

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 23-035

BY SENATOR(S) Bridges and Moreno, Exum, Hinrichsen, Marchman; also REPRESENTATIVE(S) Herod and Joseph, Amabile, Bacon, Bird, Boesenecker, Brown, Dickson, English, Epps, Froelich, Hamrick, Jodeh, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Martinez, Mauro, McCormick, McLachlan, Michaelson Jenet, Ortiz, Ricks, Sharbini, Snyder, Titone, Valdez, Vigil, Willford, Woodrow, Young, McCluskie.

CONCERNING THE OPERATION OF THE MIDDLE-INCOME HOUSING AUTHORITY, AND, IN CONNECTION THEREWITH, ADDING MEMBERS TO THE BOARD OF DIRECTORS, EXPANDING THE POWER OF THE AUTHORITY TO ENTER INTO PUBLIC-PRIVATE PARTNERSHIPS, AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 29-4-1102, **amend** (1)(g) and (1)(h); and **add** (1)(i) as follows:

29-4-1102. Legislative declaration. (1) The general assembly finds and declares that:

(g) The authority's housing units will remain affordable with stable

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

rents because they will be owned by the authority and operated by experienced and competent operators at the authority's direction, in perpetuity; and

(h) Increasing affordable rental workforce housing through the activities of the authority and the exercise of its plenary powers pursuant to this part 11 is in the public interest and is a matter of statewide concern. The activities of the authority will comply with fair housing laws and promote a substantial, legitimate, and nondiscriminatory interest of the state that cannot be served by another practice that has a less discriminatory effect; AND

(i) A PUBLIC-PRIVATE PARTNERSHIP ENTERED INTO BY THE AUTHORITY IN CONNECTION WITH AN AFFORDABLE RENTAL HOUSING PROJECT OR IN CONNECTION WITH PROVIDING HOUSING ASSISTANCE TO TENANTS OF AN AFFORDABLE RENTAL HOUSING PROJECT IN ACCORDANCE WITH THIS PART 11 SERVES A PUBLIC PURPOSE AND DOES NOT, THEREFORE, VIOLATE SECTION 2 OF ARTICLE XI OF THE STATE CONSTITUTION.

SECTION 2. In Colorado Revised Statutes, 29-4-1103, **amend** (1); and **add** (1.5) and (8) as follows:

29-4-1103. Definitions. As used in this part 11, unless the context otherwise requires:

~~(1) (a) "Affordable rental housing project" means real property that has the primary purpose of providing rental housing for middle-income individuals and families, which property is selected by the authority and owned by the authority in accordance with the provisions set forth in section 29-4-1107.~~

~~(b) An "affordable rental housing project" may include commercial space if the board determines that the commercial space is incidental to the housing component of the project. "AFFORDABLE RENTAL HOUSING COMPONENT" MEANS THE PROPERTY AND ACTIVITIES INCLUDED IN A PUBLIC-PRIVATE PARTNERSHIP THAT ARE PART OF AN AFFORDABLE RENTAL HOUSING PROJECT OR ARE RELATED TO PROVIDING HOUSING ASSISTANCE TO TENANTS OF AN AFFORDABLE RENTAL HOUSING PROJECT.~~

(1.5) (a) "AFFORDABLE RENTAL HOUSING PROJECT" MEANS

PROPERTY THAT HAS THE PRIMARY PURPOSE OF PROVIDING RENTAL HOUSING FOR MIDDLE-INCOME INDIVIDUALS AND FAMILIES, WHICH PROPERTY IS SELECTED BY THE AUTHORITY IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN SECTION 29-4-1107 AND IS OWNED BY THE AUTHORITY OR IS OWNED AND OPERATED PURSUANT TO A PUBLIC-PRIVATE PARTNERSHIP.

(b) AN "AFFORDABLE RENTAL HOUSING PROJECT" MAY INCLUDE COMMERCIAL SPACE IF THE BOARD DETERMINES THAT THE COMMERCIAL SPACE IS INCIDENTAL TO THE HOUSING COMPONENT OF THE PROJECT.

