

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

REVISED

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

LLS NO. 26-0622.01 Jed Franklin x5484

SENATE BILL 26-040

SENATE SPONSORSHIP

Simpson and Amabile, Ball, Benavidez, Bridges, Catlin, Coleman, Cutter, Daugherty, Exum, Frizell, Gonzales J., Jodeh, Kipp, Kirkmeyer, Kolker, Lindstedt, Marchman, Mullica, Pelton R., Roberts, Snyder, Wallace, Weissman

HOUSE SPONSORSHIP

Stewart K. and Smith,

Senate Committees

Local Government & Housing

House Committees

Transportation, Housing & Local Government

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.*

HOUSE
Amended 2nd Reading
April 20, 2026

SENATE
3rd Reading Unamended
March 31, 2026

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) (I) 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 (II) FOR LAND BANKING PROGRAM GRANTS TO SUPPORT TRIBAL
25 GOVERNMENT PROGRAMS, THE TRIBE SHALL ESTABLISH INCOME LIMITS BY
26 HOUSEHOLD SIZE AND GROSS RENT LIMITS REQUIRED BY SUBSECTION
27 (1)(a)(I) OF THIS SECTION. THE TRIBAL GOVERNMENT SHALL SUBMIT

1 EVIDENCE TO THE OFFICE OR ADMINISTRATOR THAT IT HAS SATISFIED THE
2 REQUIREMENTS OF THIS SUBSECTION (1)(a)(II), INCLUDING BY PROVIDING
3 GENERAL INFORMATION ABOUT THE PROCESS IT USED TO ESTABLISH THESE
4 LIMITATIONS, BUT SHALL NOT BE REQUIRED TO DISCLOSE CONFIDENTIAL
5 TRIBAL DATA, INCLUDING THE SPECIFIC LIMITATIONS IT SETS PURSUANT TO
6 THIS SUBSECTION (1)(a)(II).

7 (3) The division of housing and the division of local government
8 shall expend the money transferred to the support fund in section
9 29-32-103 (1) to support the following programs only:

10 (a) (I) An affordable home ownership program administered by
11 the division or one or more contractors of the division. The program shall
12 offer home ownership down-payment assistance to first-time homebuyers
13 and shall prioritize assistance, to the extent practicable, to first-generation
14 homebuyers. The assistance shall be provided to households with income
15 less than or equal to one hundred twenty percent of the area median
16 income of households of that size in the territory or jurisdiction of local
17 government ~~or tribal government~~ in which the housing is located, as
18 calculated and published for a given year by the United States department
19 of housing and urban development, and the cost of the monthly housing
20 payment toward mortgage principal, mortgage interest, property taxes,
21 mortgage and homeowner's insurance, homeowner association fees, land
22 lease fees, and metropolitan district fees ~~shall~~ MUST not cost more than
23 ~~thirty-five~~ THIRTY-EIGHT percent of monthly household ~~income.~~ INCOME;
24 EXCEPT THAT THE COST OF THE MONTHLY HOUSING PAYMENT MUST NOT
25 BE CONSIDERED WHEN PROVIDING HOMEOWNERS WITH ASSISTANCE FOR
26 HOME REHABILITATION. The program shall also make grants to
27 nonprofit organizations, local governments, tribal governments,

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

1 property taxes, mortgage and homeowner's insurance, homeowner
2 association fees, land lease fees, and metropolitan district fees ~~shall~~ MUST
3 not cost more than thirty-five percent of monthly household income. All
4 principal and interest payments on loans made under this subsection
5 (3)(a) shall be paid to the division and used by the division for the
6 purposes set forth in this subsection (3). Up to fifty percent of money
7 transferred to the support fund annually may be used for the program. The
8 division shall determine how much of the available funding shall be
9 allocated to each aspect of the program. The division may utilize up to
10 five percent of the funds it receives from the fund for the program to pay
11 for the direct and indirect costs of administering the program.

