

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0795.01 Bob Lackner x4350

HOUSE BILL 18-1195

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HOUSE SPONSORSHIP

**Pabon**, Landgraf

SENATE SPONSORSHIP

**Tate**, Gardner, Scott

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**House Committees**

Finance  
Appropriations

**Senate Committees**

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A BILL FOR AN ACT

101 CONCERNING THE CREATION OF A CREDIT AGAINST THE STATE INCOME  
102 TAX TO PROMOTE CONTRIBUTIONS TO NONPROFIT  
103 ORGANIZATIONS ENGAGED IN THE DEVELOPMENT OF  
104 AFFORDABLE HOUSING FOR HOME OWNERSHIP.

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**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>.)*

For income tax years commencing on or after January 1, 2019, but prior to January 1, 2030, the bill creates a state income tax credit for a donation of cash or securities a taxpayer makes to an eligible developer

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.

to be used solely for the costs associated with an eligible project.

The bill defines "eligible developer" to mean, in part, a nonprofit community-based home ownership development organization that satisfies specified requirements relating to its background in the field of housing development and is developing or plans to develop the eligible project that is or will be receiving the donations for which the tax credits may be claimed. The bill defines "eligible project" to mean the development of new residential housing for home ownership consisting of one or more residential units constructed for sale to a buyer whose median income is 120% or less of the area median income and for which each unit sold is to be preserved as affordable housing by means of a specified deed restriction. In order to be designated as an eligible developer authorized to accept donations, a nonprofit community-based home ownership development organization must satisfy certain criteria as created and evaluated by the Colorado housing and finance authority (authority).

The amount of the credit allowed by the bill is 50% of the amount of the money or the value of the securities donated to the eligible developer as documented in a form and manner acceptable to the department of revenue (department); except that the aggregate amount of the credit awarded to any one taxpayer under the bill is limited to \$250,000 in any one income tax year.

The aggregate amount of tax credits certified is limited to \$20 million for each of the January 1, 2020, through the January 1, 2029, tax years.

If the amount of the credit allowed exceeds the amount of the taxpayer's income tax liability in the income tax year for which the credit is being claimed, the amount of the credit not used as an offset against income taxes in such income tax year is not allowed as a refund but may be carried forward and applied against the income tax due in each of the 5 succeeding income tax years, but must first be applied against the income tax due for the earliest of the income tax years possible.

A tax credit allowed by the bill is neither transferable nor assignable to any other taxpayer.

In order to claim the credit, the donation the taxpayer provides to obtain the credit must be accepted by the eligible developer to whom it has been given and certified by the authority. The authority is required to certify each donation. The authority completes certification by providing a certificate to the taxpayer in a format acceptable to the department evidencing that the certification requirements of the bill have been met. The authority is permitted to charge and collect an administrative fee from each applicant to recover program administration costs and expenses.

A taxpayer claiming the credit must submit, maintain, and record any information that the department may require by rule regarding the

taxpayer's donation to the eligible developer, including the certificate received from the authority. A taxpayer is required to electronically file with the department the certificate the taxpayer receives from the authority.

The tax credit is repealed, effective July 1, 2040.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-539 as  
3 follows:

4 **39-22-539. Credit for the donation of money or securities to**  
5 **eligible developers that create affordable housing - rules - legislative**  
6 **declaration - definitions - repeal.** (1) THE GENERAL ASSEMBLY FINDS,  
7 DETERMINES, AND DECLARES THAT:

8 (a) SINCE 2000, THE STATE'S NEED FOR AFFORDABLE HOUSING IN  
9 ALL GEOGRAPHIC REGIONS HAS GROWN EXPONENTIALLY. AMONG OTHER  
10 EFFECTS, THE IMMENSE DEMAND FOR AFFORDABLE HOUSING IS A HUGE  
11 IMPEDIMENT TO ECONOMIC GROWTH AND OPPORTUNITY WITHIN THE STATE  
12 AND THE ABILITY OF THE STATE TO PROVIDE A HIGH-QUALITY LIFE FOR ALL  
13 ITS RESIDENTS AND TO DEVELOP, ATTRACT, AND MAINTAIN A  
14 HIGH-QUALITY WORKFORCE.

