

CHAPTER 7

TAXATION

SENATE BILL 26-001

BY SENATOR(S) Roberts and Bridges, Cutter, Gonzales J., Jodeh, Kipp, Lindstedt, Michaelson Jenet, Mullica, Snyder, Sullivan, Weissman
 also REPRESENTATIVE(S) Boesenecker and Richardson, Bacon, Brown, Caldwell, Camacho, Clifford, Froelich, Garcia, Gonzalez R., Hamrick, Jackson, Joseph, Lindsay, Mabrey, Mauro, McCormick, Nguyen, Rutinel, Rydin, Sirota, Smith, Stewart R., Story, Titone, Winter T., Woodrow, Zokaie, McCluskie.

AN ACT

CONCERNING HOUSING, AND, IN CONNECTION THEREWITH, AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO APPROPRIATE MONEY TO SUPPORT SPECIFIED TYPES OF HOUSING AND MAKING THE MIDDLE-INCOME HOUSING TAX CREDIT AVAILABLE TO TRANSFEREES WHO DO NOT OWN AN INTEREST IN A QUALIFIED DEVELOPMENT.

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

SECTION 1. In Colorado Revised Statutes, 30-35-202, **add** (1)(d) as follows:

30-35-202. Power to sell public works - sell or lease property.

(1) The governing body shall have the following additional powers:

(d) NOTWITHSTANDING SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION, TO SELL AND DISPOSE OF, BY ORDINANCE, ANY PUBLIC BUILDING OR REAL PROPERTY OWNED BY A COUNTY THAT IS HELD FOR GOVERNMENT PURPOSES, OTHER THAN PARK PURPOSES, IF THE SALE AND DISPOSITION OF THE PUBLIC BUILDING OR REAL PROPERTY IS FOR THE PURPOSE OF PROVIDING PROPERTY TO BE USED FOR THE DEVELOPMENT OF AFFORDABLE HOUSING OR HOUSING IDENTIFIED IN A HOUSING NEEDS ASSESSMENT CONDUCTED PURSUANT TO SECTION 24-32-3703 OR 24-32-3704. THE GOVERNING BODY SHALL DETERMINE THE TERMS AND CONDITIONS OF THE SALE AND DISPOSITION AT A REGULAR OR SPECIAL MEETING.

SECTION 2. In Colorado Revised Statutes, 31-15-713, **add** (1)(d) as follows:

31-15-713. Power to sell public works - real property.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(1) The governing body of each municipality has the power:

(d) NOTWITHSTANDING SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION, TO SELL AND DISPOSE OF, BY ORDINANCE, ANY PUBLIC BUILDING OR REAL PROPERTY OWNED BY A MUNICIPALITY THAT IS HELD FOR GOVERNMENT PURPOSES, OTHER THAN PARK PURPOSES, IF THE SALE AND DISPOSITION OF THE PUBLIC BUILDING OR REAL PROPERTY IS FOR THE PURPOSE OF PROVIDING PROPERTY TO BE USED FOR THE DEVELOPMENT OF AFFORDABLE HOUSING OR HOUSING IDENTIFIED IN A HOUSING NEEDS ASSESSMENT CONDUCTED PURSUANT TO SECTION 24-32-3703 OR 24-32-3704. THE GOVERNING BODY SHALL DETERMINE THE TERMS AND CONDITIONS OF THE SALE AND DISPOSITION AT A REGULAR OR SPECIAL MEETING.

SECTION 3. In Colorado Revised Statutes, amend 31-15-801 as follows:

31-15-801. Agreements - ordinance - financing.

