

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. R16-0712.01 Bob Lackner x4350

SCR16-004

SENATE SPONSORSHIP

Ulibarri,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

SENATE CONCURRENT RESOLUTION 16-004

101 SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF
102 COLORADO AN AMENDMENT TO THE COLORADO CONSTITUTION
103 CONCERNING THE IMPOSITION OF A REAL ESTATE TRANSFER TAX
104 OF ONE-TENTH OF ONE PERCENT OF THE VALUE OF REAL
105 PROPERTY TRANSFERRED IN THE STATE THAT WILL BE USED TO
106 FINANCE AFFORDABLE HOUSING, AND, IN CONNECTION
107 THEREWITH, ALLOWING THE REVENUES FROM THE TAX TO BE
108 COLLECTED AND SPENT NOTWITHSTANDING ANY LIMITATION
109 PROVIDED BY LAW.

Resolution Summary

(Note: This summary applies to this resolution as introduced and does not reflect any amendments that may be subsequently adopted. If this resolution passes third reading in the house of introduction, a resolution

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.

summary that applies to the reengrossed version of this resolution will be available at <http://www.leg.state.co.us/bills/summaries>.)

The concurrent resolution deletes the prohibition in the state constitution on new or increased transfer tax rates on real property.

The resolution imposes a tax upon the recording of each real property deed at the rate of 1/10 of 1% of the value of the real property as specified in the deed for the privilege of transferring the title to real property. A conveyance from one spouse or other marital partner to another or a correction deed are exempt from payment of the tax.

At the time any deed evidencing a transfer of title subject to the tax imposed is offered for recording, the county clerk and recorder is required to ascertain and compute the amount of the tax due and to collect the same from the purchaser of the real property as a prerequisite to acceptance of the deed for recording. The amount of tax is computed on the basis of the value of the transferred property as specified in the deed.

The county clerk and recorder is required to collect the amount due under the tax and certify the date of payment and the amount collected on the deed. The county clerk and recorder is authorized to retain 5% of the amount collected as his or her fee for collection and to further remit the balance on a quarterly basis to the county treasurer. The county treasurer is then required to transmit the same to the state treasurer for the deposit of such moneys into the state affordable housing trust fund (fund).

The fund is created in the Colorado housing and finance authority (authority). The concurrent resolution requires that moneys in the fund be used to support new or existing programs that expand the provision of affordable housing. The programs are to be administered by the authority.

The resolution contains additional requirements governing the use of moneys in the fund.

The resolution specifies that its approval by the registered electors of the state voting on the ballot issue at the general election held in November 2016 constitutes a voter-approved revenue change to allow the retention and expenditure of state revenues in excess of the limitation on state fiscal year spending.

The general assembly may modify any of the provisions as necessary in order to facilitate a more effective administration of the provisions. However, such legislation shall not limit or restrict the imposition of the tax or the use of the moneys raised by the tax for affordable housing.

1 *Be It Resolved by the Senate of the Seventieth General Assembly*
2 *of the State of Colorado, the House of Representatives concurring herein:*

1 **SECTION 1.** At the election held on November 8, 2016, the
2 secretary of state shall submit to the registered electors of the state of
3 Colorado, for their approval or rejection, the following amendment to the
4 to the state constitution:

5 In the constitution of the state of Colorado, section 20 of article X,
6 **amend** (8) (a) as follows:

7 **Section 20. The Taxpayer's Bill of Rights. (8) Revenue limits.**

8 (a) ~~New or increased transfer tax rates on real property are prohibited.~~ No
9 new state real property tax or local district income tax shall be imposed.
10 Neither an income tax rate increase nor a new state definition of taxable
11 income shall apply before the next tax year. Any income tax law change
12 after July 1, 1992 shall also require all taxable net income to be taxed at
13 one rate, excluding refund tax credits or voter-approved tax credits, with
14 no added tax or surcharge.

15 In the constitution of the state of Colorado, article X, **add** section
16 22 as follows:

17 **Section 22. Real estate transfer tax to fund affordable housing**
18 **- state affordable housing trust fund - definitions.** (1) AS USED IN THIS
19 SECTION, UNLESS THE ARTICLE OTHERWISE REQUIRES:

20 (a) "AFFORDABLE HOUSING" MEANS HOUSING THAT IS AFFORDABLE
21 TO A HOUSEHOLD THAT MAKES SIXTY PERCENT OR LESS OF THE AREA
22 MEDIAN INCOME. THE CRITERIA FOR DETERMINING "AFFORDABLE
23 HOUSING" MAY BE MODIFIED BY THE GENERAL ASSEMBLY IN ACCORDANCE
24 WITH SUBSECTION (9) OF THIS SECTION.

25 (b) "AUTHORITY" MEANS THE COLORADO HOUSING AND FINANCE
26 AUTHORITY OR ANY SUCCESSOR ENTITY.

27 (c) "COST-BURDENED HOUSEHOLD" MEANS A HOUSEHOLD WITH AN

1 ANNUAL INCOME OF SIXTY PERCENT OR LESS OF THE AREA MEDIAN
2 INCOME. THE CRITERIA FOR DETERMINING "COST-BURDENED HOUSEHOLD"
3 MAY BE MODIFIED BY THE GENERAL ASSEMBLY IN ACCORDANCE WITH
4 SUBSECTION (9) OF THIS SECTION.

