

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

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 21-0151.01 Bob Lackner x4350

**HOUSE BILL 21-1117**

**HOUSE SPONSORSHIP**

**Lontine and Gonzales-Gutierrez**, Kipp, Weissman, Bacon, Benavidez, Bennett, Bird, Caraveo, Cutter, Duran, Esgar, Exum, Froelich, Herod, Hooton, Jackson, Jodeh, Kennedy, McCluskie, McLachlan, Michaelson Jenet, Ortiz, Roberts, Sirota, Tipper, Titone, Valdez A., Valdez D., Woodrow, Young

**SENATE SPONSORSHIP**

**Gonzales and Rodriguez**, Buckner, Danielson, Fields, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story, Winter

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**House Committees**

Transportation & Local Government

**Senate Committees**

State, Veterans, & Military Affairs

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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.**

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**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 to plan for and regulate the use of land includes the authority to regulate development or redevelopment in order to promote the construction of

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.

SENATE  
3rd Reading Unamended  
May 3, 2021

SENATE  
Amended 2nd Reading  
April 30, 2021

HOUSE  
3rd Reading Unamended  
March 22, 2021

HOUSE  
Amended 2nd Reading  
March 19, 2021

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.

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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), (1)(e.7), and (1)(e.9) 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. NOTHING IN THIS SUBSECTION (1)(e.5) IS  
14 CONSTRUED TO AUTHORIZE A LOCAL GOVERNMENT TO ADOPT OR ENFORCE  
15 ANY ORDINANCE OR REGULATION THAT WOULD HAVE THE EFFECT OF  
16 CONTROLLING RENT ON ANY EXISTING PRIVATE RESIDENTIAL HOUSING  
17 UNIT IN VIOLATION OF SECTION 38-12-301.

18 (e.7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
19 A LOCAL GOVERNMENT SHALL NOT EXERCISE THE AUTHORITY GRANTED BY  
20 SUBSECTION (1)(e.5) OF THIS SECTION UNLESS THE LOCAL GOVERNMENT  
21 DEMONSTRATES, AT THE TIME IT ENACTS A LAND USE REGULATION FOR  
22 THE PURPOSE OF EXERCISING SUCH AUTHORITY, IT HAS TAKEN ONE OR  
23 MORE OF THE FOLLOWING ACTIONS TO INCREASE THE OVERALL NUMBER  
24 AND DENSITY OF HOUSING UNITS WITHIN ITS JURISDICTIONAL BOUNDARIES  
25 OR TO PROMOTE OR CREATE INCENTIVES TO THE CONSTRUCTION OF  
26 AFFORDABLE HOUSING UNITS:

27 (I) ADOPT CHANGES TO ITS ZONING AND LAND USE POLICIES THAT

1 ARE INTENDED TO INCREASE THE OVERALL DENSITY AND AVAILABILITY OF  
2 HOUSING, INCLUDING BUT NOT LIMITED TO:

3 (A) CHANGING ITS ZONING REGULATIONS TO INCREASE THE  
4 NUMBER OF HOUSING UNITS ALLOWED ON A PARTICULAR SITE;

5 (B) PROMOTING MIXED-USE ZONING THAT PERMITS HOUSING UNITS  
6 TO BE INCORPORATED IN A WIDER RANGE OF DEVELOPMENTS;

7 (C) PERMITTING MORE THAN ONE DWELLING UNIT PER LOT IN  
8 TRADITIONAL SINGLE-FAMILY LOTS;

9 (D) INCREASING THE PERMITTED HOUSEHOLD SIZE IN SINGLE  
10 FAMILY HOMES;

11 (E) PROMOTING DENSER HOUSING DEVELOPMENT NEAR TRANSIT  
12 STATIONS AND PLACES OF EMPLOYMENT;

13 (F) GRANTING REDUCED PARKING REQUIREMENTS TO RESIDENTIAL  
14 OR MIXED-USE DEVELOPMENTS THAT INCLUDE HOUSING NEAR TRANSIT  
15 STATIONS OR AFFORDABLE HOUSING DEVELOPMENTS;

16 (G) GRANTING DENSITY BONUSES TO DEVELOPMENT PROJECTS  
17 THAT INCORPORATE AFFORDABLE HOUSING UNITS; OR

18 (H) ADOPTING POLICIES TO PROMOTE THE DIVERSITY OF THE  
19 HOUSING STOCK WITHIN THE LOCAL COMMUNITY INCLUDING A MIX OF  
20 BOTH FOR-SALE AND RENTAL HOUSING OPPORTUNITIES;

21 (II) MATERIALLY REDUCE OR ELIMINATE UTILITY CHARGES,  
22 REGULATORY FEES, OR TAXES IMPOSED BY THE LOCAL GOVERNMENT  
23 APPLICABLE TO AFFORDABLE HOUSING UNITS;

24 (III) GRANT AFFORDABLE HOUSING DEVELOPMENTS MATERIAL  
25 REGULATORY RELIEF FROM ANY TYPE OF ZONING OR OTHER LAND  
26 DEVELOPMENT REGULATIONS THAT WOULD ORDINARILY RESTRICT THE  
27 DENSITY OF NEW DEVELOPMENT OR REDEVELOPMENT;

1           (IV) ADOPT POLICIES TO MATERIALLY MAKE SURPLUS PROPERTY  
2           OWNED BY THE LOCAL GOVERNMENT AVAILABLE FOR THE DEVELOPMENT  
3           OF HOUSING; OR

4           (V) ADOPT ANY OTHER REGULATORY MEASURE THAT IS  
5           EXPRESSLY DESIGNED AND INTENDED TO INCREASE THE SUPPLY OF  
6           HOUSING WITHIN THE LOCAL GOVERNMENT'S JURISDICTIONAL  
7           BOUNDARIES.

8           (e.9) THE DEPARTMENT OF LOCAL GOVERNMENT SHALL OFFER  
9           GUIDANCE TO ASSIST LOCAL GOVERNMENTS IN CONNECTION WITH THE  
10          IMPLEMENTATION OF THIS SECTION.

11           **SECTION 3. Act subject to petition - effective date.** This act  
12          takes effect at 12:01 a.m. on the day following the expiration of the  
13          ninety-day period after final adjournment of the general assembly; except  
14          that, if a referendum petition is filed pursuant to section 1 (3) of article V  
15          of the state constitution against this act or an item, section, or part of this  
16          act within the ninety-day period after final adjournment of the general  
17          assembly, then the act, item, section, or part will not take effect unless  
18          approved by the people at the general election to be held in November  
19          2020 and, in such case, will take effect on the date of the official  
20          declaration of the vote thereon by the governor.