(8) "PUBLIC-PRIVATE PARTNERSHIP" MEANS A CONTRACT OR AGREEMENT BETWEEN THE AUTHORITY AND ONE OR MORE PUBLIC OR PRIVATE ENTITIES OR PERSONS TO WORK TOGETHER TO ACQUIRE, CONSTRUCT, FINANCE, OR OPERATE AN AFFORDABLE RENTAL HOUSING PROJECT AND TO ALLOCATE OBLIGATIONS, INTERESTS, RIGHTS, AND REVENUES TO, IN, AND FROM THE AFFORDABLE RENTAL HOUSING PROJECT AMONG THE PARTIES TO THE CONTRACT OR AGREEMENT. A "PUBLIC-PRIVATE PARTNERSHIP" MAY INCLUDE AN AGREEMENT TO WORK TOGETHER TO ACQUIRE, CONSTRUCT, FINANCE, OR OPERATE COMMERCIAL PROPERTY IN CONNECTION WITH THE AFFORDABLE RENTAL HOUSING PROJECT, AS PERMITTED IN SUBSECTION (1.5)(b) OF THIS SECTION, AND TO ALLOCATE OBLIGATIONS, INTERESTS, RIGHTS, AND REVENUES TO, IN, AND FROM THE COMMERCIAL PROPERTY AMONG THE PARTIES TO THE AGREEMENT OR CONTRACT AND MAY INCLUDE AN AGREEMENT TO PROVIDE HOUSING ASSISTANCE TO THE TENANTS OF AN AFFORDABLE RENTAL HOUSING PROJECT.

SECTION 3. In Colorado Revised Statutes, 29-4-1104, **amend** (2)(b), (3), (12)(a), and (12)(b); and **add** (2)(d.5) and (12)(d) as follows:

29-4-1104. Middle-income housing authority - creation - board of directors - meetings - records - tax exempt - audit - report.
(2) (b) The board consists of ~~fourteen~~ SIXTEEN persons, INCLUDING TWO NONVOTING MEMBERS PURSUANT TO SUBSECTION (2)(d.5) OF THIS SECTION.

(d.5) IN ADDITION TO THE APPOINTMENTS SET FORTH IN SUBSECTIONS (2)(c) AND (2)(d) OF THIS SECTION, THE SENATE MAJORITY LEADER AND THE HOUSE MAJORITY LEADER SHALL EACH APPOINT A REPRESENTATIVE FROM THE GENERAL ASSEMBLY FROM THEIR RESPECTIVE CHAMBERS TO BE NONVOTING BOARD MEMBERS; EXCEPT THAT, IF THE SENATE MAJORITY LEADER AND THE HOUSE MAJORITY LEADER ARE FROM THE SAME POLITICAL

PARTY, THEN THE SENATE MAJORITY LEADER AND THE HOUSE MINORITY LEADER SHALL EACH APPOINT THE REPRESENTATIVE FROM THEIR RESPECTIVE CHAMBERS.

(3) (a) The governor shall make initial appointments of board members in accordance with subsection (2)(b) of this section on or before September 1, 2022, and shall appoint one of the members to serve as the initial chairperson. The initial chairperson has the authority to establish and administer matters related to the initial set up of the authority, including staffing, legal services, or to coordinate with the office of economic development, created in section 24-48.5-101 (1), or the department of local affairs, created in section 24-1-125 (1), on administrative matters and other matters related to the initial set up and operation of the authority, which contracts shall be for a term of no longer than one year from September 1, 2022, and shall be ratified by the board at its initial meeting set forth in subsection (4)(a) of this section.

(b) The authority may hire staff as it deems necessary or convenient to administer this part 11, and the office of economic development or the department of local affairs may assist the authority with administering this part 11. The authority may cooperate and enter into contracts with the office of economic development or the department of local affairs, or with another agency or entity, for administrative or operations matters, including for staffing. The authority shall pay the office of economic development, the department of local affairs, or another agency or entity that the authority has entered into a contract with for all costs incurred for services, staffing, and administrative costs that are approved by the initial chairperson and ratified by the board or that are approved by the authority. NOTHING IN THIS PART 11 PRECLUDES THE AUTHORITY FROM HIRING STAFF AND ENTERING INTO CONTRACTS CONCURRENTLY AS THE AUTHORITY DEEMS NECESSARY OR CONVENIENT FOR ADMINISTRATION OR OPERATIONS MATTERS.