12 (II) FOR PROJECTS UNDERTAKEN BY AN ELIGIBLE ORGANIZATION,
13 AS DEFINED IN SECTION 29-32-105.7 (2)(a), THE DIVISION MAY INCREASE
14 OR WAIVE THE MAXIMUM PERCENTAGE OF INCOME THAT A HOUSEHOLD
15 MAY ALLOCATE FOR MONTHLY HOUSING COSTS OTHERWISE REQUIRED BY
16 SUBSECTION (3)(a)(I) OF THIS SECTION PURSUANT TO THE PROCESS SET
17 FORTH IN SECTION 29-32-105.7. IF A WAIVER IS GRANTED, THE DIVISION IS
18 AUTHORIZED TO AMEND EXISTING CONTRACTS ENTERED INTO AFTER JULY
19 1, 2026, EVEN IF THE PROJECT WAS ORIGINALLY AWARDED UNDER A
20 SOLICITATION ISSUED PRIOR TO JULY 1, 2026.

21 (III) FOR GRANTS TO SUPPORT TRIBAL GOVERNMENT PROGRAMS,
22 THE TRIBE SHALL ESTABLISH LIMITATIONS ON HOUSEHOLD INCOME AND
23 MAXIMUM PERCENTAGE OF INCOME THAT A HOUSEHOLD MAY ALLOCATE
24 FOR MONTHLY HOUSING COSTS REQUIRED BY SUBSECTION (3)(a)(I) OF THIS
25 SECTION AND SHALL ESTABLISH A TRIBAL AFFORDABILITY MECHANISM IN
26 LIEU OF ANY STATE-PREScribed USE COVENANT. THE TRIBAL
27 GOVERNMENT SHALL SUBMIT EVIDENCE TO THE DIVISION THAT IT HAS

1 SATISFIED THE REQUIREMENTS OF THIS SUBSECTION (3)(a)(III), INCLUDING
2 BY PROVIDING GENERAL INFORMATION ABOUT THE PROCESS IT USED TO
3 ESTABLISH THESE LIMITATIONS AND MECHANISMS BUT IS NOT REQUIRED
4 TO DISCLOSE CONFIDENTIAL TRIBAL DATA, INCLUDING THE SPECIFIC
5 LIMITATIONS OR MECHANISMS IT SETS UNDER THIS SUBSECTION. UNLESS
6 OTHERWISE AUTHORIZED BY LAW, THE DIVISION OF HOUSING AND THE
7 DIVISION OF LOCAL GOVERNMENT SHALL ADMINISTER AND EXPEND
8 FUNDING TO TRIBAL GOVERNMENTS UNDER THIS SECTION ONLY FOR THE
9 PURPOSES SET FORTH IN SECTIONS 29-32-104 (3)(a), (3)(b), OR (3)(c).

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

12 **29-32-105.7. Home ownership program flexibility - waiver -**
13 **affordability mechanisms - legislative declaration - definitions.**

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

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

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

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

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

1 OWNERSHIP PROGRAM FROM BEING USED IN SOME COMMUNITIES.

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

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

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

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

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

26

27 (b) THE DIVISION MAY APPROVE A WAIVER REQUEST IF AN ELIGIBLE

1 ORGANIZATION AWARDED MONEY FOR AN AFFORDABLE HOME OWNERSHIP
2 PROGRAM PURSUANT TO SECTION 29-32-104 (3)(a) ESTABLISHES THAT:

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

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

9 (c) THE DIVISION MAY:

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

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

20 (4) IN LIEU OF THE PROCESS DESCRIBED IN SUBSECTION (3) OF THIS
21 SECTION, THE DIVISION MAY APPROVE AN ELIGIBLE ORGANIZATION'S
22 PROCESS FOR DETERMINING WHEN TO EXCEED THE MAXIMUM MONTHLY
23 HOUSEHOLD INCOME FOR A UNIT FUNDED PURSUANT TO SECTION
24 29-32-104 (3)(a). AN ELIGIBLE ORGANIZATION'S PROCESS APPROVED
25 UNDER THIS SUBSECTION (4) SHALL NOT REQUIRE A SIX-MONTH
26 MARKETING PERIOD.

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

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

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

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

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