

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 26-0622.01 Jed Franklin x5484

SENATE BILL 26-040

SENATE SPONSORSHIP

Simpson and Amabile,

HOUSE SPONSORSHIP

Stewart K. and Smith,

Senate Committees

Local Government & Housing

House Committees

A BILL FOR AN ACT

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

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.

SENATE
Amended 2nd Reading
March 30, 2026

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.

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. The division of
5 housing shall administer the support fund and expend the money in the
6 support fund only for the purposes set forth in section 29-32-104 (3)(a)
7 and (3)(b). The division of local government in the department of local
8 affairs created in section 24-32-103 shall expend the money in the support
9 fund only for the purposes set forth in section 29-32-104 (3)(c). Except
10 as otherwise provided in subsection (1)(b) of this section, all money not
11 expended or encumbered, and all interest earned on the investment or
12 deposit of money in the support fund, remains in the support fund and
13 does not revert to the general fund or any other fund at the end of any
14 fiscal year. Except as otherwise provided in subsections (1)(b) and (1)(c)
15 of this section and section 29-32-104 (3)(b)(II), all money transferred to
16 the support fund pursuant to subsection (3) of this section is continuously
17 appropriated to the division of housing for the purposes set forth in
18 section 29-32-104 (3)(a) and (3)(b) and, to the extent allocated by the
19 division of housing, to the division of local government for the purposes
20 set forth in section 29-32-104 (3)(c).

21 **SECTION 2.** In Colorado Revised Statutes, 29-32-104, **amend**
22 (1)(a) and (3)(a) as follows:

23 **29-32-104. Permissible expenditures - affordable housing**
24 **programs - report - definitions.**

25 (1) The office shall contract with the administrator. The office
26 may select an administrator without a competitive procurement process
27 but shall announce the contract opening publicly and select the

1 administrator in a meeting that is open to the public, no less than
2 seventy-two hours after notice of such meeting is publicly available. No
3 single contract may exceed five years in duration. Upon the expiration of
4 any contract term, the office may renew the contract with the same
5 administrator or may select another administrator. The administrator
6 selected by the office shall expend the money transferred to the financing
7 fund in section 29-32-103 (2) that the administrator receives from the
8 office to support the following programs only:

9 (a) A land banking program to be administered by the
10 administrator. The program shall provide grants to local governments and
11 tribal governments and loans to non-profit organizations with a
12 demonstrated history of providing affordable housing to acquire and
13 preserve land for the development of affordable housing. For purposes of
14 this subsection (1)(a), "affordable housing" means rental housing that has
15 a designated imputed income limit by household size not to exceed sixty
16 percent of the area median income as established by the United States
17 Department of Housing and Urban Development and published by the
18 department or a statewide political subdivision or authority on housing,
19 and regulated units in the project must have a gross rent limit that does
20 not exceed thirty percent of the imputed income limitation applicable to
21 the units and for-sale housing that could be purchased by a household
22 with an annual income of at or below one hundred TWENTY percent of the
23 area median income. Mixed use development is an allowable use of land
24 purchased under this program if the predominant use of the land is
25 affordable housing. Loans made by the program shall be forgiven if land
26 acquired with the assistance of the program is properly zoned with an
27 active plan for the development of affordable housing within 5 years of

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

24 (3) The division of housing and the division of local government
25 shall expend the money transferred to the support fund in section
26 29-32-103 (1) to support the following programs only:

27 (a) (I) An affordable home ownership program administered by

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

1 MORTGAGE INTEREST, PROPERTY TAXES, MORTGAGE AND HOMEOWNER'S
2 INSURANCE, HOMEOWNERS' ASSOCIATION FEES, LAND LEASE FEES, AND
3 METROPOLITAN DISTRICT FEES MUST NOT COST MORE THAN THIRTY-FIVE
4 PERCENT OF MONTHLY HOUSEHOLD INCOME. THE AREA MEDIAN INCOME
5 ELECTION DESCRIBED IN THIS SUBSECTION (3)(a)(I) MUST BE MADE AT THE
6 BEGINNING OF THE ASSISTANCE AGREEMENT AND MUST NOT BE REVOKED
7 OR CHANGED UNTIL THE END OF THE ASSISTANCE AGREEMENT. The
8 program shall also make grants or loans to groups or associations of
9 mobile home owners and their assignees to assist them with the purchase
10 of a mobile home park pursuant to section 38-12-217. Said grants and
11 loans shall be used to support affordable home ownership for households
12 with income less than or equal to one hundred TWENTY percent of the area
13 median income of households of that size in the territory or jurisdiction
14 of local government or tribal government in which the households are
15 located, as calculated and published for a given year by the United States
16 department of housing and urban development, and the cost of the
17 monthly housing payment toward mortgage principal, mortgage interest,
18 property taxes, mortgage and homeowner's insurance, homeowner
19 association fees, land lease fees, and metropolitan district fees ~~shall~~ MUST
20 not cost more than thirty-five percent of monthly household income. All
21 principal and interest payments on loans made under this subsection
22 (3)(a) shall be paid to the division and used by the division for the
23 purposes set forth in this subsection (3). Up to fifty percent of money
24 transferred to the support fund annually may be used for the program. The
25 division shall determine how much of the available funding shall be
26 allocated to each aspect of the program. The division may utilize up to
27 five percent of the funds it receives from the fund for the program to pay

