HB 23-1184

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-0429	**Date:**	February 24, 2023
Prime Sponsors:	Rep. Lindstedt; Frizell Sen. Roberts	**Bill Status:**	House Trans. & Local Govt.
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Bill Topic: **LOW-INCOME HOUSING PROPERTY TAX EXEMPTIONS**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☒ TABOR Refund
☒ Local Government
☐ Statutory Public Entity

The bill expands an existing property tax exemption for vacant land held by a nonprofit organization to build and sell affordable housing units, and deems certain land leased by nonprofit community land trusts and home developers as charitable and exempt under the state constitution. The bill increases state revenue and expenditures, and decreases local government property tax revenue on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 23-1184

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	Property Tax Exemption Fund	$26,250	$20,225
Expenditures	School Finance[1]	-	$82,000 to $160,000
Transfers		-	-
Other Budget Impacts	TABOR Refund	$26,250	$20,225

[1] Expenditures for the state share of school finance may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these.

Summary of Legislation

The bill expands an existing property tax exemption for vacant land held by a nonprofit organization to build and sell affordable housing units beginning in the 2024 property tax year by:

- raising the income limitations for purchasers from 80 percent to 100 percent of an area's median income (based on county);
- clarifying that nonprofit housing providers may claim the exemption through construction on the property and until the property is sold, transferred, donated, or leased;
- clarifying that a nonprofit housing provider is no longer required to work with low-income purchasers to construct or rehabilitate housing;
- extending the duration of the exemption to 10 years from 5 years, and allowing some providers to renew an expired exemption for another 5 years;
- establishing new criteria for intent for the property use, to be used by the Division of Property Taxation when evaluating exemption eligibility; and
- removing liability for paying back taxes claimed through the exemption if the property is sold, donated, or leased to a community land trust or another nonprofit housing provider who intends to use the property for a land lease to low-income homeowners.

The bill also deems certain land held by community land trusts and nonprofit affordable homeownership developers as being used strictly for charitable purposes and therefore, constitutionally exempt from property tax. The bill includes criteria for determining the strictly charitable use including:

- that the property is held by a community land trust or a nonprofit affordable homeownership developer;
- the property is split into a separate taxable parcel from the improvements on the property; and
- the property is leased to the owner of the improvements as an affordable homeownership property.

Assumptions

Property tax. The local property tax impacts identified in the Local Government section below are based on several assumptions. An estimated $221,000 in 2022 property taxes were paid by four existing nonprofit community land trusts and affordable homeownership developers that may be exempt under the bill. The fiscal note assumes that the assessed value of these properties could increase an estimated 26.5 percent for the 2024 property tax year, based on the increases estimated in the December 2022 Legislative Council Staff forecast. Assuming a corresponding increase in property tax, taxes on these properties will total an estimated $280,000 in 2024, and may be up to $560,000 if these properties are assumed to represent 50 percent of similar properties that could become exempt under the bill. Additionally, another $15,000 in property tax could be paid in 2024 from properties that have exceeded or reached the five-year limitation in current law.

School finance. Total program mills for school district property tax impacts average about 26 mills for projects located along the Front Range and just over 17 mills in other areas of Colorado. The fiscal note assumes that 75 percent of properties exempt under the bill will be along the Front Range. Total program mills were weighted based on estimated property tax revenue and projected residential assessed values for school districts within each region.

State Revenue

The bill is expected to increase state fee revenue to the Property Tax Exemption Fund by $26,250 in FY2023-24, and by $20,225 in FY 2024-25, with similar impacts in subsequent years as explained below.

Fee impact on property tax exemption applicants. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Applications for certain property tax exemptions are administered by the Division of Property Taxation in the Department of Local Affairs (DOLA). The initial application fee for an exemption review for a nonprofit housing provider planning construction of an affordable unit is $175 for each property. After an exemption is granted, property owners must file an annual report for the property and pay a review fee of $75 if filed by April 15, or $250 if filed between April 16 and July 1. Fees are distributed to the Property Tax Exemption Fund and are subject to TABOR.

This analysis identified vacant properties that are subject to property tax and owned by nonprofit organizations that may be eligible for the bill's expanded exemptions. The fiscal note assumes about 150 initial applications in FY 2023-24. In FY 2024-25, the analysis assumes 50 initial applications due to changes under the bill, and over 150 annual reviews. Annual review load is expected to fluctuate as affordable housing units are built and sold, exemption limits are reached, or property is sold or transferred. To the extent that actual eligibility and utilization differ from the assumptions in the fiscal note, state fee revenue will correspondingly increase or decrease.

State Expenditures

The bill increases state expenditures for school finance and workload for DOLA and the Office of Information Technology, as discussed below.

School finance. The bill decreases property tax collections from school district total program mills, requiring an increase in the state share of total program funding for school finance. The increased state aid obligation is estimated to be between $82,000 and $160,000 in FY 2024-25, offsetting reductions in local share revenue for the 2024 property tax year. School finance expenditures may be paid from the General Fund, the State Education Fund, the State Public School Fund, or a combination of these. If the General Assembly sets the budget stabilization factor at a higher level than it otherwise would as a result of the revenue decrease, then the impact on state expenditures will be less than estimated.

Division of Property Taxation. The Division of Property Taxation in DOLA will need to establish new administrative rules and update and review procedures, forms, and manuals. The division will also need to conduct training and adjust training materials. Increased workload under the bill is expected to be accomplished with existing resources. To the extent that the division requires additional resources to review the exemption applications, resources will be requested through the annual budget process and may be covered by the additional fee revenue generated by the bill.

Office of Information Technology. The Division of Property Taxation requires changes to the county portal database to track properties under the bill. The changes will be made by the Office of Information Technology. Increased workload is expected to be accomplished with existing resources.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Local Government

The bill decreases local government revenue for local governments that levy property taxes including counties, municipalities, school districts, and special districts. It also increases county government expenditures. Local government impacts are discussed further below.

Local revenue. The bill is expected to decrease local government revenue between $295,000 and $575,000 for property tax year 2024. The estimated decrease for nonprofit affordable housing developers on vacant land is between $157,000 and $298,000, although it is expected to fluctuate as homes are constructed and exempt properties are sold, timed-out of the exemption, or become taxable for other reasons. The estimated decrease for community land trusts and nonprofit affordable homeownership developers that claim the constitutional exemption on improved property is between $138,000 and $277,000 for property tax year 2024, and is expected to grow in future years along with broadening of the land lease homeownership model. Land leases are expected to be long-term commitments by nonprofit organizations.

As noted in the Assumptions section, the majority of the local impact is expected to occur in Front Range communities, although current community land trusts also exist in Ouray, Rio Grande, Routt, and San Miguel counties, and statewide non-profit affordable housing developers operate in many other areas of the state.

County government expenditures. The bill increases workload for county assessors' offices to implement provisions under the bill. Local workload increases are expected to be minimal.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, except the expanded exemptions begin January 1, 2024.

State and Local Government Contacts

Counties	County Assessors	Information Technology
Local Affairs	Municipalities	Property Tax Division
Special District Association		