15 (b) BY ENACTING THE TAX CREDIT CREATED IN THIS SECTION, THE  
16 GENERAL ASSEMBLY INTENDS TO PROVIDE CERTAIN FINANCIAL INCENTIVES  
17 TO ENCOURAGE THE DONATION OF MONEY AND SECURITIES TO ELIGIBLE  
18 DEVELOPERS WHOSE MISSION IS CONCENTRATED ON CONSTRUCTING  
19 AFFORDABLE HOUSING FOR HOME OWNERSHIP FOR THE PURPOSE OF  
20 EXPANDING THE SUPPLY OF SUCH HOUSING ACROSS THE STATE.

21 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
22 REQUIRES:

23 (a) "AFFORDABLE HOUSING" MEANS HOUSING THAT IS DESIGNED

1 TO BE AFFORDABLE FOR HOUSEHOLDS WITH AN INCOME THAT IS ONE  
2 HUNDRED TWENTY PERCENT OR LESS OF THE AREA MEDIAN INCOME FOR  
3 HOME OWNERSHIP.

4 (b) "AREA MEDIAN INCOME" MEANS HOUSEHOLD INCOME THAT IS  
5 ADJUSTED FOR A FAMILY SIZE THAT IS DETERMINED IN ACCORDANCE WITH  
6 GUIDELINES OR OTHER STANDARDS PROMULGATED BY THE UNITED STATES  
7 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

8 (c) "AUTHORITY" MEANS THE COLORADO HOUSING AND FINANCE  
9 AUTHORITY CREATED IN SECTION 29-4-704 (1).

10 (d) "CERTIFICATE" MEANS A DOCUMENT ISSUED BY THE  
11 AUTHORITY IN A FORMAT ACCEPTABLE TO THE DEPARTMENT EVIDENCING  
12 A DONATION RECEIVED TO SUPPORT AN ELIGIBLE PROJECT.

13 (e) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ANY  
14 SUCCESSOR ENTITY.

15 (f) "DONATION" MEANS CASH OR SECURITIES DONATED BY A  
16 TAXPAYER TO AN ELIGIBLE DEVELOPER THAT ARE USED SOLELY FOR OR  
17 ASSOCIATED WITH AN ELIGIBLE PROJECT IN ORDER TO OBTAIN THE CREDIT  
18 ALLOWED BY THIS SECTION.

19 (g) "ELIGIBLE DEVELOPER" MEANS A NONPROFIT  
20 COMMUNITY-BASED HOME OWNERSHIP DEVELOPMENT ORGANIZATION  
21 THAT:

22 (I) IS ORGANIZED UNDER 26 U.S.C. SEC. 501 (c)(3);

23 (II) IS OPERATING IN GOOD STANDING IN THE STATE;

24 (III) HAS A THREE-YEAR HISTORY OF DEVELOPING HOUSING SOLD  
25 TO PERSONS IN HOUSEHOLDS WITH AN INCOME THAT IS ONE HUNDRED  
26 TWENTY PERCENT OR LESS OF THE AREA MEDIAN INCOME FOR HOME  
27 OWNERSHIP;

1 (IV) HAS SOLD AT LEAST ONE SINGLE FAMILY RESIDENTIAL HOME  
2 OVER THE MOST RECENT THREE-YEAR PERIOD;

3 (V) IS GOVERNED BY THE BYLAWS, WHICH STATE AMONG THE  
4 ORGANIZATION'S PURPOSES THE DEVELOPMENT OF AFFORDABLE HOUSING;  
5 AND

6 (VI) IS DEVELOPING OR PLANS TO DEVELOP AN ELIGIBLE PROJECT  
7 THAT IS OR WILL BE RECEIVING THE DONATIONS FOR WHICH TAX CREDITS  
8 MAY BE CLAIMED UNDER THIS SECTION.

