

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

INTRODUCED

LLS NO. R17-0706.01 Bob Lackner x4350

SCR17-002

SENATE SPONSORSHIP

Kefalas,

HOUSE SPONSORSHIP

(None),

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

SENATE CONCURRENT RESOLUTION 17-002

101 **SUBMITTING TO THE REGISTERED ELECTORS OF THE STATE OF**
102 **COLORADO AN AMENDMENT TO THE COLORADO CONSTITUTION**
103 **CONCERNING THE IMPOSITION OF A REAL ESTATE TRANSFER TAX**
104 **OF ONE-TENTH OF ONE PERCENT OF THE VALUE OF REAL**
105 **PROPERTY TRANSFERRED IN THE STATE THAT WILL BE USED TO**
106 **FINANCE THE PROVISION OF AFFORDABLE HOUSING, AND, IN**
107 **CONNECTION THEREWITH, ALLOWING THE REVENUES FROM THE**
108 **TAX TO BE COLLECTED AND SPENT NOTWITHSTANDING ANY**
109 **LIMITATION PROVIDED BY LAW.**

Resolution Summary

(Note: This summary applies to this resolution as introduced and does not reflect any amendments that may be subsequently adopted. If this resolution passes third reading in the house of introduction, a resolution

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.*

summary that applies to the reengrossed version of this resolution will be available at <http://leg.colorado.gov/>.)

The concurrent resolution deletes the prohibition in the state constitution on new or increased transfer tax rates on real property.

The concurrent resolution imposes a tax upon the recording of each real property deed at the rate of 1/10 of one percent of the value of the real property as specified in the deed for the privilege of transferring the title to real property (tax). A conveyance from one spouse or other marital partner to another or a correction deed are exempt from payment of the tax.

At the time any deed evidencing a transfer of title subject to the tax imposed is offered for recording, the county clerk and recorder is required to ascertain and compute the amount of the tax due and to collect the same from the purchaser of the real property as a prerequisite to acceptance of the deed for recording. The amount of tax is computed on the basis of the value of the transferred property as specified in the deed.

The county clerk and recorder is required to collect the amount due under the tax and certify the date of payment and the amount collected on the deed. The county clerk and recorder is authorized to retain 5% of the amount collected as his or her fee for collection and to further remit the balance on a quarterly basis to the county treasurer. The county treasurer is then required to transmit the same to the state treasurer for the deposit of such money into the already existing state housing investment trust fund (fund).

Under existing legal requirements not changed by the concurrent resolution, the fund is administered by the division of housing within the department of local affairs (division). In addition to the permissible uses of money deposited into the fund under existing statutory requirements, the concurrent resolution specifies that permissible uses of the money collected from the imposition of the tax that are deposited into the fund pursuant to the resolution include the uses specified in the resolution. The concurrent resolution specifies the type of new or existing programs that must be supported with money collected by the tax.

The concurrent resolution requires that any new or existing programs supported by the tax are to be administered by the division.

The concurrent resolution contains additional requirements governing the use of money in the fund.

The concurrent resolution specifies that its approval by the registered electors of the state voting on the ballot issue at the general election held in November 2017 constitutes a voter-approved revenue change to allow the retention and expenditure of state revenues in excess of the limitation on state fiscal year spending.

The general assembly may modify any of the provisions as necessary in order to facilitate a more effective administration of the

provisions. However, such legislation shall not limit or restrict the imposition of the tax or the use of the money raised by the tax to promote the provision of affordable housing.