(12) (a) The income and revenue of the authority, all property at any time owned by the authority, THE AFFORDABLE RENTAL HOUSING COMPONENT OF PROPERTY IN A PUBLIC-PRIVATE PARTNERSHIP, all bonds issued by the authority, the interest on and other income from such bonds, and the transfer of such bonds are exempt from income taxation, real and personal property taxation, and all other taxation and assessments in the state. The purchase and use of property by or for the benefit of the authority AND THE PURCHASE AND USE OF PROPERTY THAT IS THE AFFORDABLE

RENTAL HOUSING COMPONENT OF A PUBLIC-PRIVATE PARTNERSHIP are exempt from sales and use taxes imposed by the state, a county, a city and county, a city, any other political subdivision of the state, or local government entity. In the resolution or indenture authorizing bonds, the authority may waive the exemption from federal income taxation for interest on the bonds. The authority may agree to make payments in lieu of property or sales and use taxes to the state, a county, a city and county, a city, any political subdivision of the state, or local government entity.

(b) Property sold by the authority or otherwise not owned by the authority, a controlled entity, or other governmental entity exempt from taxation AND PROPERTY THAT IS NOT THE AFFORDABLE RENTAL HOUSING COMPONENT IN A PUBLIC-PRIVATE PARTNERSHIP shall be subject to all taxation and assessments imposed by the state, a city, a county, a city and county, any other political subdivision of the state, or a local governmental entity.

(d) (I) WITHIN TWO WEEKS OF THE AUTHORITY ACQUIRING AN AFFORDABLE RENTAL HOUSING PROJECT THAT IS TAX EXEMPT PURSUANT TO SUBSECTION (12)(a) OF THIS SECTION OR ENTERING INTO A PUBLIC-PRIVATE PARTNERSHIP THROUGH WHICH THE AFFORDABLE RENTAL HOUSING COMPONENT IS TAX EXEMPT PURSUANT TO SUBSECTION (12)(a) OF THIS SECTION, THE AUTHORITY SHALL PROVIDE NOTICE OF THE ACQUISITION OR OF THE PUBLIC-PRIVATE PARTNERSHIP TO THE COUNTY ASSESSOR IN THE COUNTY IN WHICH THE AFFORDABLE RENTAL HOUSING PROJECT IS LOCATED. THE NOTICE MUST INCLUDE THE PROPERTY ADDRESS, THE ASSESSOR'S PARCEL IDENTIFICATION NUMBER FOR THE PROPERTY, AND THE DATE ON WHICH THE PROPERTY WAS ACQUIRED BY THE AUTHORITY AND BECAME TAX EXEMPT OR THE DATE ON WHICH THE AUTHORITY ENTERED INTO THE PUBLIC-PRIVATE PARTNERSHIP AND THE AFFORDABLE RENTAL HOUSING COMPONENT OF THE PROPERTY BECAME TAX EXEMPT. IF THE AUTHORITY IS PROVIDING NOTICE PURSUANT TO THIS SUBSECTION (12)(d)(I) BECAUSE IT HAS ENTERED INTO A PUBLIC-PRIVATE PARTNERSHIP, THE AUTHORITY SHALL ALSO PROVIDE A COPY OF THE CONTRACT OR AGREEMENT FOR THE PUBLIC-PRIVATE PARTNERSHIP WITH THE NOTICE.