5 (d) "DEED" MEANS ANY DOCUMENT, INSTRUMENT, OR WRITING
6 OTHER THAN A WILL, LEASE, OR EASEMENT, REGARDLESS OF WHERE MADE,
7 EXECUTED, OR DELIVERED, BY WHICH ANY REAL PROPERTY IN COLORADO,
8 OR ANY INTEREST IN SUCH PROPERTY, IS CONVEYED, VESTED, GRANTED,
9 BARGAINED, SOLD, TRANSFERRED, OR ASSIGNED.

10 (e) "FUND" MEANS THE STATE AFFORDABLE HOUSING TRUST FUND
11 CREATED IN THE AUTHORITY IN ACCORDANCE WITH SUBSECTION (5) OF
12 THIS SECTION.

13 (f) "VALUE" MEANS THE AMOUNT OF THE FULL ACTUAL
14 CONSIDERATION PAID OR TO BE PAID FOR THE REAL PROPERTY, INCLUDING
15 THE AMOUNT OF ANY LIENS ON THE PROPERTY CREATED OR IMPOSED AS A
16 RESULT OF THE CONVEYANCE.

17 (2) (a) ON AND AFTER JANUARY 1, 2018, EXCEPT AS OTHERWISE
18 PROVIDED IN THIS SECTION, A TAX IS HEREBY IMPOSED UPON THE
19 RECORDING OF EACH DEED IN ACCORDANCE WITH THE REQUIREMENTS OF
20 THIS SECTION AT THE RATE OF ONE-TENTH OF ONE PERCENT OF THE VALUE
21 OF THE REAL PROPERTY AS SPECIFIED IN THE DEED FOR THE PRIVILEGE OF
22 TRANSFERRING THE TITLE TO THE REAL PROPERTY. THE TAX IMPOSED
23 MUST BE COMPUTED TO THE NEAREST WHOLE DOLLAR.

24 (b) THE TAX IMPOSED BY PARAGRAPH (a) OF THIS SUBSECTION (2)
25 SHALL NOT BE IMPOSED ON A CONVEYANCE FROM ONE SPOUSE OR OTHER
26 MARITAL PARTNER TO ANOTHER OR IN THE CASE OF A CORRECTION DEED.

27 (c) THE RECORDING OF A DEED SUBJECTS THE TRANSFER

1 EVIDENCED BY SUCH DEED TO THE TAX IMPOSED BY PARAGRAPH (a) OF
2 THIS SUBSECTION (2) UNLESS THE TRANSFER IS SPECIFICALLY EXEMPT
3 FROM SUCH TAX AS PROVIDED BY LAW.

4 (3) (a) AT THE TIME ANY DEED EVIDENCING A TRANSFER OF TITLE
5 SUBJECT TO THE TAX IMPOSED UNDER SUBSECTION (2) OF THIS SECTION IS
6 OFFERED FOR RECORDING, THE COUNTY CLERK AND RECORDER SHALL
7 ASCERTAIN AND COMPUTE THE AMOUNT OF THE TAX DUE AND SHALL
8 COLLECT THE SAME FROM THE PURCHASER OF THE REAL PROPERTY AS A
9 PREREQUISITE TO ACCEPTANCE OF THE DEED FOR RECORDING.

10 (b) THE AMOUNT OF TAX IS COMPUTED ON THE BASIS OF THE
11 VALUE OF THE TRANSFERRED PROPERTY AS SPECIFIED IN THE DEED.

12 (c) THE TAX REQUIRED TO BE LEVIED UNDER SUBSECTION (2) OF
13 THIS SECTION MUST BE COLLECTED ONLY ONCE ON EACH TRANSACTION
14 AND IN THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED.

15 (4) THE COUNTY CLERK AND RECORDER SHALL COLLECT THE
16 AMOUNT DUE AND CERTIFY THE DATE OF PAYMENT AND THE AMOUNT
17 COLLECTED ON THE DEED. THE COUNTY CLERK AND RECORDER SHALL
18 RETAIN FIVE PERCENT OF THE AMOUNT COLLECTED AS HIS OR HER FEE FOR
19 COLLECTION AND SHALL FURTHER REMIT THE BALANCE ON A QUARTERLY
20 BASIS TO THE COUNTY TREASURER. THE COUNTY TREASURER SHALL
21 TRANSMIT THE SAME TO THE STATE TREASURER WHO SHALL DEPOSIT SAID
22 MONEYS INTO THE STATE AFFORDABLE HOUSING TRUST FUND.

