

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0046.01 Caroline Martin x5902

HOUSE BILL 26-1001

HOUSE SPONSORSHIP

Boesenecker and Mabrey,

SENATE SPONSORSHIP

Exum and Gonzales J.,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROMOTION OF RESIDENTIAL DEVELOPMENTS ON**
102 **QUALIFYING PROPERTIES.**

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>.)

The bill requires a subject jurisdiction, on or after December 31, 2027, to allow a residential development to be constructed on a qualifying property that does not contain an exempt parcel, subject to an administrative approval process. A qualifying property is real property that contains no more than 5 acres of land and is owned by:

- A nonprofit organization with a demonstrated history of

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

- providing affordable housing;
- A nonprofit organization that provides public transit;
- A nonprofit organization that has entered into an agreement with another nonprofit organization with a demonstrated history of providing affordable housing, provided that the agreement requires the nonprofit organization with a demonstrated history of providing affordable housing to develop a residential development on the property;
- A school district;
- A state college or university;
- A housing authority; or
- A local or regional transit district or a regional transportation authority serving one or more counties.

If a subject jurisdiction requests, as part of an initial development application, that a nonprofit organization with a demonstrated history of providing affordable housing provide documentation that it meets required criteria, the nonprofit organization shall provide the documentation.

A subject jurisdiction shall not:

- Disallow construction of a residential development on a qualifying property on the basis of height if the tallest structure in the residential development is no more than 3 stories or 45 feet tall;
- Disallow construction of a residential development on a qualifying property on the basis of height if the tallest structure in the residential development complies with the height-related standards for the zoning district in which the residential development will be built or any zoning district that is contiguous to the qualifying property on which the residential development will be built;
- Disallow construction of a residential development on a qualifying property based on the number of dwelling units that the residential development will contain, except in accordance with standards listed in the bill; or
- Apply standards to a residential development on a qualifying property that are more restrictive than the standards the subject jurisdiction applies to similar housing constructed within the subject jurisdiction, including standards related to structure setbacks from property lines; lot coverage or open space; on-site parking requirements; numbers of bedrooms in a multifamily residential development; on-site landscaping, screening, and buffering requirements; or minimum dwelling units per acre.

Provided that the uses are allowed conditionally or by right within the zoning district in which a qualifying property is located, a subject

jurisdiction shall allow the following uses in a residential development on a qualifying property:

- Child care; and
- The provision of recreational, social, or educational services provided by community organizations for use by the residents of the residential development and the surrounding community.

The bill requires the owner of a qualifying property to notify the county assessor that a subject jurisdiction has allowed the construction of a residential development on a qualifying property within the county.

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

SECTION 1. Short title. The short title of this act is the "Housing Opportunities Made Easier (HOME) Act".

SECTION 2. In Colorado Revised Statutes, 29-35-103, **amend** (2)(a)(I); and **add** (2.5) as follows:

29-35-103. Definitions.

(2) (a) "Administrative approval process" means a process in which:

(I) A development ~~proposal~~ APPLICATION for a specified project is approved, approved with conditions, or denied by local government administrative staff based solely on its compliance with objective standards set forth in local laws; and

(2.5) "AIRPORT INFLUENCE AREA" MEANS AN AREA SURROUNDING AN AIRPORT THAT A LOCAL GOVERNMENT HAS DESIGNATED AS UNSUITABLE FOR RESIDENTIAL DEVELOPMENT BECAUSE:

- (a) DEVELOPMENT COULD IMPACT AIRPORT OPERATIONS; OR
- (b) AIRPORT NOISE OR SAFETY HAZARDS COULD AFFECT THE AREA.

SECTION 3. In Colorado Revised Statutes, **add** part 5 to article 35 of title 29 as follows:

PART 5

1 RESIDENTIAL DEVELOPMENT ON
2 QUALIFYING PROPERTIES

3 **29-35-501. Legislative declaration.**

4 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

5 (a) COLORADANS ARE OVERWHELMINGLY BURDENED WITH THE
6 COST OF HOUSING. THE NUMBER OF HOUSEHOLDS THAT SPEND MORE THAN
7 THIRTY PERCENT OF THEIR TOTAL INCOME ON RENT OR MORTGAGE
8 PAYMENTS IN COLORADO INCREASED FROM SIX HUNDRED SIXTY-EIGHT
9 THOUSAND ONE HUNDRED IN 2014 TO EIGHT HUNDRED FIFTY THOUSAND
10 EIGHT HUNDRED IN 2024, REPRESENTING THIRTY-FIVE PERCENT OF ALL
11 HOUSEHOLDS.