1 for the direct and indirect costs of administering the program.

2 (II) FOR PROJECTS UNDERTAKEN BY AN ELIGIBLE ORGANIZATION,
3 AS DEFINED IN SECTION 29-32-105.7 (2)(a), THE DIVISION MAY INCREASE
4 OR WAIVE THE MAXIMUM PERCENTAGE OF INCOME THAT A HOUSEHOLD
5 MAY ALLOCATE FOR MONTHLY HOUSING COSTS OTHERWISE REQUIRED BY
6 SUBSECTION (3)(a)(I) OF THIS SECTION PURSUANT TO THE PROCESS SET
7 FORTH IN SECTION 29-32-105.7. IF A WAIVER IS GRANTED, THE DIVISION IS
8 AUTHORIZED TO AMEND EXISTING CONTRACTS ENTERED INTO AFTER JULY
9 1, 2026, EVEN IF THE PROJECT WAS ORIGINALLY AWARDED UNDER A
10 SOLICITATION ISSUED PRIOR TO JULY 1, 2026.

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

13 **29-32-105.7. Home ownership program flexibility - waiver -**
14 **affordability mechanisms - legislative declaration - definitions.**

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

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

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

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

24 (IV) STATUTORY RESTRICTIONS ON ELIGIBILITY FOR ASSISTANCE
25 USING PROPOSITION 123 FUNDING, INCLUDING LIMITATIONS ON
26 HOUSEHOLD INCOME AND MAXIMUM ALLOWABLE MONTHLY HOUSING
27 COSTS, COUPLED WITH INCREASED INTEREST RATES, LAND COSTS, AND

1 BUILDING MATERIAL COSTS, ARE PREVENTING THE PROPOSITION 123 HOME
2 OWNERSHIP PROGRAM FROM BEING USED IN SOME COMMUNITIES.

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

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

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

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

18 (3) NOTWITHSTANDING THE PROVISIONS OF SECTION 29-32-104
19 (3)(a) THAT SPECIFY THAT MONTHLY HOUSING COSTS SHALL NOT EXCEED
20 THIRTY-FIVE PERCENT OF MONTHLY HOUSEHOLD INCOME, ORGANIZATION
21 THAT WAS AWARDED MONEY FOR AN AFFORDABLE HOME OWNERSHIP
22 PROJECT PURSUANT TO SECTION 29-32-104 (3)(a) AND THAT
23 CONSTRUCTED A RESIDENTIAL UNIT AS PART OF THE PROJECT THAT HAS
24 NOT BEEN PURCHASED WITHIN SIX MONTHS OF THE ISSUANCE OF A
25 CERTIFICATE OF OCCUPANCY, MAY SUBMIT A REQUEST TO THE DIVISION
26 FOR A WAIVER OF THE MAXIMUM MONTHLY HOUSING COST LIMIT FOR THAT
27 RESIDENTIAL UNIT.

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(b) THE DIVISION MAY APPROVE A WAIVER REQUEST IF AN ELIGIBLE ORGANIZATION AWARDED MONEY FOR AN AFFORDABLE HOME OWNERSHIP PROGRAM PURSUANT TO SECTION 29-32-104 (3)(a) ESTABLISHES THAT:

(I) A SUBSTANTIAL NEED FOR HOUSING THE PROJECT'S TARGET POPULATION EXISTS; AND

(II) THE UNIT HAS BEEN ADEQUATELY MARKETED TO ELIGIBLE BUYERS FOR PURCHASE FOR AT LEAST SIX MONTHS AFTER FINAL COMPLETION OF THE UNIT, AND THE UNIT HAS NOT BEEN PURCHASED BY AN ELIGIBLE BUYER WITHIN THAT SIX-MONTH PERIOD.

(c) THE DIVISION MAY:

(I) ISSUE A WAIVER WITH HOUSING COST LIMITS THAT ARE DIFFERENT FROM THOSE REQUESTED BY THE ELIGIBLE ORGANIZATION IN THE WAIVER REQUEST IF DIFFERENT HOUSING COST LIMITS WOULD BETTER SERVE NEEDS IDENTIFIED IN THE COMMUNITY, THE PROJECT REMAINS FINANCIALLY FEASIBLE IN THE DIVISION'S DISCRETION, AND THERE ARE ELIGIBLE BUYERS THAT MEET THE PARAMETERS SET BY THE DIVISION PURSUANT TO THIS SUBSECTION (3)(c)(I); OR

(II) MODIFY THE TOTAL AMOUNT OF FUNDING PROVIDED PURSUANT TO SECTION 29-32-104 (3)(a) TO ACCOUNT FOR AN INCREASE IN THE SALE PRICE OF THE UNIT.

(4) IN LIEU OF THE PROCESS DESCRIBED IN SUBSECTION (3) OF THIS SECTION, THE DIVISION MAY APPROVE AN ELIGIBLE ORGANIZATION'S PROCESS FOR DETERMINING WHEN TO EXCEED THE MAXIMUM MONTHLY HOUSEHOLD INCOME FOR A UNIT FUNDED PURSUANT TO SECTION 29-32-104 (3)(a). AN ELIGIBLE ORGANIZATION'S PROCESS APPROVED UNDER THIS SUBSECTION (4) SHALL NOT REQUIRE A SIX-MONTH

1 MARKETING PERIOD.

2 29-32-104 (3)(a).

3 (5) (a) FOR PROJECTS FUNDED PURSUANT TO SECTION 29-32-104
4 (3)(a), THE DIVISION SHALL ACCEPT A LOCAL AFFORDABILITY MECHANISM,
5 INCLUDING A DEED RESTRICTION, COMMUNITY LAND TRUST GROUND
6 LEASE, SECURED RECAPTURE LIEN, OR COMPARABLE RECORDED
7 INSTRUMENT IN LIEU OF ANY STATE-PREScribed USE COVENANT IF THE
8 DIVISION DETERMINES THAT:

9 (I) THE LOCAL AFFORDABILITY MECHANISM ALLOWS THE STATE TO
10 MAINTAIN ITS OBLIGATIONS FOR COMPLIANCE AND COMPLIANCE
11 MONITORING; AND

12 (II) (A) THE LOCAL AFFORDABILITY MECHANISM IS
13 SUBSTANTIALLY EQUIVALENT TO OR MORE PROTECTIVE OF LONG-TERM
14 AFFORDABILITY AND PRIMARY OCCUPANCY THAN A STATE-PREScribed
15 USE COVENANT; OR

16 (B) THE LOCAL AFFORDABILITY MECHANISM IS NECESSARY FOR
17 ACCESS TO FINANCING FOR A DISPROPORTIONATELY IMPACTED
18 COMMUNITY, AS DEFINED IN SECTION 24-4-109 (2)(b)(II).

19 (b) IF THE DIVISION ACCEPTS A LOCAL AFFORDABILITY MECHANISM
20 IN LIEU OF A STATE-PREScribed USE COVENANT, THE DIVISION SHALL NOT
21 REQUIRE A STATE-PREScribed USE COVENANT ON A UNIT, EXCEPT TO
22 INCORPORATE NON-DUPLICATIVE FEDERAL OR STATE REQUIREMENTS NOT
23 ADDRESSED IN THE LOCAL AFFORDABILITY MECHANISM.

24 (6) (a) FOR PROJECTS FUNDED PURSUANT TO SECTION 29-32-104
25 (3)(a), AN ELIGIBLE ORGANIZATION MAY REQUEST THAT THE DIVISION
26 ALLOW IT TO RENT RESIDENTIAL UNITS CONSTRUCTED AS PART OF THE
27 PROJECT. THE DIVISION HAS THE AUTHORITY TO RENT OR ALLOW THE

1 RENTAL OF A RESIDENTIAL UNIT CONSTRUCTED AS PART OF THE PROJECT.

2 (b) ON OR BEFORE DECEMBER 31, 2026, THE DIVISION SHALL ISSUE
3 GUIDANCE FOR WHEN AN ELIGIBLE ORGANIZATION MAY RENT UNITS
4 WITHIN A PROJECT AND DEVELOP A PROCESS BY WHICH RENTED UNITS MAY
5 RETURN TO THE FOR-SALE MARKET.

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

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

12 **SECTION 5. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.