In order to provide necessary land, buildings, equipment, and other property for governmental or proprietary purposes, INCLUDING FOR THE DEVELOPMENT OF AFFORDABLE HOUSING OR HOUSING IDENTIFIED IN A HOUSING NEEDS ASSESSMENT CONDUCTED PURSUANT TO SECTION 24-32-3703 OR 24-32-3704, or for financing of forest health projects, as defined in section 37-95-103 (4.9), any municipality is authorized to enter into long-term rental or leasehold agreements. ~~but in no event shall this be construed as authorizing the use by any municipality of leasehold agreements to finance residential housing.~~ Such agreements may include an option to purchase and acquire title to such leased or rented property within a period not exceeding the useful life of such property and in no case exceeding thirty years. Each such agreement and the terms thereof shall be concluded by an ordinance duly enacted by the municipality. No such ordinance shall take effect before thirty days after its passage and publication. The governing body of any municipality is authorized to provide for the payment of said rentals from a general levy imposed upon both personal and real property included within the boundaries of the municipality; by imposing rates, tolls, and service charges for the use of such property or any part thereof by others; from any other available municipal income; or from any one or more of the said sources. The obligation to pay such rentals shall not constitute an indebtedness of said municipality within the meaning of the constitutional limitations on contracting of indebtedness by municipalities.

SECTION 4. In Colorado Revised Statutes, 29-1-204.5, amend (7.5)(c); and add (7.5)(d) as follows:

29-1-204.5. Establishment of multijurisdictional housing authorities.

~~(7.5) (c) The questions proposed to the registered electors under paragraphs (a) and (b) of this subsection~~ PURSUANT TO SUBSECTIONS (7.5)(a) AND (7.5)(b) OF THIS SECTION shall be submitted at a general election, BIENNIAL LOCAL ELECTION, or any election to be held on the first Tuesday in November of an odd-numbered year. The action shall not take effect unless a majority of the registered electors voting thereon at the election vote in favor thereof. The election shall be conducted in substantially the same manner as county elections and the county clerk and recorder of each county in which the election is conducted shall assist the authority in conducting the election. The authority shall pay the costs incurred by each county in conducting

such an election. No ~~moneys~~ MONEY of the authority may be used to urge or oppose passage of an election required under this section.

(d) THE CONTRACT ESTABLISHING THE AUTHORITY MAY BE CONDITIONED UPON VOTER APPROVAL BY THE INDIVIDUAL CONTRACTING JURISDICTION AS SUCH TERMS MAY BE DEFINED IN THE CONTRACT. THE QUESTION OF ESTABLISHING THE AUTHORITY MAY BE COMBINED WITH A QUESTION ABOUT A TAX, IMPACT FEE, MULTIPLE-FISCAL YEAR DEBT, OR OTHER FINANCIAL OBLIGATION REQUIRED BY SUBSECTIONS (7.5)(a) OR (7.5)(b) OF THIS SECTION.

SECTION 5. In Colorado Revised Statutes, 30-11-107, **amend** (1)(s) as follows:

30-11-107. Powers of the board.

(1) The board of county commissioners of each county has power at any meeting:

(s) To appropriate ~~moneys from sources other than ad valorem taxes to~~ MONEY FOR WORKFORCE HOUSING, HOUSING PROGRAMS, multijurisdictional housing authorities, or housing authorities established under part 5 of article 4 of title 29 ~~C.R.S.~~, from the county general fund OR OTHER SPECIFIED FUNDS ESTABLISHED BY THE BOARD;

SECTION 6. In Colorado Revised Statutes, 39-22-5402, **add** (15) as follows:

39-22-5402. Definitions.

As used in this part 54, unless the context otherwise requires:

(15) "TRANSFEREE" MEANS A TAXPAYER SUBJECT TO THE TAXES IMPOSED BY THIS ARTICLE 22 THAT ACQUIRES CREDITS FROM A GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY PURSUANT TO SECTION 39-22-5404.

SECTION 7. In Colorado Revised Statutes, 39-22-5404, **amend** (1)(b) and (1)(c) as follows:

39-22-5404. Qualified development owned by governmental or quasi-governmental entity.

(1) Notwithstanding any other provision of this part 54:

(b) (I) A governmental or quasi-governmental entity may transfer credits allocated to it by the authority to ~~any qualified taxpayer~~ A TRANSFEREE.

(II) Such a governmental or quasi-governmental entity shall invest in the qualified development any compensation received in connection with a transfer of credits to a ~~qualified taxpayer~~ TRANSFEREE.

