A BILL FOR AN ACT

CONCERNING THE ABILITY OF THE COUNTIES TO INCREASE THE FEE THEY CHARGE FOR THE RECORDING OF REAL ESTATE DOCUMENTS FOR THE PURPOSE OF FINANCING A STATEWIDE 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.
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.

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

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

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

(b) A significant segment of the state's population, including many
of the state's teachers, emergency responders, nurses, and small business
owners and employees, the so-called "missing middle", earn too much on
an annual basis to qualify for most federal and state housing assistance
programs but do not make enough in yearly income to qualify for
conventional private sector assistance that also promotes home
ownership, particularly home ownership that is in close proximity to these
workers' places of employment.

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

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

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

SECTION 2. In Colorado Revised Statutes, 30-10-421, amend
(1)(b); and add (1)(b.5) as follows:
30-10-421. Filing surcharge - definitions. (1) (b) Except as otherwise provided in subsection (1)(b.5) of this section, beginning July 1, 2004, and through December 31, 2026, the county clerk and recorder shall collect a surcharge of one dollar for each document received for recording or filing in his or her office. The surcharge shall be in addition to any other fees permitted by statute.

(b.5) (I) Beginning January 1, 2019, the county clerk and recorder may collect a surcharge of five dollars 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.

(II) In a county that has elected to collect a surcharge of five dollars for each document received for recording or filing in accordance with subsection (1)(b.5)(I) of this section, the clerk shall retain one dollar to be used to defray the costs of the items specified in subsection (3)(b) of this section. The clerk shall transmit the other four dollars collected at least once each month to the state treasurer, who shall credit the same to the statewide attainable housing investment fund created in section 29-4-736 (1).

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

29-4-736. Statewide attainable housing investment fund - creation - uses of money - definition. (1) There is hereby created in the authority the statewide attainable housing investment fund, referred to in this section as the "fund", which fund is administered by the authority. The authority shall deposit into
THE FUND:

(a) All money transmitted to it by the state treasurer pursuant to section 30-10-421 (1)(b.5)(II);

(b) Any money made available by the state for the purposes of the fund; and

(c) Any money that is made available by or to the authority from any other sources for the purpose of the fund.

(2) Of the money transmitted to the fund by the state treasurer in accordance with section 30-10-421 (1)(b.5)(II), on an annual basis, not less than twenty-five percent 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 eighty percent of the area median income for the purpose of allowing such persons in such households 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 persons in such households to finance, purchase, or rehabilitate single family residential homes.

(3) As used in this section, "area median income" is determined in accordance with guidelines or other standards promulgated by the United States department of housing and urban development.

(4) New or existing programs supported by the fund that are described in subsection (2) of this section are administered by the authority. The authority has sole administrative
DISCRETION TO DETERMINE HOW BEST TO EXPEND THE PORTION OF MONEY DEPOSITED INTO THE FUND THAT SUPPORTS THE PROGRAMS THAT IT ADMINISTERS PURSUANT TO THIS SUBSECTION (4).

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

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

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

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

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August
8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.