

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0564.01 Bob Lackner x4350

SENATE BILL 18-006

SENATE SPONSORSHIP

Zenzinger, Aguilar, Court, Donovan, Fenberg, Guzman, Kagan, Kefalas, Kerr, Moreno, Todd, Williams A.

HOUSE SPONSORSHIP

Winter,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF THE COUNTIES TO INCREASE THE FEE**
102 **THEY CHARGE FOR THE RECORDING OF REAL ESTATE**
103 **DOCUMENTS FOR THE PURPOSE OF FINANCING A STATEWIDE**
104 **ATTAINABLE HOUSING INVESTMENT FUND.**

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>.)

Currently, each county clerk and recorder collects a surcharge of one dollar for each document received for recording or filing in his or her office. The surcharge is in addition to any other fees permitted by statute.

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

Section 2 of the bill allows counties to impose an increased surcharge in the amount of \$5 for documents received for recording or filing on or after January 1, 2019.

In a county that has elected to collect the increased surcharge of \$5, out of each \$5 collected, the bill requires the clerk to retain one dollar to be used to defray the costs of an electronic or core filing system in accordance with existing law. The bill requires the clerk to transmit the other \$4 collected to the state treasurer, who is to credit the same to the statewide attainable housing investment fund (fund).

Section 3 creates the fund in the Colorado housing and finance authority (authority). The bill specifies the source of money to be deposited into the fund and that the authority is to administer the fund. The bill directs that, of the money transmitted to the fund by the state treasurer, on an annual basis, not less than 25% of such amount must be expended for the purpose of supporting new or existing programs that provide financial assistance to persons in households with an income of up to 80% of the area median income for the purpose of allowing such persons to finance, purchase, or rehabilitate single family residential homes as well as to provide financial assistance to any nonprofit entity and political subdivision that makes loans to persons in such households to enable such persons to finance, purchase, or rehabilitate single family residential homes.

Section 3 also requires the authority to submit a report, no later than June 1 of each year, specifying the use of the fund during the prior calendar year to the governor and to the senate and house finance committees.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) Since 2000, the state's need for attainable housing in all
5 geographic regions has grown exponentially. Among other effects, the
6 immense demand for attainable housing is a huge impediment to
7 economic growth and opportunity within the state and the ability of the
8 state to provide a high quality of life for all its residents and to develop,
9 attract, and maintain a high quality workforce.

10 (b) A significant segment of the state's population, including many

1 of the state's teachers, emergency responders, nurses, and small business
2 owners and employees, the so-called "missing middle", earn too much on
3 an annual basis to qualify for most federal and state housing assistance
4 programs but do not make enough in yearly income to qualify for
5 conventional private sector assistance that also promotes home
6 ownership, particularly home ownership that is in close proximity to these
7 workers' places of employment.

8 (c) While conscious and supportive of programs that assist
9 persons in households with low and very-low incomes to obtain attainable
10 housing, by enacting this act the general assembly intends to assist
11 members of the missing middle to obtain attainable housing or housing
12 that is targeted to persons in households with incomes that are up to
13 eighty percent of the area median income.

14 (d) By authorizing a county to increase the documentary fee it
15 imposes for the recording of real estate documents for the purpose of
16 helping to fund a statewide attainable housing investment fund, the
17 general assembly intends that a significant portion of revenue that may be
18 increased through this voluntary increase in this fee imposed by the
19 counties be directed toward assisting persons in households with an
20 income that is up to eighty percent of the area median income for the
21 purpose of allowing such persons in such households to finance,
22 purchase, or rehabilitate single family residential homes.

23 (2) The general assembly further intends that this act be liberally
24 construed to achieve the purpose of filling and safeguarding the basic
25 housing needs of this critical segment of the state's population.

26 **SECTION 2.** In Colorado Revised Statutes, 30-10-421, **amend**
27 (1)(b); and **add** (1)(b.5) as follows:

1 **30-10-421. Filing surcharge - definitions.** (1) (b) EXCEPT AS
2 OTHERWISE PROVIDED IN SUBSECTION (1)(b.5) OF THIS SECTION, beginning
3 July 1, 2004, and through December 31, 2026, the county clerk and
4 recorder shall collect a surcharge of one dollar for each document
5 received for recording or filing in his or her office. The surcharge ~~shall~~
6 ~~be~~ IS in addition to any other fees permitted by statute.

7 (b.5) (I) BEGINNING JANUARY 1, 2019, THE COUNTY CLERK AND
8 RECORDER MAY COLLECT A SURCHARGE OF FIVE DOLLARS FOR EACH
9 DOCUMENT RECEIVED FOR RECORDING OR FILING IN HIS OR HER OFFICE.
10 THE SURCHARGE IS IN ADDITION TO ANY OTHER FEES PERMITTED BY
11 STATUTE.

12 (II) IN A COUNTY THAT HAS ELECTED TO COLLECT A SURCHARGE
13 OF FIVE DOLLARS FOR EACH DOCUMENT RECEIVED FOR RECORDING OR
14 FILING IN ACCORDANCE WITH SUBSECTION (1)(b.5)(I) OF THIS SECTION,
15 THE CLERK SHALL RETAIN ONE DOLLAR TO BE USED TO DEFRAY THE COSTS
16 OF THE ITEMS SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION. THE
17 CLERK SHALL TRANSMIT THE OTHER FOUR DOLLARS COLLECTED AT LEAST
18 ONCE EACH MONTH TO THE STATE TREASURER, WHO SHALL CREDIT THE
19 SAME TO THE STATEWIDE ATTAINABLE HOUSING INVESTMENT FUND
20 CREATED IN SECTION 29-4-736 (1).

