

CHAPTER 448

GOVERNMENT - LOCAL

HOUSE BILL 23-1255

BY REPRESENTATIVE(S) Lindstedt and Dickson, deGruy Kennedy, Epps, Froelich, Garcia, Jodeh, Lindsay, Mabrey, Michaelson Jenet, Sharbini, Sirota, Woodrow, Kipp, Story, Vigil, Weissman;
also SENATOR(S) Gonzales, Buckner, Cutter, Hinrichsen, Moreno, Priola, Winter F.

AN ACT**CONCERNING PREEMPTION OF LOCAL REGULATIONS LIMITING THE NUMBER OF BUILDING PERMITS ISSUED FOR DEVELOPMENT.**

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

SECTION 1. In Colorado Revised Statutes, **add** 29-20-104.2 as follows:

29-20-104.2. Anti-growth law - preemption - legislative declaration - definitions. (1) **THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:**

(a) **A RELIABLE PUBLIC POLICY ENVIRONMENT THAT SUPPORTS AN ADEQUATE AND AFFORDABLE HOUSING SUPPLY IS A MATTER OF STATEWIDE CONCERN, AND A HEALTHY SUPPLY OF HOUSING UNITS TO MATCH BOTH CURRENT DEMAND AND FUTURE DEMAND DRIVEN BY POPULATION GROWTH IS CRITICAL FOR JOB CREATION, HOUSING STABILITY, AFFORDABILITY, AND THE OVERALL ECONOMIC WELL-BEING OF ALL COLORADANS;**

(b) **THE LACK OF AFFORDABLE HOUSING IN COLORADO IS DIRECTLY ATTRIBUTABLE TO THE SCARCITY OF HOUSING UNITS;**

(c) **ACCORDING TO A STUDY OF HOUSING DEVELOPMENT IN COLORADO, THE STATE HAS OVER ONE HUNDRED SEVENTY-FIVE THOUSAND FEWER HOUSING UNITS THAN NEEDED TO RESTORE ITS HISTORICAL POPULATION-TO-HOUSING RATIO FROM 1986 THROUGH 2008;**

(d) **TO CLOSE THE DEFICIT AND ACCOUNT FOR PROJECTED POPULATION GROWTH, THE STATE WILL NEED TO ADD OVER ONE HUNDRED SIXTY-TWO THOUSAND HOUSING UNITS BY 2027;**

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.

(e) ANTI-GROWTH LAWS ENACTED BY LOCAL GOVERNMENTS SEVERELY UNDERMINE THE ABILITY TO CONSTRUCT THE ADDITIONAL HOUSING UNITS COLORADANS NEED;

(f) ANTI-GROWTH LAWS DO IRREPARABLE ECONOMIC HARM TO WORKING CLASS COLORADANS BY LIMITING THE HOUSING SUPPLY AND DRIVING UP HOUSING PRICES AND RENTS. FURTHERMORE, ANTI-GROWTH LAWS THREATEN THE LIVELIHOOD OF COLORADANS EMPLOYED IN CONSTRUCTION AND OTHER BUILDING TRADES AS WELL AS BUSINESSES ACROSS THE STATE THAT RELY ON THE COMMERCE ASSOCIATED WITH HOME BUILDING.

(g) UNIFORMITY IN LAND USE LAWS CONCERNING RESIDENTIAL GROWTH IS NECESSARY FOR EFFICIENT RESIDENTIAL DEVELOPMENT STATEWIDE AND FOR THE ENCOURAGEMENT OF CONSTRUCTION OF NEW HOUSING UNITS;

(h) THE ENACTMENT OR ENFORCEMENT OF ANTI-GROWTH LAWS BY SOME LOCAL GOVERNMENTS DECREASES HOUSING DEVELOPMENT IN THESE LOCATIONS AND PUTS PRESSURE ON OTHER LOCAL GOVERNMENTS' RESIDENTIAL HOUSING STOCK, ROADS, UTILITIES, AND OTHER SERVICES; AND

(i) IT IS THEREFORE NECESSARY FOR THE GENERAL ASSEMBLY TO PREEMPT AND PROHIBIT THE ENFORCEMENT OF EXISTING ANTI-GROWTH LAWS AND PROHIBIT THE ENACTMENT AND ENFORCEMENT OF NEW ANTI-GROWTH LAWS.

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

(a) "ANTI-GROWTH LAW" MEANS A LAND USE LAW THAT EXPLICITLY LIMITS EITHER THE GROWTH OF THE POPULATION IN THE GOVERNMENTAL ENTITY'S JURISDICTION OR THE NUMBER OF DEVELOPMENT PERMITS OR BUILDING PERMIT APPLICATIONS FOR RESIDENTIAL DEVELOPMENT OR THE RESIDENTIAL COMPONENT OF ANY MIXED USE DEVELOPMENT SUBMITTED TO, REVIEWED BY, APPROVED BY, OR ISSUED BY A GOVERNMENTAL ENTITY FOR ANY CALENDAR OR FISCAL YEAR. AS USED IN THIS SUBSECTION (2)(a), "LAND USE LAW" MEANS ANY STATUTE, RESOLUTION, ORDINANCE, CODE, RULE, REGULATION, PLAN, POLICY, PROCEDURE, STANDARD, INITIATIVE, GUIDELINE, REQUIREMENT, OR LAW THAT REGULATES THE USE OR DIVISION OF PROPERTY OR ANY INTEREST IN PROPERTY.

