This bill amends the Colorado Probate Code to clarify who has access to the safe deposit box of a decedent. In addition, a custodian is not deemed to have acquired knowledge, either actual or constructive, pertaining to the value of any of the contents of a safe deposit box delivered to a person claiming to be a successor of the decedent or acting on behalf of the successor.

### Background

The bill clarifies some changes made to the probate code in 2009.

### House Action

**House Judiciary Committee (January 27, 2015).** The committee referred the bill unamended to the Senate Committee of the Whole. The committee heard testimony in support of the bill from banking representatives.

**House Second Reading (February 2, 2015).** The House Committee of the Whole adopted the bill on second reading without amendment.

**House Third Reading (February 3, 2015).** The House adopted the bill on third reading without amendment.

### Senate Action

**Date:** 5/29/2015

**Version:** Final

**Senate Judiciary Committee (February 24, 2015).** The committee referred the bill unamended to the Senate Committee of the Whole, with a recommendation that it be placed on the consent calendar. No one testified on the bill.

**Senate Second Reading (February 27, 2015).** The Senate Committee of the Whole adopted the bill on second reading without amendment.

**Senate Third Reading (March 2, 2015).** The House adopted the bill on third reading without amendment.



# Legislative Council Staff

## Research Note

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**Bill Number:** SB15-283

**Short Title:** *Debt Collections Actions And Exemptions*

**Prime Sponsors:** Senator Woods  
Representative Lee

**Research Analyst:** Conrad Imel (x2756)

### Current Status

This research note reflects the final version of the bill, which became effective on July 1, 2015.

### Summary

Senate Bill 15-283 makes the following changes to the property that a judgment debtor may claim as exempt from levy or sale:

- increases the exempt value of wearing apparel; watches, jewelry, and articles of adornment; certain library material, family pictures, and school books of the debtor or dependant; certain business materials used in a debtor's primary gainful occupation; any claim for public or private disability benefits due; and homestead property;
- includes as exempt crops, dairy products, and agricultural products grown, raised or produced, if a debtor is engaged in agriculture as his or her primary occupation;
- includes as exempt certain business materials used in a debtor's gainful occupation;
- limits the number of motor vehicles or bicycles that are exempt, increases the aggregate value of the same that may be exempt, and clarifies that this exemption does not apply to snowmobiles, all-terrain vehicles, golf carts, boats or other watercraft, travel trailers, tent trailers, or motor homes; and
- requires certain policies or certificates of life insurance to be owned continuously for at least 48 months at the time of the action to collect debt, excluding increases in cash value from extraordinary contributions during those 48 months.

The bill clarifies the definitions of "earnings" to include payments made to independent contractors for labor or services, and of "continuing garnishment" to include any procedure for payment by withholding earnings to which a judgment debtor is entitled for the duration of the writ of continuing garnishment. The bill also changes the permitted types of notice of exemption and levy

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required in cases other than a continuing garnishment where the judgment debtor's personal property is subject to garnishment. The bill requires one of the following means of service of notice:

- giving the notice to the judgment debtor in person and receiving a receipt;
- personal service;
- certain mail service, including certified mail, return receipt requested, or by regular mail supported by an affidavit of mailing sworn and retained by the judgment creditor;
- electronic mail, in specified cases; or
- if service cannot be made by any other means, the bill permits service by publication in a newspaper of general circulation in the county in which the property was levied upon, or in an adjoining county if no such newspaper is available in the county.

In all such cases, the judgment creditor must file with the court a notice of exemption and pending levy, and proof of service of notice. When notice is by publication, the judgment creditor must file a affidavit of publication and an affidavit of the mailing of the notice.

## **Background**

A creditor means an individual or other legal entity to whom a debt is owed. Debtor means an individual or other legal entity that owes money or is under a financial obligation to another. A garnishee is in individual or other legal entity, other than a creditor or debtor, who is in possession of earnings or property of the debtor and who is subject to a garnishment order.

Garnishment is one way of collecting when a court order is issued requiring a debtor to pay a specified amount to a creditor. The creditor may garnish the debtor's personal property, including a bank account, or any general debts owed to the debtor, such as wages or rent. In order to collect a garnishment, the creditor must initiate one of five types of writs of garnishment with the court where the judgment was entered:

- writ of continuing garnishment;
- writ of garnishment with notice of exemption and pending levy;
- writ of garnishment for support;
- writ of garnishment — judgment debtor other than natural person; or
- writ of garnishment in aid of writ of attachment.

## **Senate Action**

**Senate Judiciary Committee (April 29, 2015).** The committee heard testimony in support of the bill from four private citizens. There was no opposition testimony. The committee referred the bill, unamended, to the Senate Committee of the Whole, with a recommendation that it be placed on the consent calendar.

**Senate second reading (May 1, 2015).** The Senate Committee of the Whole passed the bill on second reading.

**Senate third reading (May 4, 2015).** The Senate adopted the bill on third reading.

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## House Action

**House Judiciary Committee (May 5, 2015).** The committee heard testimony in support of the bill from a representative of the Colorado Bankers Association and the Independent Bankers of Colorado, and a private citizen. A private citizen testified in opposition to the bill. The committee referred the bill, unamended, to the House Committee of the Whole.

**House second reading (May 5, 2015).** The House Committee of the Whole passed the bill on second reading.

**House third reading (May 6, 2015).** The House passed the bill on third reading.

## Relevant Research

Notification of Garnishment or Intercepts, Legislative Council Staff (Interested Persons Memorandum) (2007): Attachment A.

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# Legislative Council Staff

## Research Note

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**Bill Number:** SB15-049

**Short Title:** *Real Estate Title Vests In Entity Once Formed*

**Prime Sponsors:** Senator Martinez Humenik  
Representative Keyser

**Research Analyst:** Jeanette Chapman (x4657)

### Current Status

This research note reflects the final version of the bill, which became effective on August 5, 2015.

### Summary

The bill expands the vesting of title in real estate to include all corporate entities once incorporation has been filed for that entity.

### Background

Under current law, when a grantee of a real estate title is a corporation whose incorporation papers have not yet been filed, the title vests upon incorporation. The bill requires only that the corporate entity be formed before the title vests, and expands the law to apply to all entities recognized in Colorado statute, which can include a domestic or foreign company, partnership, cooperative, nonprofit association, or other types of allowable organizations.

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## Senate Action

**Senate Business, Labor, and Technology Committee (January 28, 2015).** At the hearing, a representative of the Colorado Bar Association testified in support of the bill. The committee referred the bill, unamended, to the Senate Committee of the Whole.

**Senate Second Reading (February 2, 2015).** The Senate Committee of the Whole adopted the bill, unamended, on second reading.

**Senate Third Reading (February 3, 2015).** The Senate adopted the bill, unamended, on third reading.

## House Action

**House Business Affairs and Labor Committee (March 3, 2015).** The committee referred the bill, unamended, to the House Committee of the Whole.

**House Second Reading (March 6, 2015).** The House Committee of the Whole adopted the bill, unamended, on second reading.

**House Third Reading (March 9, 2015).** The House adopted the bill, unamended, on third reading.