21 **SECTION 3.** In Colorado Revised Statutes, **add** 29-4-736 as
22 follows:

23 **29-4-736. Statewide attainable housing investment fund -**
24 **creation - uses of money - definition.** (1) THERE IS HEREBY CREATED IN
25 THE AUTHORITY THE STATEWIDE ATTAINABLE HOUSING INVESTMENT
26 FUND, REFERRED TO IN THIS SECTION AS THE "FUND", WHICH FUND IS
27 ADMINISTERED BY THE AUTHORITY. THE AUTHORITY SHALL DEPOSIT INTO

1 THE FUND:

2 (a) ALL MONEY TRANSMITTED TO IT BY THE STATE TREASURER
3 PURSUANT TO SECTION 30-10-421 (1)(b.5)(II);

4 (b) ANY MONEY MADE AVAILABLE BY THE STATE FOR THE
5 PURPOSES OF THE FUND; AND

6 (c) ANY MONEY THAT IS MADE AVAILABLE BY OR TO THE
7 AUTHORITY FROM ANY OTHER SOURCES FOR THE PURPOSE OF THE FUND.

8 (2) OF THE MONEY TRANSMITTED TO THE FUND BY THE STATE
9 TREASURER IN ACCORDANCE WITH SECTION 30-10-421 (1)(b.5)(II), ON AN
10 ANNUAL BASIS, NOT LESS THAN TWENTY-FIVE PERCENT OF SUCH AMOUNT
11 MUST BE EXPENDED FOR THE PURPOSE OF SUPPORTING NEW OR EXISTING
12 PROGRAMS THAT PROVIDE FINANCIAL ASSISTANCE TO PERSONS IN
13 HOUSEHOLDS WITH AN INCOME OF UP TO EIGHTY PERCENT OF THE AREA
14 MEDIAN INCOME FOR THE PURPOSE OF ALLOWING SUCH PERSONS IN SUCH
15 HOUSEHOLDS TO FINANCE, PURCHASE, OR REHABILITATE SINGLE FAMILY
16 RESIDENTIAL HOMES AS WELL AS TO PROVIDE FINANCIAL ASSISTANCE TO
17 ANY NONPROFIT ENTITY AND POLITICAL SUBDIVISION THAT MAKES LOANS
18 TO PERSONS IN SUCH HOUSEHOLDS TO ENABLE PERSONS IN SUCH
19 HOUSEHOLDS TO FINANCE, PURCHASE, OR REHABILITATE SINGLE FAMILY
20 RESIDENTIAL HOMES.

21 (3) AS USED IN THIS SECTION, "AREA MEDIAN INCOME" IS
22 DETERMINED IN ACCORDANCE WITH GUIDELINES OR OTHER STANDARDS
23 PROMULGATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
24 URBAN DEVELOPMENT.

25 (4) NEW OR EXISTING PROGRAMS SUPPORTED BY THE FUND THAT
26 ARE DESCRIBED IN SUBSECTION (2) OF THIS SECTION ARE ADMINISTERED
27 BY THE AUTHORITY. THE AUTHORITY HAS SOLE ADMINISTRATIVE

1 DISCRETION TO DETERMINE HOW BEST TO EXPEND THE PORTION OF MONEY
2 DEPOSITED INTO THE FUND THAT SUPPORTS THE PROGRAMS THAT IT
3 ADMINISTERS PURSUANT TO THIS SUBSECTION (4).

4 (5) ANY MONEY IN THE FUND NOT EXPENDED AT THE END OF ANY
5 FISCAL YEAR MUST REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED
6 TO OR REVERT TO THE GENERAL FUND AT THE END OF ANY SUCH FISCAL
7 YEAR. ANY INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEY
8 IN THE FUND MUST REMAIN IN THE FUND AND SHALL NOT BE CREDITED TO
9 THE GENERAL FUND.

10 (6) MONEY HELD IN THE FUND SHALL NOT BE TRANSFERRED TO
11 ANY OF THE OTHER FUNDS CREATED IN THE AUTHORITY PURSUANT TO THIS
12 PART 7.

13 (7) THE AUTHORITY SHALL UNDERTAKE ANY MEANS THAT THE
14 AUTHORITY FINDS EFFECTIVE, INCLUDING BUT NOT LIMITED TO POSTING
15 NOTIFICATIONS ON ITS WEBSITE, TO ADVISE COUNTIES OF THEIR
16 AUTHORITY TO INCREASE THE DOCUMENTARY FEE THEY IMPOSE FOR THE
17 RECORDING OF REAL ESTATE DOCUMENTS FOR THE PURPOSE OF HELPING
18 TO FINANCE THE FUND AS PROVIDED BY SECTION 30-10-421 (1)(b.5)(I)
19 AND THIS SECTION.

20 (8) NOT LATER THAN JUNE 1, 2020, AND NOT LATER THAN JUNE 1
21 OF EACH YEAR THEREAFTER, THE AUTHORITY SHALL SUBMIT A REPORT
22 SPECIFYING THE USE OF THE FUND DURING THE PRIOR CALENDAR YEAR TO
23 THE GOVERNOR AND TO THE FINANCE COMMITTEES OF THE SENATE AND
24 HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES.

25 **SECTION 4. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2018 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.