(b) "GOVERNMENTAL ENTITY" MEANS:

(I) A STATUTORY OR HOME RULE COUNTY, A CITY AND COUNTY, OR A MUNICIPALITY; AND

(II) ANY SPECIAL DISTRICT OR AGENCY, AUTHORITY, POLITICAL SUBDIVISION, OR INSTRUMENTALITY OF A COUNTY, OR OF A CITY AND COUNTY, OR OF A MUNICIPALITY.

(c) "PROPERTY" MEANS REAL PROPERTY LOCATED WITHIN THE STATE THAT IS NOT PUBLICLY OWNED.

(3) NOTWITHSTANDING ANY PROVISION OF SECTION 29-20-104 TO THE CONTRARY,

A GOVERNMENTAL ENTITY SHALL NOT ENACT OR ENFORCE AN ANTI-GROWTH LAW AFFECTING PROPERTY.

(4)(a) NOTWITHSTANDING ANY PROVISION OF SECTION 29-20-104 OR SUBSECTION (3) OF THIS SECTION TO THE CONTRARY, A GOVERNMENTAL ENTITY MAY ENACT AND ENFORCE A TEMPORARY, NONRENEWABLE ANTI-GROWTH LAW:

(I) FOLLOWING A DISASTER EMERGENCY DECLARED BY THE GOVERNOR OR LOCAL GOVERNMENT THAT OCCURRED IN THE JURISDICTION OF THE GOVERNMENTAL ENTITY;

(II) FOR THE PURPOSE OF DEVELOPING OR AMENDING LAND USE PLANS OR LAND USE LAWS COVERING RESIDENTIAL DEVELOPMENT OR THE RESIDENTIAL COMPONENT OF A MIXED-USE DEVELOPMENT; OR

(III) TO PROVIDE FOR THE EXTENSION OR ACQUISITION OF PUBLIC INFRASTRUCTURE, PUBLIC SERVICES, OR WATER RESOURCES.

(b) A TEMPORARY, NONRENEWABLE ANTI-GROWTH LAW AFFECTING PROPERTY ALLOWED BY SUBSECTION (4)(a) OF THIS SECTION MAY BE EFFECTIVE FOR NO MORE THAN TWENTY-FOUR MONTHS IN ANY FIVE-YEAR PERIOD.

(5)(a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5)(b) OF THIS SECTION, NOTHING IN THIS SECTION REQUIRES A GOVERNMENTAL ENTITY TO APPROVE A PERMIT APPLICATION OR PRECLUDES A GOVERNMENTAL ENTITY FROM REGULATING THE USE OF LAND, DEVELOPING LAND USE PLANS, ENACTING AFFORDABILITY REQUIREMENTS THAT REGULATE OR RESTRICT MARKET RATE DEVELOPMENT OR REDEVELOPMENT IN ORDER TO ENFORCE AFFORDABILITY REQUIREMENTS, REGULATING THE RENTAL OF ANY PROPERTY OR PORTION OF A PROPERTY THAT IS AVAILABLE FOR LODGING FOR LESS THAN THIRTY DAYS, OR DENYING A PERMIT FOR ANY REASON, INCLUDING EXTENDING OR ACQUIRING INFRASTRUCTURE, WATER RESOURCES, OR SERVICES.

(b) SUBSECTION (5)(a) OF THIS SECTION DOES NOT APPLY TO A HOTEL UNIT PORTION OF A STRUCTURE THAT IS USED BY A BUSINESS ESTABLISHMENT TO PROVIDE COMMERCIAL LODGING TO THE GENERAL PUBLIC FOR PREDOMINANTLY OVERNIGHT OR WEEKLY STAYS, THAT IS CLASSIFIED AS A HOTEL OR MOTEL FOR PURPOSES OF PROPERTY TAXATION, THAT IS NOT A UNIT, AS DEFINED IN SECTION 38-33.3-103(30), IN A CONDOMINIUM, AND THAT IS ZONED OR PERMITTED BY A GOVERNMENTAL ENTITY FOR USE AS A HOTEL.

SECTION 2. In Colorado Revised Statutes, 29-20-104, **amend** (1) introductory portion as follows:

29-20-104. Powers of local governments - definition. (1) Except as expressly provided in ~~section 29-20-104.5~~ SECTION 29-20-104.2 OR 29-20-104.5, the power and authority granted by this section does not limit any power or authority presently exercised or previously granted. EXCEPT AS PROVIDED IN SECTION 29-20-104.2, each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by:

SECTION 3. 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; 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 7, 2023