23 (5) (a) THERE IS HEREBY CREATED IN THE AUTHORITY THE STATE
24 AFFORDABLE HOUSING TRUST FUND. THE AUTHORITY SHALL DEPOSIT INTO
25 THE FUND:

26 (I) ANY MONEYS COLLECTED BY THE COUNTY CLERK AND
27 RECORDERS FROM THE IMPOSITION OF THE REAL ESTATE TRANSFER TAX

1 LEVIED UNDER SUBSECTION (2) OF THIS SECTION ARE TO BE TRANSMITTED
2 BY THE COUNTY CLERK AND RECORDERS TO THE COUNTY TREASURERS
3 AND THEREAFTER TO THE STATE TREASURER IN ACCORDANCE WITH
4 SUBSECTION (4) OF THIS SECTION;

5 (II) ANY MONEYS MADE AVAILABLE BY THE STATE FOR THE
6 PURPOSES OF THE FUND; AND

7 (III) ANY MONEYS THAT ARE MADE AVAILABLE BY OR TO THE
8 AUTHORITY FROM ANY OTHER SOURCES FOR THE PURPOSE OF THE FUND.

9 (b) ALL MONEYS IN THE FUND MUST BE EXPENDED FOR THE
10 PURPOSE OF SUPPORTING NEW OR EXISTING PROGRAMS THAT SUPPORT:

11 (I) THE CONSTRUCTION, MAINTENANCE, REHABILITATION, OR
12 REPAIR OF AFFORDABLE HOUSING STATEWIDE FOR RENTAL PURPOSES OR
13 HOME OWNERSHIP ACROSS THE STATE; AND

14 (II) THE PROVISION OF FINANCIAL ASSISTANCE, INCLUDING
15 WITHOUT LIMITATION GRANTS OR LOANS, TO NATURAL PERSONS,
16 NONPROFIT ENTITIES, AND POLITICAL SUBDIVISIONS ACROSS THE STATE TO
17 ENABLE PERSONS IN COST-BURDENED HOUSEHOLDS TO FINANCE THE
18 PURCHASE, REFINANCE, REHABILITATION, OR REPAIR OF AFFORDABLE
19 HOUSING.

20 (6) THE NEW OR EXISTING PROGRAMS SUPPORTED BY THE FUND
21 ARE TO BE ADMINISTERED BY THE AUTHORITY. THE AUTHORITY HAS SOLE
22 ADMINISTRATIVE DISCRETION TO DETERMINE HOW BEST TO EXPEND THE
23 PORTION OF MONEYS DEPOSITED INTO THE FUND.

24 (7) (a) ANY MONEYS IN THE FUND NOT EXPENDED AT THE END OF
25 ANY FISCAL YEAR MUST REMAIN IN THE FUND AND WILL NOT BE
26 TRANSFERRED TO OR REVERT TO THE GENERAL FUND AT THE END OF ANY
27 SUCH FISCAL YEAR. ANY INTEREST EARNED ON THE INVESTMENT OR

1 DEPOSIT OF MONEYS IN THE FUND MUST REMAIN IN THE FUND AND SHALL
2 NOT BE CREDITED TO THE GENERAL FUND.

3 (b) MONEYS HELD IN THE FUND SHALL NOT BE TRANSFERRED TO
4 ANY OF THE OTHER FUNDS CREATED BY LAW IN THE AUTHORITY.

5 (c) THE AUTHORITY MAY MAKE MONEYS IN OTHER FUNDS THAT IT
6 ADMINISTERS AVAILABLE TO THE FUND.

7 (8) THE APPROVAL OF THIS SECTION BY THE REGISTERED ELECTORS
8 OF THE STATE VOTING ON THE BALLOT ISSUE AT THE GENERAL ELECTION
9 HELD IN NOVEMBER 2016 CONSTITUTES A VOTER-APPROVED REVENUE
10 CHANGE TO ALLOW THE RETENTION AND EXPENDITURE OF STATE
11 REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR
12 SPENDING.

13 (9) THE GENERAL ASSEMBLY MAY, BY DULY ENACTED
14 LEGISLATION, MODIFY ANY OF THE PROVISIONS OF THIS SECTION AS
15 CIRCUMSTANCES WARRANT, AND PARTICULARLY AS NECESSARY TO
16 FACILITATE THE MORE EFFECTIVE ADMINISTRATION OF THIS SECTION;
17 EXCEPT THAT ANY SUCH LEGISLATION SHALL NOT LIMIT OR RESTRICT THE
18 IMPOSITION OF THE TAX SPECIFIED IN SUBSECTION (2) OF THIS SECTION OR
19 THE USE OF THE MONEYS RAISED BY THE TAX FOR AFFORDABLE HOUSING
20 IN ACCORDANCE WITH THIS SECTION.

21 **SECTION 2.** Each elector voting at the election may cast a vote
22 either "Yes/For" or "No/Against" on the following ballot title: "Shall state
23 taxes be increased by \$_____ annually in the first full fiscal year and by
24 such amounts as are raised thereafter by an amendment to the Colorado
25 constitution concerning the imposition of a real estate transfer tax of
26 one-tenth of one percent of the value of real property transferred in the
27 state that will be used to finance affordable housing, and, in connection

1 therewith, allowing the revenues from the tax to be collected and spent
2 notwithstanding any limitation provided by law?"

3 **SECTION 3.** Except as otherwise provided in section 1-40-123,
4 Colorado Revised Statutes, if a majority of the electors voting on the
5 ballot title vote "Yes/For", then the amendment will become part of the
6 state constitution.