9 (h) "ELIGIBLE PROJECT" MEANS THE DEVELOPMENT OF NEW  
10 RESIDENTIAL HOUSING FOR HOME OWNERSHIP CONSISTING OF ONE OR  
11 MORE RESIDENTIAL UNITS CONSTRUCTED FOR SALE TO A BUYER WHOSE  
12 MEDIAN INCOME IS UP TO ONE HUNDRED TWENTY PERCENT OF THE AREA  
13 MEDIAN INCOME AND FOR WHICH EACH UNIT SOLD IS TO BE PRESERVED AS  
14 AFFORDABLE HOUSING FOR A MINIMUM OF FIFTEEN YEARS BY MEANS OF A  
15 DEED RESTRICTION.

16 (i) "TAXPAYER" MEANS A PERSON MAKING A DONATION WHO FILES  
17 AN INCOME TAX RETURN UNDER THIS ARTICLE 22.

18 (3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
19 JANUARY 1, 2019, BUT PRIOR TO JANUARY 1, 2030, THERE SHALL BE  
20 ALLOWED FOR ANY TAXPAYER A CREDIT AGAINST THE INCOME TAXES  
21 IMPOSED BY THIS ARTICLE 22 FOR A DONATION THE TAXPAYER MAKES TO  
22 AN ELIGIBLE DEVELOPER TO BE USED SOLELY FOR THE COSTS ASSOCIATED  
23 WITH AN ELIGIBLE PROJECT.

24 (b) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION IS  
25 FIFTY PERCENT OF THE AMOUNT OF THE MONEY OR THE VALUE OF THE  
26 SECURITIES DONATED TO THE ELIGIBLE DEVELOPER AS DOCUMENTED IN A  
27 FORM AND MANNER ACCEPTABLE TO THE DEPARTMENT; EXCEPT THAT THE

1 AGGREGATE AMOUNT OF THE CREDIT AWARDED TO ANY ONE TAXPAYER  
2 UNDER THIS SECTION SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND  
3 DOLLARS IN ANY ONE INCOME TAX YEAR.

4 (c) IN ORDER TO BE DESIGNATED AS AN ELIGIBLE DEVELOPER  
5 AUTHORIZED TO ACCEPT DONATIONS UNDER THIS SECTION, AN ELIGIBLE  
6 DEVELOPER MUST SATISFY SUCH FURTHER CRITERIA AS CREATED AND  
7 EVALUATED BY THE AUTHORITY IN ADDITION TO SATISFYING THE  
8 REQUIREMENTS OF THIS SECTION.

9 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
10 THE AGGREGATE AMOUNT OF TAX CREDITS CERTIFIED UNDER SUBSECTION  
11 (6) OF THIS SECTION SHALL NOT EXCEED TWENTY MILLION DOLLARS FOR  
12 EACH TAX YEAR BEGINNING JANUARY 1, 2020, THROUGH THE TAX YEAR  
13 BEGINNING JANUARY 1, 2029.

14 (5) (a) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO  
15 THIS SECTION EXCEEDS THE AMOUNT OF THE INCOME TAX OTHERWISE DUE  
16 ON THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE  
17 CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN  
18 OFFSET AGAINST INCOME TAXES IN SUCH INCOME TAX YEAR IS NOT  
19 ALLOWED AS A REFUND BUT MAY BE CARRIED FORWARD AND APPLIED  
20 AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME  
21 TAX YEARS, BUT MUST FIRST BE APPLIED AGAINST THE INCOME TAX DUE  
22 FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.

23 (b) A TAX CREDIT ALLOWED BY THIS SECTION IS NEITHER  
24 TRANSFERABLE NOR ASSIGNABLE TO ANY OTHER TAXPAYER.