12 (b) A CONTRIBUTING FACTOR TO THE INCREASE IN COST-BURDENED
13 HOUSEHOLDS IS THAT POPULATION GROWTH HAS OUTPACED NEW HOUSING
14 DEVELOPMENT, RESULTING IN SUPPLY CONSTRAINTS AND ESCALATING
15 COSTS. BETWEEN 2000 AND 2023, RESIDENTIAL PROPERTY VALUES AND
16 RENTAL RATES INCREASED AT RATES EXCEEDING INCOME GROWTH,
17 THEREBY EXERTING CONSIDERABLE FINANCIAL STRAIN ON MANY
18 RESIDENTS. A 2025 RESEARCH BRIEF PUBLISHED BY THE COLORADO STATE
19 DEMOGRAPHY OFFICE TITLED "COLORADO'S HOUSING SHORTFALL: AN
20 ESTIMATE AND REVIEW OF EXISTING STUDIES" ESTIMATED THAT, AS OF
21 2023, AN ADDITIONAL ONE HUNDRED SIX THOUSAND HOUSING UNITS WERE
22 NEEDED TO OVERCOME THE HOUSING SHORTFALL, AND THIRTY-FOUR
23 THOUSAND ONE-HUNDRED UNITS NEEDED TO BE BUILT ANNUALLY TO
24 MAINTAIN THE HOUSING SHORTAGE AT ITS 2023 LEVEL.

25 (c) AS COLORADO GROWS, SO DOES THE CHALLENGE OF PROVIDING
26 AFFORDABLE HOUSING TO RESIDENTS. WHILE LAND THAT IS AVAILABLE
27 FOR NEW HOUSING IN ESTABLISHED COMMUNITIES IS IN SHORT SUPPLY,

1 MANY QUALIFYING ORGANIZATIONS OWN UNDERUTILIZED PROPERTIES
2 WHERE HOUSING COULD BE BUILT.

3 (d) COLORADO URGENTLY NEEDS MORE HOUSING TO MEET THE
4 NEEDS OF A GROWING STATEWIDE POPULATION AND ADDRESS ISSUES
5 DIRECTLY RELATED TO HOUSING, SUCH AS TRANSIT, COMMUTING, THE
6 WORKFORCE, AND THE ENVIRONMENT. PROVIDING OPPORTUNITIES TO
7 CONSTRUCT RESIDENTIAL DEVELOPMENTS ON UNDERUTILIZED LAND IS A
8 MATTER OF MIXED STATEWIDE AND LOCAL CONCERN.

9 (e) LOCAL ZONING REGULATIONS OFTEN PREVENT HOUSING FROM
10 BEING DEVELOPED ON VACANT PROPERTIES BY PROHIBITING RESIDENTIAL
11 DEVELOPMENT ON QUALIFYING PROPERTIES OR BY REQUIRING EXTENSIVE
12 REZONING PROCESSES THAT ADD COST AND UNCERTAINTY TO AFFORDABLE
13 HOUSING PROJECTS.

14 (f) THIS HOUSE BILL 26-1001, ENACTED IN 2026, STREAMLINES
15 THE CONSTRUCTION OF AFFORDABLE HOUSING BY PROVIDING A PROCESS
16 THAT ALLOWS RESIDENTIAL DEVELOPMENTS TO BE CONSTRUCTED ON
17 QUALIFYING PROPERTIES AS LONG AS CERTAIN REQUIREMENTS ARE
18 SATISFIED.

19 (g) ACCORDING TO A 2022 ARTICLE PUBLISHED IN THE JOURNAL OF
20 THE AMERICAN PLANNING ASSOCIATION TITLED "DOES DISCRETION
21 DELAY DEVELOPMENT?", RESIDENTIAL PROJECTS THAT WENT THROUGH
22 ADMINISTRATIVE APPROVAL PROCESSES WERE APPROVED TWENTY-EIGHT
23 PERCENT FASTER THAN RESIDENTIAL PROJECTS THAT WENT THROUGH
24 DISCRETIONARY APPROVAL PROCESSES, AND FASTER APPROVAL TIMES
25 REDUCE DEVELOPER COSTS AND THEREFORE HOUSING COSTS. STUDIES
26 HAVE SHOWN THAT HOMEBUILDERS, INCLUDING AFFORDABLE HOUSING
27 DEVELOPERS, WILL AVOID PARCELS THAT NEED TO GO THROUGH A

1 DISCRETIONARY PROCESS.

2 (h) A 2022 RESEARCH PAPER PUBLISHED BY THE FEDERAL
3 RESERVE BANK OF BOSTON TITLED "HOW TO INCREASE HOUSING
4 AFFORDABILITY: UNDERSTANDING LOCAL DETERRENTS TO BUILDING
5 MULTIFAMILY HOUSING" FOUND THAT RELAXING DENSITY RESTRICTIONS,
6 EITHER ALONE OR IN COMBINATION WITH RELAXING MAXIMUM HEIGHT
7 RESTRICTIONS, IS THE MOST EFFECTIVE POLICY REFORM FOR INCREASING
8 THE HOUSING SUPPLY AND REDUCING MULTIFAMILY RENTS AND
9 SINGLE-FAMILY HOME PRICES. THIS PAPER ALSO FOUND THAT EVEN IF
10 MULTIFAMILY ZONING IS ALLOWED, MUNICIPALITIES OFTEN LIMIT THE SIZE
11 OR SHAPE OF BUILDINGS WITH HEIGHT RESTRICTIONS.

12 (i) RESEARCH EXAMINING THREE DECADES OF REZONING
13 DECISIONS IN HENRICO COUNTY, VIRGINIA DEMONSTRATED THAT PUBLIC
14 PARTICIPATION IN RESIDENTIAL REZONING PROCESSES IS
15 OVERWHELMINGLY OPPOSITIONAL, WITH MORE THAN EIGHTY-FIVE
16 PERCENT OF COMMENTERS RAISING CONCERNS ABOUT PERCEIVED
17 NEGATIVE IMPACTS OF NEW DEVELOPMENT RELATED TO DENSITY, SITE
18 DESIGN, AND PARKING. AS A RESULT, LOCAL GOVERNMENTS FREQUENTLY
19 IMPOSE CONDITIONS THAT GO BEYOND BASELINE ZONING STANDARDS TO
20 REDUCE DENSITY. PROHIBITING THE APPLICATION OF THESE MORE
21 RESTRICTIVE STANDARDS TO RESIDENTIAL DEVELOPMENTS ENSURES
22 DEVELOPMENT STANDARDS ARE APPLIED CONSISTENTLY AND
23 OBJECTIVELY, RATHER THAN BEING APPLIED AD HOC IN DISCRETIONARY
24 PROCESSES DRIVEN BY OPPOSITION.

25 (j) HUNDREDS OF THOUSANDS OF COLORADANS HAVE ONE OR
26 MORE DISABILITIES AND THIS NUMBER CONTINUES TO INCREASE AS THE
27 POPULATION AGES. ENSURING FAIR AND ACCESSIBLE HOUSING BENEFITS

1 INDIVIDUALS WITH DISABILITIES AND PROVIDES SAFER WORKING
2 CONDITIONS FOR HOME HEALTH-CARE WORKERS. FEDERAL, STATE, AND
3 LOCAL LAWS THAT PROVIDE ACCESSIBILITY PROTECTIONS SUCH AS THE
4 FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., THE
5 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
6 12101 ET SEQ., AND THE "COLORADO ANTI-DISCRIMINATION ACT", PARTS
7 3 THROUGH 8 OF ARTICLE 34 OF TITLE 24, ARE IMPERATIVE TO INCREASING
8 ACCESSIBLE HOUSING OPPORTUNITIES.

9 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

10 (a) COMMUNITY OPPOSITION AND RESTRICTIVE LOCAL LAND USE
11 POLICIES LIMIT THE HOUSING SUPPLY, IMPACT HOUSING OPTIONS FOR
12 COLORADANS OF LOW AND MODERATE INCOMES, AND RESTRICT THE
13 AVAILABILITY OF WORKFORCE HOUSING, THEREBY AFFECTING
14 EMPLOYMENT GROWTH.

15 (b) WHEN LOCAL GOVERNMENTS RESTRICT HOUSING
16 DEVELOPMENTS WITHIN THEIR JURISDICTIONS, THEY IMPACT NEIGHBORING
17 LOCAL GOVERNMENTS. AN INCREASE IN JOB GROWTH IN ONE COMMUNITY
18 WITHOUT A CORRESPONDING GROWTH IN HOUSING LEADS TO A HOUSING
19 SHORTFALL IN THE COMMUNITY. RESEARCH HAS SHOWN THAT REGIONAL
20 IMBALANCES BETWEEN JOBS AND HOUSING HAVE SIGNIFICANT IMPACTS ON
21 VEHICLE MILES TRAVELED AND COMMUTE TIMES ACROSS JURISDICTIONS,
22 ACCORDING TO STUDIES SUCH AS "WHICH REDUCES VEHICLE TRAVEL
23 MORE: JOBS-HOUSING BALANCE OR RETAIL-HOUSING MIXING?",
24 PUBLISHED IN THE JOURNAL OF THE AMERICAN PLANNING ASSOCIATION.
25 WHEN PEOPLE ARE UNABLE TO LIVE NEAR WHERE THEY WORK, WORKERS'
26 ONLY OPTION IS TO SPEND MORE HOURS ON THE ROAD COMMUTING.
27 LONGER COMMUTES INCREASE VEHICLE TRAFFIC, PUT ADDITIONAL STRAIN

1 ON COLORADO'S ROADS, AND INCREASE POLLUTION.

2 (c) THE AVAILABILITY OF AFFORDABLE HOUSING IS A MATTER OF
3 MIXED STATEWIDE AND LOCAL CONCERN.

4 (d) COLORADO HAS A LEGITIMATE STATE INTEREST IN MANAGING
5 POPULATION AND DEVELOPMENT GROWTH AND ENSURING A STABLE
6 QUALITY AND QUANTITY OF HOUSING FOR COLORADANS, AS THIS IS
7 AMONG THE MOST PRESSING PROBLEMS CURRENTLY FACING COMMUNITIES
8 THROUGHOUT COLORADO.

9 (3) THEREFORE, THE GENERAL ASSEMBLY FINDS, DETERMINES, AND
10 DECLARES THAT LOCAL GOVERNMENT POLICIES THAT LIMIT THE
11 CONSTRUCTION OF A DIVERSE RANGE OF HOUSING IN AREAS SERVED BY
12 INFRASTRUCTURE AND THAT EFFECTIVELY CREATE HOUSING SUPPLY
13 SHORTFALLS AND UNSUSTAINABLE DEVELOPMENT PATTERNS, REQUIRE A
14 STATEWIDE SOLUTION.

15 **29-35-502. Definitions.**

16 AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE
17 REQUIRES:

18 (1) "DWELLING UNIT" HAS THE MEANING SET FORTH IN SECTION
19 29-35-402 (8).

20 (2) "EXEMPT PARCEL" MEANS:

21 (a) A PARCEL THAT IS:

22 (I) NOT SERVED BY A DOMESTIC WATER AND SEWAGE TREATMENT
23 SYSTEM, AS DEFINED IN SECTION 24-65.1-104 (5);

24 (II) SERVED BY A WELL THAT IS NOT CONNECTED TO A WATER
25 DISTRIBUTION SYSTEM, AS DEFINED IN SECTION 25-9-102 (6); OR

26 (III) SERVED BY A SEPTIC TANK, AS DEFINED IN SECTION
27 25-10-103 (18);

1 (b) A PARCEL WHERE RESIDENTIAL USE IS PREVENTED OR LIMITED
2 BY STATE REGULATION, FEDERAL REGULATION, OR DEED RESTRICTION
3 PURSUANT TO:

4 (I) FEDERAL AVIATION ADMINISTRATION RESTRICTIONS PURSUANT
5 TO 14 CFR 77 OR 49 U.S.C. CHAPTER 471;

6 (II) AN ENVIRONMENTAL COVENANT PURSUANT TO SECTIONS
7 25-15-318 TO 25-15-323; OR

8 (III) FLAMMABLE GAS OVERLAY ZONING DISTRICT RESTRICTIONS;

9 (c) A PARCEL THAT IS SUBJECT TO A CONSERVATION EASEMENT;

10 (d) A PARCEL THAT IS LOCATED WITHIN AN AIRPORT INFLUENCE
11 AREA; OR

12 (e) A HISTORIC PROPERTY THAT IS LOCATED OUTSIDE OF A
13 HISTORIC DISTRICT.

14 (3) "HISTORIC DISTRICT" HAS THE MEANING SET FORTH IN SECTION
15 29-35-402 (10).

16 (4) "HISTORIC PROPERTY" HAS THE MEANING SET FORTH IN
17 SECTION 29-35-402 (11).

18 (5) "NONPROFIT ORGANIZATION" MEANS AN ORGANIZATION
19 AUTHORIZED TO DO BUSINESS IN THE STATE THAT IS EXEMPT FROM
20 TAXATION PURSUANT TO SECTION 501 (a) OF THE FEDERAL "INTERNAL
21 REVENUE CODE OF 1986", 26 U.S.C. SEC. 501, AS AMENDED, AND LISTED
22 AS AN EXEMPT ORGANIZATION IN SECTION 501 (c)(3) OF THE FEDERAL
23 "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. sec. 501, AS AMENDED.

24 (6) "NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY
25 OF PROVIDING AFFORDABLE HOUSING" MEANS A NONPROFIT
26 ORGANIZATION THAT, WITHIN THE LAST FIVE YEARS, HAS:

27 (a) DEVELOPED PROJECTS WHICH HAVE RECEIVED FEDERAL

1 LOW-INCOME HOUSING TAX CREDITS OR STATE AFFORDABLE HOUSING
2 CREDITS;

3 (b) BEEN AWARDED FUNDING THROUGH THE FEDERAL "HOME
4 INVESTMENT PARTNERSHIPS PROGRAM", 24 CFR 92.1, ET SEQ.;

5 (c) BEEN AWARDED FUNDING TO SUPPORT THE CREATION,
6 PRESERVATION, OR REHABILITATION OF AFFORDABLE HOUSING FROM THE
7 COLORADO DEPARTMENT OF LOCAL AFFAIRS; THE COLORADO HOUSING
8 AND FINANCE AUTHORITY; THE COLORADO OFFICE OF ECONOMIC
9 DEVELOPMENT AND INTERNATIONAL TRADE; OR A LOCAL GOVERNMENT;

10 (d) OWNED PROPERTY THAT IS EXEMPT FROM PROPERTY TAXATION
11 PURSUANT TO SECTION 39-3-113.5;

12 (e) BEEN CERTIFIED AS A COMMUNITY HOUSING DEVELOPMENT
13 ORGANIZATION PURSUANT TO 24 CFR 92.2 AND, TOGETHER WITH THE
14 COLORADO DIVISION OF HOUSING OR A LOCAL GOVERNMENT, IS A PARTY
15 TO A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION OPERATING
16 AGREEMENT;

17 (f) BEEN APPROVED BY THE COLORADO DIVISION OF HOUSING AS
18 AN "APPROVED NONPROFIT ORGANIZATION" PURSUANT TO SECTION
19 39-22-548 AND ENGAGED IN THE DEVELOPMENT OR OPERATIONAL SERVICE
20 OF SUPPORTIVE HOUSING PURSUANT TO SECTION 39-22-548 (2)(h); OR

21 (g) OWNED PROPERTY FOR WHICH THE ORGANIZATION RECEIVED
22 A CERTIFICATE OF OCCUPANCY FOR LONG-TERM AFFORDABLE HOUSING,
23 AND CAN PRODUCE THAT CERTIFICATE OF OCCUPANCY, A RESTRICTED USE
24 COVENANT, OR A SIMILAR RECORDED AGREEMENT THAT ENSURES
25 AFFORDABILITY.

26 (7) "QUALIFYING PRIVATE PROPERTY" MEANS REAL PROPERTY
27 THAT CONTAINS NO MORE THAN FIVE ACRES OF LAND AND IS OWNED BY:

1 (a) A NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY
2 OF PROVIDING AFFORDABLE HOUSING;

3 (b) A NONPROFIT ORGANIZATION THAT PROVIDES PUBLIC TRANSIT;
4 OR

5 (c) A NONPROFIT ORGANIZATION THAT HAS ENTERED INTO AN
6 AGREEMENT WITH ANOTHER NONPROFIT ORGANIZATION WITH A
7 DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING, PROVIDED
8 THAT THE AGREEMENT REQUIRES THE NONPROFIT ORGANIZATION WITH A
9 DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING, OR ITS
10 SUCCESSOR ORGANIZATION, TO DEVELOP A RESIDENTIAL DEVELOPMENT ON
11 THE PROPERTY.

12 (8) "QUALIFYING PROPERTY" MEANS A QUALIFYING PRIVATE
13 PROPERTY OR A QUALIFYING PUBLIC PROPERTY.

14 (9) "QUALIFYING PUBLIC PROPERTY" MEANS REAL PROPERTY THAT
15 CONTAINS NO MORE THAN FIVE ACRES OF LAND AND IS OWNED BY:

16 (a) A SCHOOL DISTRICT, AS DEFINED IN SECTION 22-30-103;

17 (b) A STATE COLLEGE OR UNIVERSITY, AS DEFINED IN SECTION
18 23-2-102;

19 (c) A BOARD OF COOPERATIVE SERVICES, AS DEFINED IN SECTION
20 22-5-103;

21 (d) A HOUSING AUTHORITY CREATED PURSUANT TO SECTION
22 29-1-204.5, 29-4-204, 29-4-402, OR 29-4-503; OR

23 (e) A LOCAL OR REGIONAL TRANSIT DISTRICT OR A REGIONAL
24 TRANSPORTATION AUTHORITY SERVING ONE OR MORE COUNTIES.

25 (10) "RESIDENTIAL DEVELOPMENT" MEANS A DEVELOPMENT:

26 (a) WITH ONE OR MORE STRUCTURES THAT CONTAIN PERMANENT
27 DWELLING UNITS;

1 (b) THAT DOES NOT CONTAIN ANY TEMPORARY HOUSING OR
2 SHELTER SPACE; AND

3 (c) THAT HAS A PRIMARY PURPOSE OF RESIDENTIAL USE.

4 (11) "SIMILAR HOUSING" MEANS HOUSING THAT IS SIMILAR IN
5 FORM AND NUMBER OF DWELLING UNITS.

6 (12) "SUBJECT JURISDICTION" MEANS A LOCAL GOVERNMENT THAT
7 HAD A POPULATION GREATER THAN TWO THOUSAND PEOPLE AS OF THE
8 LAST UNITED STATES CENSUS.

9 **29-35-503. Residential developments on qualifying properties.**

10 (1) **Residential developments on qualifying properties.** ON OR
11 AFTER DECEMBER 31, 2027, SUBJECT TO AN ADMINISTRATIVE APPROVAL
12 PROCESS AND IN ACCORDANCE WITH THIS PART 5, A SUBJECT JURISDICTION
13 SHALL ALLOW A RESIDENTIAL DEVELOPMENT TO BE CONSTRUCTED ON A
14 QUALIFYING PROPERTY IF THE QUALIFYING PROPERTY DOES NOT CONTAIN
15 AN EXEMPT PARCEL.

16 (2) **Verification of nonprofit status.** A SUBJECT JURISDICTION
17 MAY REQUEST, AS PART OF AN INITIAL DEVELOPMENT APPLICATION, THAT
18 A NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY OF
19 PROVIDING AFFORDABLE HOUSING PROVIDE DOCUMENTATION THAT IT
20 MEETS ANY ONE OF THE CRITERIA LISTED IN SECTION 29-35-502 (6). THE
21 NONPROFIT ORGANIZATION SHALL PROVIDE THE REQUESTED
22 DOCUMENTATION BUT IS NOT REQUIRED TO PROVIDE DOCUMENTATION OF
23 MORE THAN ONE OF THE CRITERIA LISTED IN SECTION 29-35-502 (6) TO BE
24 VERIFIED BY THE SUBJECT JURISDICTION.

25 (3) **Subject jurisdiction administrative practices.** NOTHING IN
26 THIS SECTION PREVENTS A SUBJECT JURISDICTION FROM:

27 (a) APPLYING AND ENFORCING INFRASTRUCTURE STANDARDS IN

1 LOCAL LAW DURING THE ADMINISTRATIVE APPROVAL PROCESS, INCLUDING
2 STANDARDS RELATED TO UTILITIES, TRANSPORTATION, OR PUBLIC WORKS
3 CODES;

4 (b) APPLYING AND ENFORCING A LOCALLY ADOPTED LIFE SAFETY
5 CODE, INCLUDING A BUILDING, FIRE, UTILITY, OR STORMWATER CODE;

6 (c) APPLYING AND ENFORCING REGULATIONS RELATED TO HUMAN
7 AND ENVIRONMENTAL HEALTH AND SAFETY, INCLUDING OIL AND GAS
8 SETBACKS, FLOODPLAIN REGULATIONS, AND AIRPORT INFLUENCE AREAS;

9 (d) ADOPTING GENERALLY APPLICABLE REQUIREMENTS FOR THE
10 PAYMENT OF IMPACT FEES OR OTHER SIMILAR DEVELOPMENT CHARGES IN
11 ACCORDANCE WITH SECTION 29-20-104.5, OR THE MITIGATION OF IMPACTS
12 IN ACCORDANCE WITH PART 2 OF ARTICLE 20 OF THIS TITLE 29;

13 (e) REQUIRING A STATEMENT BY A WATER OR WASTEWATER
14 SERVICE PROVIDER REGARDING THE PROVIDER'S CAPACITY TO SERVICE THE
15 PROPERTY AS A CONDITION OF ALLOWING A RESIDENTIAL DEVELOPMENT;

16 (f) APPLYING AND ENFORCING INCLUSIONARY ZONING
17 ORDINANCES, DEED RESTRICTIONS, COMMUNITY BENEFIT AGREEMENTS,
18 DEVELOPMENT AGREEMENTS, OR OTHER AFFORDABLE HOUSING POLICIES
19 OR STANDARDS;

20 (g) APPLYING STANDARDS TO ALLOW A RESIDENTIAL
21 DEVELOPMENT TO BE CONSTRUCTED ON A QUALIFYING PROPERTY WHEN
22 SUCH RESIDENTIAL DEVELOPMENT COULD BE DISALLOWED BASED ON THE
23 STANDARDS DESCRIBED IN SECTION 29-35-504 (1), OR OTHERWISE
24 OFFERING AFFORDABLE HOUSING INCENTIVES TO DEVELOPERS;

25 (h) ENACTING OR APPLYING A LOCAL LAW CONCERNING A
26 SHORT-TERM RENTAL, AS THAT TERM IS DEFINED IN SECTION 29-35-402
27 (19), OF A DWELLING UNIT ON A QUALIFYING PROPERTY;

1 (i) EXERCISING THE SUBJECT JURISDICTION'S RIGHT OF FIRST
2 REFUSAL IN ACCORDANCE WITH SECTION 29-4-1202; OR

3 (j) APPLYING THE DESIGN STANDARDS AND PROCEDURES OF A
4 HISTORIC DISTRICT TO A QUALIFYING PROPERTY THAT IS LOCATED IN A
5 HISTORIC DISTRICT, INCLUDING A STANDARD OR PROCEDURE RELATED TO
6 DEMOLITION.

7 (4) **School district administrative practices.** NOTHING IN THIS
8 SECTION PREVENTS A SCHOOL DISTRICT FROM CONSTRUCTING,
9 PURCHASING, OR REMODELING A TEACHERAGE PURSUANT TO SECTION
10 22-32-110 (1)(d), OR FROM USING ANY OF THE PROCESSES DESCRIBED IN
11 SECTION 22-32-124 REGARDING BUILDINGS AND STRUCTURES.

12 **29-35-504. Qualifying property requirements for a subject**
13 **jurisdiction - allowable uses.**

14 (1) A SUBJECT JURISDICTION SHALL NOT:

15 (a) DISALLOW CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT
16 ON A QUALIFYING PROPERTY ON THE BASIS OF HEIGHT IF THE TALLEST
17 STRUCTURE IN THE RESIDENTIAL DEVELOPMENT IS NO MORE THAN THREE
18 STORIES OR FORTY-FIVE FEET TALL;

19 (b) DISALLOW CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT
20 ON A QUALIFYING PROPERTY ON THE BASIS OF HEIGHT IF THE TALLEST
21 STRUCTURE IN THE RESIDENTIAL DEVELOPMENT COMPLIES WITH THE
22 HEIGHT REQUIREMENTS:

23 (I) OF THE ZONING DISTRICT IN WHICH THE RESIDENTIAL
24 DEVELOPMENT WILL BE BUILT; OR

25 (II) THAT APPLY TO ANY PARCEL ZONED FOR RESIDENTIAL USE
26 THAT IS CONTIGUOUS TO THE QUALIFYING PROPERTY ON WHICH THE
27 RESIDENTIAL DEVELOPMENT WILL BE BUILT;

1 (c) DISALLOW CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT
2 ON A QUALIFYING PROPERTY BASED ON THE NUMBER OF DWELLING UNITS
3 THE RESIDENTIAL DEVELOPMENT WILL CONTAIN, EXCEPT IN ACCORDANCE
4 WITH ONE OF THE STANDARDS LISTED IN SUBSECTION (1)(d) OF THIS
5 SECTION; OR

6 (d) APPLY STANDARDS TO A RESIDENTIAL DEVELOPMENT ON A
7 QUALIFYING PROPERTY THAT ARE MORE RESTRICTIVE THAN THE
8 STANDARDS THAT THE SUBJECT JURISDICTION APPLIES TO SIMILAR
9 HOUSING CONSTRUCTED WITHIN THE SUBJECT JURISDICTION, INCLUDING
10 STANDARDS RELATED TO:

11 (I) STRUCTURE SETBACKS FROM PROPERTY LINES;

12 (II) LOT COVERAGE OR OPEN SPACE;

13 (III) ON-SITE PARKING REQUIREMENTS;

14 (IV) NUMBERS OF BEDROOMS IN A MULTIFAMILY RESIDENTIAL
15 DEVELOPMENT;

16 (V) ON-SITE LANDSCAPING, SCREENING, AND BUFFERING
17 REQUIREMENTS;

18 (VI) MINIMUM DWELLING UNITS PER ACRE; OR

19 (VII) SETBACKS FROM OIL AND GAS FACILITIES AND OPERATIONS.

20 (2) PROVIDED THAT THE USES ARE ALLOWED CONDITIONALLY OR
21 BY RIGHT WITHIN THE ZONING DISTRICT IN WHICH A QUALIFYING PROPERTY
22 IS LOCATED, A SUBJECT JURISDICTION SHALL ALLOW THE FOLLOWING USES
23 IN A RESIDENTIAL DEVELOPMENT ON A QUALIFYING PROPERTY:

24 (a) CHILD CARE; AND

25 (b) THE PROVISION OF RECREATIONAL, SOCIAL, OR EDUCATIONAL
26 SERVICES PROVIDED BY COMMUNITY ORGANIZATIONS FOR USE BY THE
27 RESIDENTS OF THE RESIDENTIAL DEVELOPMENT AND THE SURROUNDING

1 COMMUNITY.

2

3 **29-35-505. Authority of institutions of higher education**
4 **preserved.**

5 NOTHING IN THIS PART 5 IS INTENDED TO ABROGATE OR LIMIT THE
6 AUTHORITY OF AN INSTITUTION OF HIGHER EDUCATION TO MAKE
7 DECISIONS REGARDING THE USE OF OR DISPOSITION OF THE INSTITUTION'S
8 PROPERTY, OR TO CREATE ADDITIONAL BUILDING CODE COMPLIANCE
9 OBLIGATIONS FOR AN INSTITUTION OF HIGHER EDUCATION BEYOND THOSE
10 ALREADY REQUIRED BY SECTION 24-30-1303.

11 **SECTION 4. Safety clause.** The general assembly finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety or for appropriations for
14 the support and maintenance of the departments of the state and state
15 institutions.