1 *Be It Resolved by the Senate of the Seventy-first General Assembly*
2 *of the State of Colorado, the House of Representatives concurring herein:*

3 **SECTION 1.** At the election held on November 7, 2017, the
4 secretary of state shall submit to the registered electors of the state the
5 ballot title set forth in section 2 for the following amendment to the state
6 constitution:

7 In the constitution of the state of Colorado, section 20 of article X,
8 **amend** (8)(a) as follows:

9 **Section 20. The Taxpayer's Bill of Rights. (8) Revenue limits.**
10 ~~(a) New or increased transfer tax rates on real property are prohibited. No~~
11 ~~new state real property tax or local district income tax shall be imposed.~~
12 Neither an income tax rate increase nor a new state definition of taxable
13 income shall apply before the next tax year. Any income tax law change
14 after July 1, 1992 shall also require all taxable net income to be taxed at
15 one rate, excluding refund tax credits or voter-approved tax credits, with
16 no added tax or surcharge.

17 In the constitution of the state of Colorado, article X, **add** section
18 22 as follows:

19 **Section 22. Real estate transfer tax to fund affordable housing**
20 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
21 OTHERWISE REQUIRES:

22 (a) "AFFORDABLE HOUSING" MEANS HOUSING THAT IS AFFORDABLE
23 TO A HOUSEHOLD THAT MAKES SIXTY PERCENT OR LESS OF THE AREA
24 MEDIAN INCOME. THE CRITERIA FOR DETERMINING "AFFORDABLE

1 HOUSING" MAY BE MODIFIED BY THE GENERAL ASSEMBLY IN ACCORDANCE
2 WITH SUBSECTION (9) OF THIS SECTION.

3 (b) "COST-BURDENED HOUSEHOLD" MEANS A HOUSEHOLD WITH AN
4 ANNUAL INCOME OF SIXTY PERCENT OR LESS OF THE AREA MEDIAN
5 INCOME. THE CRITERIA FOR DETERMINING "COST-BURDENED HOUSEHOLD"
6 MAY BE MODIFIED BY THE GENERAL ASSEMBLY IN ACCORDANCE WITH
7 SUBSECTION (9) OF THIS SECTION.

8 (c) "DEED" MEANS ANY DOCUMENT, INSTRUMENT, OR WRITING
9 OTHER THAN A WILL, LEASE, OR EASEMENT, REGARDLESS OF WHERE MADE,
10 EXECUTED, OR DELIVERED, BY WHICH ANY REAL PROPERTY IN COLORADO,
11 OR ANY INTEREST IN SUCH PROPERTY, IS CONVEYED, VESTED, GRANTED,
12 BARGAINED, SOLD, TRANSFERRED, OR ASSIGNED.

13 (d) "DIVISION" MEANS THE DIVISION OF HOUSING WITHIN THE
14 DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-704 (1),
15 COLORADO REVISED STATUTES.

16 (e) "FUND" MEANS THE HOUSING INVESTMENT TRUST FUND
17 CREATED IN SECTION 24-32-717, COLORADO REVISED STATUTES, OR ANY
18 SUCCESSOR SECTION.

19 (f) "VALUE" MEANS THE AMOUNT OF THE FULL ACTUAL
20 CONSIDERATION PAID OR TO BE PAID FOR THE REAL PROPERTY, INCLUDING
21 THE AMOUNT OF ANY LIENS ON THE PROPERTY CREATED OR IMPOSED AS A
22 RESULT OF THE CONVEYANCE.

23 (2) (a) ON AND AFTER JANUARY 1, 2019, EXCEPT AS OTHERWISE
24 PROVIDED IN THIS SECTION, A TAX IS HEREBY IMPOSED UPON THE
25 RECORDING OF EACH DEED IN ACCORDANCE WITH THE REQUIREMENTS OF
26 THIS SECTION AT THE RATE OF ONE-TENTH OF ONE PERCENT OF THE VALUE
27 OF THE REAL PROPERTY AS SPECIFIED IN THE DEED FOR THE PRIVILEGE OF

1 TRANSFERRING THE TITLE TO THE REAL PROPERTY. THE TAX IMPOSED
2 MUST BE COMPUTED TO THE NEAREST WHOLE DOLLAR.

3 (b) THE TAX IMPOSED BY SUBSECTION (2)(a) OF THIS SECTION
4 SHALL NOT BE IMPOSED ON A CONVEYANCE FROM ONE SPOUSE OR OTHER
5 MARITAL PARTNER TO ANOTHER OR IN THE CASE OF A CORRECTION DEED.