25 (6) IN ORDER TO CLAIM THE CREDIT MADE AVAILABLE BY THIS  
26 SECTION, THE DONATION THE TAXPAYER PROVIDES TO OBTAIN THE CREDIT  
27 MUST BE ACCEPTED BY THE ELIGIBLE DEVELOPER TO WHOM IT HAS BEEN

1 GIVEN AND CERTIFIED BY THE AUTHORITY. THE AUTHORITY SHALL  
2 CERTIFY EACH DONATION TO ENSURE THAT IT IS BEING MADE TO AN  
3 ELIGIBLE DEVELOPER TO BE USED SOLELY FOR THE COSTS ASSOCIATED  
4 WITH AN ELIGIBLE PROJECT. THE AUTHORITY COMPLETES CERTIFICATION  
5 BY PROVIDING A CERTIFICATE TO THE TAXPAYER IN A FORMAT  
6 ACCEPTABLE TO THE DEPARTMENT EVIDENCING THAT THE REQUIREMENTS  
7 OF THIS SECTION PERTAINING TO CERTIFICATION HAVE BEEN MET. THE  
8 CERTIFICATE MUST STATE THE EFFECTIVE DATE OF THE DONATION. THE  
9 AUTHORITY MAY CHARGE AND COLLECT AN ADMINISTRATIVE FEE FROM  
10 EACH APPLICANT TO RECOVER PROGRAM ADMINISTRATION COSTS AND  
11 EXPENSES.

12 (7) (a) A TAXPAYER CLAIMING THE CREDIT ALLOWED BY THIS  
13 SECTION SHALL SUBMIT, MAINTAIN, AND RECORD ANY INFORMATION THAT  
14 THE DEPARTMENT MAY REQUIRE BY RULE REGARDING THE TAXPAYER'S  
15 DONATION TO THE ELIGIBLE DEVELOPER, INCLUDING THE CERTIFICATE  
16 RECEIVED FROM THE AUTHORITY EVIDENCING THAT THE DONATION HAS  
17 BEEN RECEIVED AND SATISFIES THE REQUIREMENTS OF THIS SECTION. A  
18 TAXPAYER SHALL ELECTRONICALLY FILE WITH THE DEPARTMENT THE  
19 CERTIFICATE THE TAXPAYER RECEIVES FROM THE AUTHORITY.

20 (b) THE ELIGIBLE DEVELOPER RECEIVING THE DONATION SHALL  
21 SUBMIT AND MAINTAIN SUCH RECORDS AS REQUIRED BY THE DEPARTMENT  
22 THAT ENSURE THAT DONATIONS ARE BEING MADE UNDER THIS SECTION TO  
23 PROMOTE THE CONSTRUCTION OF AFFORDABLE HOUSING FOR HOME  
24 OWNERSHIP THAT WILL FACILITATE THE PURPOSES OF THIS SECTION.

25 (8) THE DEPARTMENT MAY RECAPTURE TAX CREDITS PROVIDED TO  
26 A TAXPAYER IF THE AUTHORITY IS UNABLE TO DOCUMENT OR VALIDATE  
27 COMPLETION OF THE ELIGIBLE PROJECT WITHIN FIVE YEARS OF THE

1 EFFECTIVE DATE OF THE DONATION BEING CERTIFIED.

2 (9) THE DEPARTMENT SHALL PROMULGATE, IN ACCORDANCE WITH  
3 ARTICLE 4 OF TITLE 24, ANY RULES NECESSARY TO FACILITATE THE  
4 EFFECTIVE IMPLEMENTATION OF THIS SECTION.

5 (10) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A  
6 TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION FOR A  
7 DONATION FOR WHICH THE TAXPAYER IS CLAIMING ANY OTHER STATE TAX  
8 CREDIT OR DEDUCTION.

9 (11) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2040.

10 **SECTION 2. Act subject to petition - effective date.** This act  
11 takes effect at 12:01 a.m. on the day following the expiration of the  
12 ninety-day period after final adjournment of the general assembly (August  
13 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
14 referendum petition is filed pursuant to section 1 (3) of article V of the  
15 state constitution against this act or an item, section, or part of this act  
16 within such period, then the act, item, section, or part will not take effect  
17 unless approved by the people at the general election to be held in  
18 November 2018 and, in such case, will take effect on the date of the  
19 official declaration of the vote thereon by the governor.