

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

INTRODUCED

LLS NO. 20-0267.01 Bob Lackner x4350

HOUSE BILL 20-1351

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF LOCAL GOVERNMENTS TO PROMOTE THE**
102 **DEVELOPMENT OF NEW AFFORDABLE HOUSING UNITS PURSUANT**
103 **TO THEIR EXISTING AUTHORITY TO REGULATE LAND USE WITHIN**
104 **THEIR TERRITORIAL BOUNDARIES.**

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 bill clarifies that the existing authority of cities and counties (local governments) to plan for and regulate the use of land includes the authority to regulate development or redevelopment in order to promote

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the construction of new affordable housing units. The provisions of the state's rent control statute do not apply to any land use regulation that restricts rents on newly constructed or redeveloped housing units as long as the regulation provides a choice of options to the property owner or land developer and creates one or more alternatives to the construction of new affordable housing units on the building site.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) In 2000, in *Town of Telluride, Colorado v. Lot Thirty-Four*
5 *Venture LLC*, 3 P.3d 30 (Colo. 2000), the Colorado supreme court held
6 that a local land use ordinance enacted by the town of Telluride to
7 promote affordable housing in new developments violated a state statute
8 that prohibited counties and municipalities from enacting any ordinance
9 or resolution that would control rent on private residential property or
10 private residential housing units; except that, in that decision, the supreme
11 court made clear that, although the Telluride ordinance constitutes rent
12 control, the general assembly is not prevented from amending the rent
13 control statute to permit local ordinances such as the ordinance at issue
14 in that case.

15 (b) Nothing in this act is intended to affect voluntary agreements
16 to promote affordable housing stock entered into pursuant to section
17 38-12-301 (2), or any land use regulation adopted prior to the effective
18 date of this act that meets the requirements of this act.

19 **SECTION 2.** In Colorado Revised Statutes, 29-20-104, **add**
20 (1)(e.5) as follows:

21 **29-20-104. Powers of local governments - definition.**

22 (1) Except as expressly provided in section 29-20-104.5, the power and

1 authority granted by this section does not limit any power or authority
2 presently exercised or previously granted. Each local government within
3 its respective jurisdiction has the authority to plan for and regulate the use
4 of land by:

5 (e.5) REGULATING DEVELOPMENT OR REDEVELOPMENT IN ORDER
6 TO PROMOTE THE CONSTRUCTION OF NEW AFFORDABLE HOUSING UNITS.
7 THE PROVISIONS OF SECTION 38-12-301 SHALL NOT APPLY TO ANY LAND
8 USE REGULATION ADOPTED PURSUANT TO THIS SECTION THAT RESTRICTS
9 RENTS ON NEWLY CONSTRUCTED OR REDEVELOPED HOUSING UNITS AS
10 LONG AS THE REGULATION PROVIDES A CHOICE OF OPTIONS TO THE
11 PROPERTY OWNER OR LAND DEVELOPER AND CREATES ONE OR MORE
12 ALTERNATIVES TO THE CONSTRUCTION OF NEW AFFORDABLE HOUSING
13 UNITS ON THE BUILDING SITE;

14 **SECTION 3. Act subject to petition - effective date.** This act
15 takes effect September 1, 2020; except that, if a referendum petition is
16 filed pursuant to section 1 (3) of article V of the state constitution against
17 this act or an item, section, or part of this act within the ninety-day period
18 after final adjournment of the general assembly, then the act, item,
19 section, or part will not take effect unless approved by the people at the
20 general election to be held in November 2020 and, in such case, will take
21 effect on the date of the official declaration of the vote thereon by the
22 governor.