(III) A ~~qualified taxpayer~~ TRANSFEREE to which a credit is transferred pursuant to this subsection (1)(b) is entitled to claim the credit in the same manner and subject to the same conditions and allocation rights as an owner of a qualified development to which the authority has allocated a credit.

(c) (I) A credit allocated to a governmental or quasi-governmental entity or a transferee thereof is subject to recapture pursuant to ~~section 39-22-5405~~ IF, AS OF THE LAST DAY OF ANY TAXABLE YEAR DURING THE COMPLIANCE PERIOD, THE AMOUNT OF THE QUALIFIED BASIS OF SUCH GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY IS LESS THAN THE AMOUNT OF THE QUALIFIED BASIS WITH RESPECT TO SUCH GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY AS OF THE LAST DAY OF THE PRIOR TAXABLE YEAR.

(II) If a credit transferred to a ~~qualified taxpayer~~ TRANSFEREE by a governmental or quasi-governmental entity is recaptured pursuant to ~~section 39-22-5405~~ SUBSECTION (1)(c)(I), the governmental or quasi-governmental entity shall notify the department of the identity of the ~~qualified taxpayer~~ TRANSFEREE to which it transferred a credit AND SUCH TRANSFEREE MUST INCREASE THEIR INCOME TAX LIABILITY PURSUANT TO SECTION 39-22-5305 IN THE SAME MANNER AND TO THE SAME EXTENT AS A PARTNER, SHAREHOLDER, MEMBER, OR OTHER QUALIFIED TAXPAYER OF AN OWNER ALLOCATED A CREDIT PURSUANT TO SECTION 39-22-5403 (6) MUST INCREASE THEIR INCOME TAX LIABILITY PURSUANT TO SECTION 39-22-5405.

SECTION 8. In Colorado Revised Statutes, 39-22-5405, **amend** (1), (4)(b), and (4)(c) as follows:

39-22-5405. Recapture.

(1) As of the last day of any taxable year during the compliance period, if the amount of the qualified basis of a qualified development with respect to a qualified taxpayer is less than the amount of the qualified basis with respect to a qualified taxpayer as of the last day of the prior taxable year, then the amount of a relevant QUALIFIED taxpayer's state income tax liability for that taxable year is increased by the credit recapture amount.

(4) If recapture of any credit is required in any tax year, the return submitted for that tax year to the department must include the following information:

- (b) The identity of each QUALIFIED taxpayer subject to the recapture; and
- (c) The amount of credit previously allocated to the QUALIFIED taxpayer.

SECTION 9. In Colorado Revised Statutes, 39-26-708, **add** (1)(a)(III) and (2)(a)(III) as follows:

39-26-708. Construction and building materials - legislative declaration - definition.

(1) There shall be exempt from taxation under part 1 of this article 26 all sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned and used by:

- (a) (III) AS USED IN THIS SUBSECTION (1)(a), "GOVERNMENTAL CAPACITIES"

INCLUDES THE BUILDING, ERECTION, ALTERATION, OR REPAIR OF STRUCTURES FOR WORKFORCE HOUSING PROJECTS UNDERTAKEN BY COUNTIES;

(2) There shall be exempt from taxation under part 2 of this article 26 the storage, use, or consumption by a contractor or subcontractor of construction and building materials for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned and used by:

(a) (III) AS USED IN THIS SUBSECTION (2)(a), "GOVERNMENTAL CAPACITIES" INCLUDES THE BUILDING, ERECTION, ALTERATION, OR REPAIR OF STRUCTURES FOR WORKFORCE HOUSING PROJECTS UNDERTAKEN BY COUNTIES;

SECTION 10. Act subject to petition - effective date. Section 39-22-5404, Colorado Revised Statutes, as amended in section 7 of this act, takes effect January 1, 2027, and the remainder of this act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section I (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor; except that section 39-22-5404, Colorado Revised Statutes, as amended in section 7 of this act, takes effect January 1, 2027, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Approved: March 25, 2026