

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 17-0434.01 Bob Lackner x4350

HOUSE BILL 17-1309

HOUSE SPONSORSHIP

Jackson and Winter, Covarrubias, Coleman, Salazar

SENATE SPONSORSHIP

Coram and Guzman,

House Committees

Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE DOCUMENTARY FEE IMPOSED BY**
102 **COUNTIES FOR THE PURPOSE OF FINANCING A STATEWIDE**
103 **AFFORDABLE HOUSING INVESTMENT FUND.**

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>.)

Currently, when the total consideration paid by the purchaser in a real property transaction exceeds \$500, the county clerk and recorder collects a one cent documentary fee for each \$100 of such consideration for the recording of real estate deeds or other instruments in writing.

Section 1 of the bill raises the fee to 2 cents commencing January

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 27, 2017

1, 2018.

Section 2 specifies that 50% of the moneys generated from the imposition of the total fee must be deposited with the county treasurer at least once each month and credited by him or her in the manner prescribed by law and the remaining 50% of the moneys generated from the imposition of the fee must be transmitted by the county treasurer to the Colorado housing and finance authority (authority) at least once each month to be credited to the statewide affordable housing investment fund (fund).

Section 3 creates the fund in the authority. The bill specifies the source of moneys to be deposited into the fund and that the authority is to administer the fund.

All moneys in the fund must be expended for the purpose of supporting new or existing programs that:

- ! Facilitate the construction or rehabilitation of housing containing residential units designated as affordable housing; and
- ! Provide financial assistance to any nonprofit entity and political subdivision that makes loans to households to enable the financing, purchase, or rehabilitation of residential units.

The bill defines "affordable housing" to mean housing that is designed to be affordable for households with an income that is:

- ! Up to 80% of the area median income for rental occupancy; and
- ! Up to 110% of the area median income for home ownership.

This section of the bill also specifies the intent of the general assembly that, of the moneys made available to the authority to support the programs supported by the bill, the authority shall direct that a portion of such moneys be expended on programs in counties with a total population of 175,000 or fewer residents.

New or existing programs supported by the fund are to be administered by the authority. The authority may determine how best to allocate and expend the portion of moneys deposited into the fund that support the programs that it administers under the bill.

Section 3 also requires the authority to submit a report, no later than November 1, 2021, and no later than November 1 of the last year of each 3-year period thereafter, specifying the use of the fund during the prior 3-year period. The report is to be sent to the governor and to the senate and house finance committees. The report must include information on all moneys allocated to, and expended from, the fund.

1 **SECTION 1.** In Colorado Revised Statutes, 39-13-102, **amend**
2 (2)(b) as follows:

3 **39-13-102. Documentary fee imposed - amount - to whom**
4 **payable.** (2) The amount of documentary fee payable in each case shall
5 be as follows:

6 (b) (I) PRIOR TO JANUARY 1, 2018, when the total consideration
7 paid by the purchaser, inclusive of the amount of any lien or encumbrance
8 against the real property granted or conveyed and all charges and
9 expenses required to be paid for the making of such grant or conveyance
10 exceeds five hundred dollars, the documentary fee payable shall be
11 computed at the rate of one cent for each one hundred dollars, or major
12 fraction thereof, of such consideration.

13 (II) COMMENCING JANUARY 1, 2018, WHEN THE TOTAL
14 CONSIDERATION PAID BY THE PURCHASER, INCLUSIVE OF THE AMOUNT OF
15 ANY LIEN OR ENCUMBRANCE AGAINST THE REAL PROPERTY GRANTED OR
16 CONVEYED AND ALL CHARGES AND EXPENSES REQUIRED TO BE PAID FOR
17 THE MAKING OF SUCH GRANT OR CONVEYANCE EXCEEDS FIVE HUNDRED
18 DOLLARS, THE DOCUMENTARY FEE PAYABLE SHALL BE COMPUTED AT THE
19 RATE OF TWO CENTS FOR EACH ONE HUNDRED DOLLARS, OR MAJOR
20 FRACTION THEREOF, OF SUCH CONSIDERATION.

21 **SECTION 2.** In Colorado Revised Statutes, **amend** 39-13-108 as
22 follows:

23 **39-13-108. Disposition of fees.** (1) PRIOR TO JANUARY 1, 2018,
24 all documentary fees collected by the county clerk and recorder ~~shall~~
25 MUST be deposited with the treasurer at least once each month and
26 credited by him OR HER in the manner prescribed by law.

27 (2) COMMENCING JANUARY 1, 2018, OF THE DOCUMENTARY FEES

1 COLLECTED IN ACCORDANCE WITH SECTION 39-13-102 (2)(b), FIFTY
2 PERCENT OF THE MONEYS GENERATED FROM THE IMPOSITION OF THE FEE
3 MUST BE DEPOSITED WITH THE COUNTY TREASURER AT LEAST ONCE EACH
4 MONTH AND CREDITED BY HIM OR HER IN THE MANNER PRESCRIBED BY
5 LAW AND THE REMAINING FIFTY PERCENT OF THE MONEYS GENERATED
6 FROM THE IMPOSITION OF THE FEE MUST BE TRANSMITTED BY THE COUNTY
7 TREASURER TO THE COLORADO HOUSING AND FINANCE AUTHORITY
8 CREATED IN SECTION 29-4-704 (1) AT LEAST ONCE EACH MONTH TO BE
9 CREDITED TO THE STATEWIDE AFFORDABLE HOUSING INVESTMENT FUND
10 CREATED IN SECTION 29-4-736 (2).

11 **SECTION 3.** In Colorado Revised Statutes, **add** 29-4-736 as
12 follows:

13 **29-4-736. Statewide affordable housing investment fund -**
14 **creation - uses of moneys - legislative intent - definitions.** (1) AS USED
15 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 (a) "AFFORDABLE HOUSING" MEANS HOUSING THAT IS DESIGNED
17 TO BE AFFORDABLE FOR HOUSEHOLDS WITH AN INCOME THAT IS:

18 (I) UP TO EIGHTY PERCENT OF THE AREA MEDIAN INCOME FOR
19 RENTAL OCCUPANCY; AND

20 (II) UP TO ONE HUNDRED TEN PERCENT OF THE AREA MEDIAN
21 INCOME FOR HOME OWNERSHIP.

22 (b) "AREA MEDIAN INCOME" MEANS INCOME THAT IS DETERMINED
23 IN ACCORDANCE WITH GUIDELINES OR OTHER STANDARDS PROMULGATED
24 BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
25 DEVELOPMENT.

26 (c) "RESIDENTIAL UNITS" MEANS SINGLE-FAMILY RESIDENCES AND
27 MULTI-FAMILY UNITS.

1 (2) THERE IS HEREBY CREATED IN THE AUTHORITY THE STATEWIDE
2 AFFORDABLE HOUSING INVESTMENT FUND, REFERRED TO IN THIS SECTION
3 AS THE "FUND", WHICH FUND IS TO BE ADMINISTERED BY THE AUTHORITY.

4 THE AUTHORITY SHALL DEPOSIT INTO THE FUND:

5 (a) ALL MONEYS TRANSMITTED TO IT BY THE COUNTY TREASURERS
6 PURSUANT TO SECTION 39-13-108 (2);

7 (b) ANY MONEYS MADE AVAILABLE BY THE STATE FOR THE
8 PURPOSES OF THE FUND; AND

9 (c) ANY MONEYS THAT ARE MADE AVAILABLE BY OR TO THE
10 AUTHORITY FROM ANY OTHER SOURCES FOR THE PURPOSE OF THE FUND.

11 (3) ALL MONEYS IN THE FUND MUST BE EXPENDED FOR THE
12 PURPOSE OF SUPPORTING NEW OR EXISTING PROGRAMS THAT:

13 (a) FACILITATE THE CONSTRUCTION OR REHABILITATION OF
14 HOUSING CONTAINING RESIDENTIAL UNITS DESIGNATED AS AFFORDABLE
15 HOUSING; OR

16 (b) PROVIDE FINANCIAL ASSISTANCE TO ANY NONPROFIT ENTITY
17 AND POLITICAL SUBDIVISION THAT MAKES LOANS TO HOUSEHOLDS TO
18 ENABLE THE FINANCING, PURCHASE, OR REHABILITATION OF RESIDENTIAL
19 UNITS.

20 (4) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, OF THE
21 MONEYS MADE AVAILABLE TO THE AUTHORITY TO SUPPORT THE
22 PROGRAMS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, THE AUTHORITY
23 SHALL DIRECT THAT A PORTION OF SUCH MONEYS BE EXPENDED ON
24 PROGRAMS IN COUNTIES WITH A TOTAL POPULATION OF ONE HUNDRED
25 SEVENTY-FIVE THOUSAND OR FEWER RESIDENTS.

26 (5) NEW OR EXISTING PROGRAMS SUPPORTED BY THE FUND THAT
27 ARE DESCRIBED IN SUBSECTION (2) OF THIS SECTION ARE TO BE

1 ADMINISTERED BY THE AUTHORITY. THE AUTHORITY MAY DETERMINE
2 HOW BEST TO ALLOCATE AND EXPEND THE PORTION OF MONEYS DEPOSITED
3 INTO THE FUND THAT SUPPORT THE PROGRAMS THAT IT ADMINISTERS
4 PURSUANT TO SUBSECTION (4) OF THIS SECTION.

5 (6) ANY MONEYS IN THE FUND NOT EXPENDED AT THE END OF ANY
6 FISCAL YEAR MUST REMAIN IN THE FUND AND WILL NOT BE TRANSFERRED
7 TO OR REVERT TO THE GENERAL FUND AT THE END OF ANY SUCH FISCAL
8 YEAR. ANY INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF
9 MONEYS IN THE FUND MUST REMAIN IN THE FUND AND SHALL NOT BE
10 CREDITED TO THE GENERAL FUND.

11 (7) MONEYS HELD IN THE FUND SHALL NOT BE TRANSFERRED TO
12 ANY OF THE OTHER FUNDS CREATED IN THE AUTHORITY PURSUANT TO THIS
13 PART 7.

14 (8) NO LATER THAN NOVEMBER 1, 2021, AND NO LATER THAN
15 NOVEMBER 1 OF THE LAST YEAR IN EACH THREE-YEAR PERIOD
16 THEREAFTER, THE AUTHORITY SHALL PREPARE A REPORT ADDRESSING THE
17 USE OF THE FUND DURING THE PRIOR THREE-YEAR PERIOD. THE REPORT
18 MUST INCLUDE INFORMATION ON ALL MONEY ALLOCATED TO, AND
19 EXPENDED FROM, THE FUND. THE REPORT SHALL ALSO INCLUDE
20 ALLOCATIONS THE AUTHORITY HAS MADE IN ACCORDANCE WITH
21 SUBSECTION (4) OF THIS SECTION. THE DEPARTMENT OF LOCAL AFFAIRS
22 SHALL INCLUDE A SUMMARY OF THE REPORT IN ITS DEPARTMENTAL
23 PRESENTATION TO ITS OVERSIGHT COMMITTEE OF REFERENCE MADE
24 PURSUANT TO SECTION 2-7-203 OF THE "STATE MEASUREMENT FOR
25 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
26 GOVERNMENT ACT" IN CONNECTION WITH THE DEPARTMENTAL
27 PRESENTATION MADE IN THE YEAR FOLLOWING THE CALENDAR YEAR IN

1 WHICH THE AUTHORITY HAS PREPARED A REPORT.

2 (9) ANY POWERS GRANTED TO THE AUTHORITY PURSUANT TO THIS
3 SECTION MAY BE EXERCISED BY THE AUTHORITY TO THE FULLEST EXTENT
4 SPECIFIED IN THIS SECTION NOTWITHSTANDING THE REQUIREMENTS OF
5 SECTION 29-4-711 OR 29-4-717.

6 **SECTION 4. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2018 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.