6 (c) THE RECORDING OF A DEED SUBJECTS THE TRANSFER
7 EVIDENCED BY SUCH DEED TO THE TAX IMPOSED BY SUBSECTION (2)(a) OF
8 THIS SECTION UNLESS THE TRANSFER IS SPECIFICALLY EXEMPT FROM SUCH
9 TAX AS PROVIDED BY LAW.

10 (3) (a) AT THE TIME ANY DEED EVIDENCING A TRANSFER OF TITLE
11 SUBJECT TO THE TAX IMPOSED UNDER SUBSECTION (2) OF THIS SECTION IS
12 OFFERED FOR RECORDING, THE COUNTY CLERK AND RECORDER SHALL
13 ASCERTAIN AND COMPUTE THE AMOUNT OF THE TAX DUE AND SHALL
14 COLLECT THE SAME FROM THE PURCHASER OF THE REAL PROPERTY AS A
15 PREREQUISITE TO ACCEPTANCE OF THE DEED FOR RECORDING.

16 (b) THE AMOUNT OF TAX IS COMPUTED ON THE BASIS OF THE
17 VALUE OF THE TRANSFERRED PROPERTY AS SPECIFIED IN THE DEED.

18 (c) THE TAX REQUIRED TO BE LEVIED UNDER SUBSECTION (2) OF
19 THIS SECTION MUST BE COLLECTED ONLY ONCE ON EACH TRANSACTION
20 AND IN THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED.

21 (4) THE COUNTY CLERK AND RECORDER SHALL COLLECT THE
22 AMOUNT DUE AND CERTIFY THE DATE OF PAYMENT AND THE AMOUNT
23 COLLECTED ON THE DEED. THE COUNTY CLERK AND RECORDER SHALL
24 RETAIN FIVE PERCENT OF THE AMOUNT COLLECTED AS HIS OR HER FEE FOR
25 COLLECTION AND SHALL FURTHER REMIT THE BALANCE ON A QUARTERLY
26 BASIS TO THE COUNTY TREASURER. THE COUNTY TREASURER SHALL
27 TRANSMIT THE SAME TO THE STATE TREASURER WHO SHALL DEPOSIT SAID

1 MONEY INTO THE FUND.

2 (5) IN ADDITION TO THE PERMISSIBLE USES OF MONEY DEPOSITED
3 INTO THE FUND AS PROVIDED BY LAW, PERMISSIBLE USES OF THE MONEY
4 COLLECTED BY THE COUNTY CLERK AND RECORDERS FROM THE
5 IMPOSITION OF THE REAL ESTATE TRANSFER TAX LEVIED UNDER
6 SUBSECTION (2) OF THIS SECTION THAT ARE DEPOSITED INTO THE FUND IN
7 ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION INCLUDE THE USES
8 SPECIFIED IN THIS SUBSECTION (5). ALL SUCH MONEY COLLECTED AS A
9 RESULT OF THE IMPOSITION OF THE TAX IN ACCORDANCE WITH SUBSECTION
10 (2) OF THIS SECTION MUST BE EXPENDED ON NEW OR EXISTING PROGRAMS
11 THAT SUPPORT:

12 (a) THE CONSTRUCTION, MAINTENANCE, REHABILITATION, OR
13 REPAIR OF AFFORDABLE HOUSING STATEWIDE FOR RENTAL PURPOSES OR
14 HOME OWNERSHIP OR MANUFACTURED HOUSING; OR

15 (b) THE PROVISION OF FINANCIAL ASSISTANCE, INCLUDING
16 WITHOUT LIMITATION GRANTS OR LOANS, TO NATURAL PERSONS,
17 NONPROFIT ENTITIES, AND POLITICAL SUBDIVISIONS ACROSS THE STATE TO
18 ENABLE PERSONS IN COST-BURDENED HOUSEHOLDS TO FINANCE THE
19 PURCHASE, REFINANCE, REHABILITATION, OR REPAIR OF AFFORDABLE
20 HOUSING OR MANUFACTURED HOUSING.

21 (6) ANY NEW OR EXISTING PROGRAMS SUPPORTED BY THE REAL
22 ESTATE TRANSFER TAX LEVIED UNDER SUBSECTION (2) OF THIS SECTION
23 ARE TO BE ADMINISTERED BY THE DIVISION. THE DIVISION HAS SOLE
24 ADMINISTRATIVE DISCRETION TO DETERMINE HOW BEST TO EXPEND THE
25 PORTION OF MONEY DEPOSITED INTO THE FUND COLLECTED FROM THE TAX;
26 EXCEPT THAT NOT LESS THAN THIRTY PERCENT OF THE MONEY COLLECTED
27 FROM THE TAX MUST BE USED TO SUPPORT AFFORDABLE HOUSING

1 PROJECTS THAT PROVIDE HOUSING FOR HOUSEHOLDS WHOSE INCOME ON
2 AN ANNUAL BASIS DOES NOT EXCEED THIRTY PERCENT OF THE AREA
3 MEDIAN INCOME.

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

10 (b) MONEY HELD IN THE FUND SHALL NOT BE TRANSFERRED TO
11 ANY OF THE OTHER FUNDS ADMINISTERED BY THE DIVISION.

12 (c) THE DIVISION MAY MAKE MONEY IN OTHER FUNDS THAT IT
13 ADMINISTERS AVAILABLE TO THE FUND.

14 (8) THE APPROVAL OF THIS SECTION BY THE REGISTERED ELECTORS
15 OF THE STATE VOTING ON THE BALLOT ISSUE AT THE GENERAL ELECTION
16 HELD IN NOVEMBER 2017 CONSTITUTES A VOTER-APPROVED REVENUE
17 CHANGE TO ALLOW THE RETENTION AND EXPENDITURE OF STATE
18 REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR
19 SPENDING.

20 (9) THE GENERAL ASSEMBLY MAY, BY DULY ENACTED
21 LEGISLATION, MODIFY ANY OF THE PROVISIONS OF THIS SECTION AS
22 CIRCUMSTANCES WARRANT, AND PARTICULARLY AS NECESSARY TO
23 FACILITATE THE MORE EFFECTIVE ADMINISTRATION OF THIS SECTION;
24 EXCEPT THAT ANY SUCH LEGISLATION SHALL NOT LIMIT OR RESTRICT THE
25 IMPOSITION OF THE TAX SPECIFIED IN SUBSECTION (2) OF THIS SECTION OR
26 THE USE OF THE MONEY RAISED BY THE TAX TO PROMOTE THE PROVISION
27 OF AFFORDABLE HOUSING IN ACCORDANCE WITH THIS SECTION.

1 **SECTION 2.** Each elector voting at the election may cast a vote
2 either "Yes/For" or "No/Against" on the following ballot title: "Shall state
3 taxes be increased by \$_____ annually in the first full fiscal year and by
4 such amounts as are raised thereafter by an amendment to the Colorado
5 constitution concerning the imposition of a real estate transfer tax of
6 one-tenth of one percent of the value of real property transferred in the
7 state that will be used to finance the provision of affordable housing, and,
8 in connection therewith, allowing the revenues from the tax to be
9 collected and spent notwithstanding any limitation provided by law?"

10 **SECTION 3.** Except as otherwise provided in section 1-40-123,
11 Colorado Revised Statutes, if at least fifty-five percent of the electors
12 voting on the ballot title vote "Yes/For", then the amendment will become
13 part of the state constitution.