(II) ON OR BEFORE JANUARY 15 OF EACH YEAR, THE AUTHORITY SHALL SUBMIT A COMPREHENSIVE LIST OF ALL AFFORDABLE RENTAL HOUSING PROJECTS THAT ARE TAX EXEMPT PURSUANT TO SUBSECTION (12)(a) OF THIS SECTION TO EACH COUNTY ASSESSOR IN THE COUNTIES IN

WHICH THE AFFORDABLE RENTAL HOUSING PROJECTS ARE LOCATED. THE LIST MUST INCLUDE FOR EACH AFFORDABLE RENTAL HOUSING PROJECT, THE PROPERTY ADDRESS, THE ASSESSOR'S PARCEL IDENTIFICATION NUMBER FOR THE PROPERTY, AND THE DATE ON WHICH THE PROPERTY WAS ACQUIRED BY THE AUTHORITY AND BECAME TAX EXEMPT OR THE DATE ON WHICH THE AUTHORITY ENTERED INTO THE PUBLIC-PRIVATE PARTNERSHIP AND THE AFFORDABLE RENTAL HOUSING COMPONENT OF THE PROPERTY BECAME TAX EXEMPT.

SECTION 4. In Colorado Revised Statutes, 29-4-1106, **amend** (1)(d) as follows:

29-4-1106. Additional powers - affordable workforce housing projects. (1) In addition to the powers specified in section 29-4-1105, the authority has the following powers:

~~(d) To make and enter into contracts or agreements with any private or public entity to facilitate a public-private partnership; including:~~

~~(f) An agreement for the authority to acquire, construct, finance, or operate property or services in connection with an affordable rental housing project or housing assistance consistent with the provisions of this part 11; or~~

~~(h) An agreement for a private entity to acquire, construct, finance, or operate property or services in connection with an affordable rental housing project or housing assistance consistent with the provisions of this part 11;~~

SECTION 5. In Colorado Revised Statutes, 29-4-1107, **amend** (6) as follows:

29-4-1107. Powers of the board - selection of projects - ownership - report. (6) All interests of the person or group whose proposal for an affordable rental housing project is selected will be transferred to the authority OR TRANSFERRED AS OTHERWISE PROVIDED IN A PUBLIC-PRIVATE PARTNERSHIP; except that, and subject to approval by the authority, a housing authority whose proposal is selected may retain a portion of interest in the affordable rental housing project. Notwithstanding the provisions of this subsection (6), the person or group of a selected

affordable rental housing project shall not retain or otherwise be entitled to any interest in the affordable rental housing project or any right to payments from the revenues from the affordable rental housing project transferred to the authority OR OTHERWISE TRANSFERRED IN ACCORDANCE WITH A PUBLIC-PRIVATE PARTNERSHIP, except for the person's or group's right to compensation and to reimbursement for expenses, which shall be clearly detailed in the contract between the authority and the person or group set forth in subsection (5) of this section. A PUBLIC-PRIVATE PARTNERSHIP MAY ALSO PROVIDE FOR A PERSON'S OR GROUP'S RIGHT TO COMPENSATION AND TO REIMBURSEMENT FOR EXPENSES IN CONNECTION WITH AN AFFORDABLE RENTAL HOUSING PROJECT.

SECTION 6. In Colorado Revised Statutes, 29-4-1109, **amend** (1)(a) and (1)(b) as follows:

29-4-1109. Bonds. (1) (a) The authority may issue bonds to finance its affordable rental housing projects, TO FINANCE THE AFFORDABLE RENTAL HOUSING COMPONENT IN A PUBLIC-PRIVATE PARTNERSHIP, or to accomplish or further any of its powers or duties relating to affordable rental housing projects.

(b) Bonds must be issued pursuant to resolution of the board, are payable solely from all or a specified portion of the revenues or assets of the authority OR THE REVENUES AND ASSETS OF THE AFFORDABLE RENTAL HOUSING COMPONENT OF A PUBLIC-PRIVATE PARTNERSHIP, and may be secured by a mortgage, deed of trust, pledge, other security interest in or encumbrance on any of the revenue, property, or assets of the authority OR THE REVENUE, PROPERTY, OR ASSETS OF THE AFFORDABLE RENTAL HOUSING COMPONENT OF A PUBLIC-PRIVATE PARTNERSHIP.

SECTION 7. Appropriation. For the 2023-24 state fiscal year, \$3,774 is appropriated to the legislative department for use by the general assembly. This appropriation is from the general fund. The general assembly may use this appropriation to implement this act.

SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO