

**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. 26-0622.01 Jed Franklin x5484

**SENATE BILL 26-040**

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**SENATE SPONSORSHIP**

**Simpson and Amabile,**

**HOUSE SPONSORSHIP**

**Stewart K.,**

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**Senate Committees**  
Local Government & Housing

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE AFFORDABLE HOME OWNERSHIP PROGRAM.**

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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>.)*

The division of housing in the department of local affairs (division) administers an affordable home ownership program (program) that makes grants to nonprofit organizations, local governments, tribal governments, community development financial institutions, and community land trusts (eligible organizations) to support affordable home ownership, including the development of residential housing units that are described in an eligible organization's funding request (project). Current law specifies that only a household with an income less than or equal to

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.*

120% of the area median income is eligible for assistance through the program, but it is unclear whether this requirement applies to housing units constructed by an eligible organization through one of its projects. The bill clarifies that only a household with an income less than or equal to 120% of the statewide area median income is eligible for housing constructed by an eligible organization through one of its projects.

In addition, the program requires that housing offered through the program, including all taxes and fees, costs not more than 35% of a household's monthly income. The bill allows the division to modify this percentage as applied to a residential unit constructed by an eligible organization as part of an affordable housing project pursuant to a waiver process initiated by an eligible organization if a substantial need for housing the project's target population exists, the unit has been adequately marketed to eligible buyers for purchase for at least 6 months after the issuance of a certificate of occupancy, and the unit has not been purchased by an eligible buyer within that 6-month period. In lieu of this process, the division may approve an eligible organization's process for determining when to exceed the maximum monthly household income for a unit funded by the program.

The division may issue a waiver with a different housing cost limit from the limit requested by the eligible organization if a different limit would better serve needs identified in a housing assessment and the project remains financially feasible in the division's discretion.

For an eligible organization, the bill specifies that the division is required to accept a local affordability mechanism in lieu of any state-prescribed use covenant if the division determines that the local affordability mechanism allows the state to maintain its obligations for compliance and compliance monitoring and is substantially equivalent to or more protective of long-term affordability and primary occupancy than a state-prescribed use covenant or the local affordability mechanism is necessary to access financing for disproportionately impacted communities.

The division may allow an eligible organization to rent residential units constructed as part of the project. On or before December 31, 2026, the division is required to issue guidance for when units within a project may be rented.

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

2 **SECTION 1. In Colorado Revised Statutes, 29-32-103, amend**

3 **(1)(a) as follows:**

4 **29-32-103. Transfers of money - permitted uses of the fund -**

1 **continuous appropriation.**

2 (1) (a) The affordable housing support fund is hereby created in  
3 the state treasury. The support fund consists of money deposited into it  
4 under subsections (1)(b)(II) and (3) of this section, AND UNDER SECTIONS  
5 29-32-104 (3)(a.5)(II) AND 29-32-104 (3)(a.5)(III). The division of  
6 housing shall administer the support fund and expend the money in the  
7 support fund only for the purposes set forth in section 29-32-104 (3)(a),  
8 (3)(a.5), and (3)(b). The division of local government in the department  
9 of local affairs created in section 24-32-103 shall expend the money in the  
10 support fund only for the purposes set forth in section 29-32-104 (3)(c).  
11 Except as otherwise provided in subsection (1)(b) of this section, all  
12 money not expended or encumbered, and all interest earned on the  
13 investment or deposit of money in the support fund, remains in the  
14 support fund and does not revert to the general fund or any other fund at  
15 the end of any fiscal year. Except as otherwise provided in subsections  
16 (1)(b) and (1)(c) of this section and section 29-32-104 (3)(b)(II), all  
17 money transferred to the support fund pursuant to subsection (3) of this  
18 section AND SECTION 29-32-104 (3)(a.5) is continuously appropriated to  
19 the division of housing for the purposes set forth in section 29-32-104  
20 (3)(a), (3)(a.5), INCLUDING FOR THE PAYMENT OF ADMINISTRATIVE  
21 EXPENSES OF THE PROGRAM CREATED IN SECTION 29-32-104 (3)(a.5), and  
22 (3)(b) and, to the extent allocated by the division of housing, to the  
23 division of local government for the purposes set forth in section  
24 29-32-104 (3)(c).

25 **SECTION 2.** In Colorado Revised Statutes, 29-32-104, **amend**  
26 **(1)(a) and (3)(a); and add (3)(a.5) as follows:**

27 **29-32-104. Permissible expenditures - affordable housing**

1 **programs - report - definitions.**

2 (1) The office shall contract with the administrator. The office  
3 may select an administrator without a competitive procurement process  
4 but shall announce the contract opening publicly and select the  
5 administrator in a meeting that is open to the public, no less than  
6 seventy-two hours after notice of such meeting is publicly available. No  
7 single contract may exceed five years in duration. Upon the expiration of  
8 any contract term, the office may renew the contract with the same  
9 administrator or may select another administrator. The administrator  
10 selected by the office shall expend the money transferred to the financing  
11 fund in section 29-32-103 (2) that the administrator receives from the  
12 office to support the following programs only:

13 (a) A land banking program to be administered by the  
14 administrator. The program shall provide grants to local governments and  
15 tribal governments and loans to non-profit organizations with a  
16 demonstrated history of providing affordable housing to acquire and  
17 preserve land for the development of affordable housing. For purposes of  
18 this subsection (1)(a), "affordable housing" means rental housing that has  
19 a designated imputed income limit by household size not to exceed sixty  
20 percent of the area median income as established by the United States  
21 Department of Housing and Urban Development and published by the  
22 department or a statewide political subdivision or authority on housing,  
23 and regulated units in the project must have a gross rent limit that does  
24 not exceed thirty percent of the imputed income limitation applicable to  
25 the units and for-sale housing that could be purchased by a household  
26 with an annual income of at or below one hundred TWENTY percent of the  
27 area median income. Mixed use development is an allowable use of land

1 purchased under this program if the predominant use of the land is  
2 affordable housing. Loans made by the program shall be forgiven if land  
3 acquired with the assistance of the program is properly zoned with an  
4 active plan for the development of affordable housing within 5 years of  
5 date the loan is made and if the development is permitted and funded  
6 within 10 years. The lender and borrower may establish additional terms  
7 if needed. If land acquired with the assistance of the program is not  
8 developed within the timeline above, the loan must be repaid, with  
9 interest, as soon as practical, but not more than six months after  
10 expiration of said timeline, unless the office agrees to extend all or a  
11 portion of the timeline in its reasonable discretion. Land acquired with the  
12 assistance of the program that is not developed within the timeline above  
13 may be used by the owner for any purpose upon payment of the loan with  
14 interest or, in exchange for a waiver of interest, conveyed to a state  
15 agency or other entity for the development of affordable housing with the  
16 approval of the administrator. All principal and interest payments on  
17 loans made under this paragraph (a) SUBSECTION (1)(a) shall be paid to  
18 the administrator and used by the administrator for the purposes set forth  
19 in this subsection (1). As determined by the administrator, a minimum of  
20 15% and a maximum of 25% of monies transferred to the financing fund  
21 annually may be used for the program. The administrator may utilize the  
22 funds it receives from the office for the program to pay for the costs of  
23 administering the program; except that the total combined annual  
24 administrative expenditures of money from the financing fund by the  
25 administrator and the office shall not exceed two percent of the funds the  
26 administrator receives from the office for the program for the state fiscal  
27 year.

1 (3) The division of housing and the division of local government  
2 shall expend the money transferred to the support fund in section  
3 29-32-103 (1) to support the following programs only:

4 (a) (I) An affordable home ownership program administered by  
5 the division or one or more contractors of the division. The program shall  
6 offer home ownership down-payment assistance to first-time homebuyers  
7 and shall prioritize assistance, to the extent practicable, to first-generation  
8 homebuyers. The assistance shall be provided to households with income  
9 less than or equal to one hundred twenty percent of the area median  
10 income of households of that size in the territory or jurisdiction of local  
11 government or tribal government in which the housing is located, as  
12 calculated and published for a given year by the United States department  
13 of housing and urban development, and the cost of the monthly housing  
14 payment toward mortgage principal, mortgage interest, property taxes,  
15 mortgage and homeowner's insurance, homeowner association fees, land  
16 lease fees, and metropolitan district fees ~~shall~~ MUST not cost more than  
17 thirty-five percent of monthly household ~~income.~~ INCOME; EXCEPT THAT  
18 THE COST OF THE MONTHLY HOUSING PAYMENT MUST NOT BE CONSIDERED  
19 WHEN PROVIDING HOMEOWNERS WITH ASSISTANCE FOR HOME  
20 REHABILITATION. The program shall also make grants OR  
21 BELOW-MARKET-RATE LOANS to nonprofit organizations, local  
22 governments, tribal governments, community development financial  
23 institutions, and community land trusts to support affordable home  
24 ownership FOR HOUSEHOLDS WITH INCOME LESS THAN OR EQUAL TO  
25 EITHER ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN INCOME OF  
26 HOUSEHOLDS OF THAT SIZE IN THE TERRITORY OR JURISDICTION OF A  
27 LOCAL GOVERNMENT OR TRIBAL GOVERNMENT IN WHICH THE HOUSEHOLDS

1 ARE LOCATED, OR ONE HUNDRED TWENTY PERCENT OF THE STATEWIDE  
2 AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE, AS CALCULATED  
3 AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT  
4 OF HOUSING AND URBAN DEVELOPMENT, AND THE COST OF THE MONTHLY  
5 HOUSING PAYMENT TOWARD MORTGAGE PRINCIPAL, MORTGAGE INTEREST,  
6 PROPERTY TAXES, MORTGAGE AND HOMEOWNER'S INSURANCE,  
7 HOMEOWNERS' ASSOCIATION FEES, LAND LEASE FEES, AND METROPOLITAN  
8 DISTRICT FEES MUST NOT COST MORE THAN THIRTY-FIVE PERCENT OF  
9 MONTHLY HOUSEHOLD INCOME. THE AREA MEDIAN INCOME ELECTION  
10 DESCRIBED IN THIS SUBSECTION (3)(a)(I) MUST BE MADE AT THE  
11 BEGINNING OF THE ASSISTANCE AGREEMENT AND MUST NOT BE REVOKED  
12 OR CHANGED UNTIL THE END OF THE ASSISTANCE AGREEMENT. The  
13 program shall also make grants or loans to groups or associations of  
14 mobile home owners and their assignees to assist them with the purchase  
15 of a mobile home park pursuant to section 38-12-217. Said grants and  
16 loans shall be used to support affordable home ownership for households  
17 with income less than or equal to one hundred TWENTY percent of the area  
18 median income of households of that size in the territory or jurisdiction  
19 of local government or tribal government in which the households are  
20 located, as calculated and published for a given year by the United States  
21 department of housing and urban development, and the cost of the  
22 monthly housing payment toward mortgage principal, mortgage interest,  
23 property taxes, mortgage and homeowner's insurance, homeowner  
24 association fees, land lease fees, and metropolitan district fees ~~shall~~ MUST  
25 not cost more than thirty-five percent of monthly household income. All  
26 principal and interest payments on loans made under this subsection  
27 (3)(a) shall be paid to the division and used by the division for the

1 purposes set forth in this subsection (3). Up to fifty percent of money  
2 transferred to the support fund annually may be used for the program. The  
3 division shall determine how much of the available funding shall be  
4 allocated to each aspect of the program. The division may utilize up to  
5 five percent of the funds it receives from the fund for the program to pay  
6 for the direct and indirect costs of administering the program.

7 (II) FOR PROJECTS UNDERTAKEN BY AN ELIGIBLE ORGANIZATION,  
8 AS DEFINED IN SECTION 29-32-105.7 (2)(a), THE DIVISION MAY INCREASE  
9 OR WAIVE THE MAXIMUM PERCENTAGE OF INCOME THAT A HOUSEHOLD  
10 MAY ALLOCATE FOR MONTHLY HOUSING COSTS OTHERWISE REQUIRED BY  
11 SUBSECTION (3)(a)(I) OF THIS SECTION PURSUANT TO THE PROCESS SET  
12 FORTH IN SECTION 29-32-105.7.

13 (3) (a.5) AN AFFORDABLE HOMEOWNERSHIP PROGRAM THAT  
14 MAKES CONSTRUCTION LOANS OR ENABLES LOAN GUARANTEES TO  
15 ELIGIBLE ORGANIZATIONS FOR PROJECT DEVELOPMENT.

16 (I) THE TERM OF ANY LOAN MADE PURSUANT TO THIS SUBSECTION  
17 (3)(a.5) MUST NOT EXCEED TWENTY-FOUR MONTHS AND MUST NOT BE  
18 RENEWED OR REISSUED FOR THE SAME PROJECT.

19 (II) ALL PRINCIPAL PAYMENTS ON ANY LOAN MADE PURSUANT TO  
20 THIS SUBSECTION (3)(a.5) SHALL BE PAID TO THE DIVISION, WHICH SHALL  
21 DEPOSIT THE MONEY IN THE STATE AFFORDABLE HOUSING SUPPORT FUND,  
22 CREATED IN SECTION 29-32-103 (1)(a), AND THE MONEY MUST BE USED TO  
23 FURTHER THE PURPOSES OF SUBSECTIONS (3)(a) OR (3)(b) OF THIS  
24 SECTION.

25 (III) ALL INTEREST PAYMENTS AND FEES PAID ON LOANS OR LOAN  
26 GUARANTEES MADE PURSUANT TO THIS SUBSECTION (3)(a.5) SHALL BE  
27 PAID TO THE DIVISION, WHICH SHALL DEPOSIT THE MONEY IN THE STATE

1 AFFORDABLE HOUSING SUPPORT FUND, CREATED IN SECTION 29-32-103  
2 (1)(a), AND THE MONEY MUST BE USED BY THE DIVISION FOR THE  
3 ADMINISTRATION OF THE PROGRAM CREATED IN THIS SUBSECTION (3)(a.5).  
4 THE CUMULATIVE INTEREST OR FEES CHARGED ON LOANS OR LOAN  
5 GUARANTEES THAT ARE COLLECTED BY THE DIVISION MUST NOT  
6 SUBSTANTIALLY EXCEED THE COST OF ADMINISTRATION OF THIS  
7 SUBSECTION (3)(a.5).

8 (IV) THE DIVISION SHALL DETERMINE HOW MUCH OF THE  
9 AVAILABLE FUNDING FROM THE STATE AFFORDABLE HOUSING SUPPORT  
10 FUND SHALL BE ALLOCATED TO THE PROGRAM DESCRIBED IN THIS  
11 SUBSECTION (3)(a.5), BUT SHALL NOT REDUCE FUNDING FOR THE  
12 PROGRAMS DESCRIBED IN SUBSECTIONS (3)(a) OR (3)(b) OF THIS SECTION  
13 TO SUPPORT THE PROGRAM DESCRIBED IN THIS SUBSECTION (3)(a.5).

14 **SECTION 3.** In Colorado Revised Statutes, **add** 29-32-105.7 as  
15 follows:

16 **29-32-105.7. Home ownership program flexibility - waiver -**  
17 **affordability mechanisms - legislative declaration - definitions.**

18 (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

19 (I) PROPOSITION 123, APPROVED BY A MAJORITY OF ELIGIBLE  
20 ELECTORS DURING THE NOVEMBER 2022 GENERAL ELECTION, WAS  
21 INTENDED TO REACH ALL COMMUNITIES IN THE STATE;

22 (II) AFFORDABLE HOME OWNERSHIP OPPORTUNITIES ARE LIMITED  
23 BY CHANGING ECONOMIC CONDITIONS THROUGHOUT THE STATE;

24 (III) THE FUNDING PROVIDED PURSUANT TO PROPOSITION 123  
25 SHOULD BE ALLOCATED TO BUILDING HOUSING THAT WOULD NOT  
26 OTHERWISE BE BUILT WITHOUT FINANCIAL ASSISTANCE; AND

27 (IV) STATUTORY RESTRICTIONS ON ELIGIBILITY FOR ASSISTANCE

1 USING PROPOSITION 123 FUNDING, INCLUDING LIMITATIONS ON  
2 HOUSEHOLD INCOME AND MAXIMUM ALLOWABLE MONTHLY HOUSING  
3 COSTS, COUPLED WITH INCREASED INTEREST RATES, LAND COSTS, AND  
4 BUILDING MATERIAL COSTS, ARE PREVENTING THE PROPOSITION 123 HOME  
5 OWNERSHIP PROGRAM FROM BEING USED IN SOME COMMUNITIES.

6 (b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT  
7 IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE WAIVER PROCESS SET  
8 FORTH IN THIS SECTION WILL ALLOW THE DIVISION MORE FLEXIBILITY TO  
9 ALLOCATE FUNDING FOR AFFORDABLE HOME OWNERSHIP PROJECTS IN  
10 COMMUNITIES ACROSS THE STATE.

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

13 (a) "ELIGIBLE ORGANIZATION" MEANS A NON-PROFIT  
14 ORGANIZATION, LOCAL GOVERNMENT, COMMUNITY DEVELOPMENT  
15 FINANCIAL INSTITUTION, TRIBAL GOVERNMENT, OR COMMUNITY LAND  
16 TRUST THAT IS ELIGIBLE FOR FUNDING PURSUANT TO SECTION 29-32-104  
17 (3)(a).

18 (b) "PROJECT" MEANS A RESIDENTIAL HOUSING UNIT OR GROUP OF  
19 UNITS DESCRIBED WITHIN AN ELIGIBLE ORGANIZATION'S REQUEST FOR  
20 FUNDING PURSUANT TO SECTION 29-32-104 (3)(a)(I).

21 (3) NOTWITHSTANDING THE PROVISIONS OF SECTION 29-32-104  
22 (3)(a) THAT SPECIFY THAT MONTHLY HOUSING COSTS SHALL NOT EXCEED  
23 THIRTY-FIVE PERCENT OF MONTHLY HOUSEHOLD INCOME, THE DIVISION  
24 MAY APPROVE AN ELIGIBLE ORGANIZATION'S PROCESS FOR DETERMINING  
25 WHEN TO EXCEED THE MAXIMUM MONTHLY HOUSEHOLD INCOME FOR A  
26 UNIT FUNDED PURSUANT TO SECTION 29-32-104 (3)(a). THE SIX-MONTH  
27 MARKETING PERIOD SPECIFIED IN SUBSECTION (3)(c)(II) OF THIS SECTION

1 DOES NOT APPLY TO THE PROCESS DESCRIBED IN THIS SUBSECTION (3).

2 (4) (a) FOR PROJECTS FUNDED PURSUANT TO SECTION 29-32-104  
3 (3)(a), AN ELIGIBLE ORGANIZATION MAY REQUEST THAT THE DIVISION  
4 ALLOW IT TO RENT RESIDENTIAL UNITS CONSTRUCTED AS PART OF THE  
5 PROJECT. THE DIVISION HAS THE AUTHORITY TO RENT OR ALLOW THE  
6 RENTAL OF A RESIDENTIAL UNIT CONSTRUCTED AS PART OF THE PROJECT.

7 (b) ON OR BEFORE DECEMBER 31, 2026, THE DIVISION SHALL ISSUE  
8 GUIDANCE FOR WHEN AN ELIGIBLE ORGANIZATION MAY RENT UNITS  
9 WITHIN A PROJECT AND DEVELOP A PROCESS TO RETURN RENTED UNITS TO  
10 THE FOR-SALE MARKET.

11 (c) A HOMEOWNER MAY RENT A UNIT FUNDED PURSUANT TO  
12 SECTION 29-32-104 (3)(a) AS LONG AS THE UNIT REMAINS THEIR PRIMARY  
13 RESIDENCE.

14 **SECTION 4. Effective date - applicability.** This act takes effect  
15 July 1, 2026, and applies to requests for waivers received by the division  
16 on or after said date.

17 **SECTION 5. Safety clause.** The general assembly finds,  
18 determines, and declares that this act is necessary for the immediate  
19 preservation of the public peace, health, or safety or for appropriations for  
20 the support and maintenance of the departments of the state and state  
21 institutions.