

CHAPTER 197

GOVERNMENT - STATE

HOUSE BILL 22-1282

BY REPRESENTATIVE(S) Mullica and Lynch, Jodeh, Pico, Roberts, Woodrow, Woog, Amabile, Benavidez, Bennett, Bird, Boesenecker, Cutter, Duran, Esgar, Exum, Froelich, Kennedy, Kipp, Lindsay, Lontine, McCluskie, McCormick, Ortiz, Snyder, Tipper, Titone, Valdez A., Valdez D., Weissman, Garnett;
also SENATOR(S) Bridges and Woodward, Buckner, Donovan, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Pettersen, Rankin, Rodriguez, Scott, Story, Winter, Fenberg.

AN ACT

CONCERNING THE CREATION OF THE INNOVATIVE HOUSING INCENTIVE PROGRAM.

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

SECTION 1. In Colorado Revised Statutes, **add** 24-48.5-132 as follows:

24-48.5-132. Innovative housing incentive program - report - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) COLORADO IS EXPERIENCING A LACK OF AFFORDABLE HOUSING AT CRITICAL LEVELS. THE STATE CONTINUES TO ATTRACT NEW RESIDENTS AND JOBS, BUT WITH THIS GROWTH HAS COME EVER-INCREASING HOUSING PRICES, PLACING UNSUSTAINABLE DEMANDS ON OUR LIMITED HOUSING STOCK. THESE UNDERLYING ISSUES HAVE ONLY BEEN EXACERBATED BY THE COVID-19 PANDEMIC.

(b) THE GENERAL ASSEMBLY APPROVED HOUSE BILL 21-1329, ENACTED IN 2021, WHICH DIRECTED THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL TO CREATE A TASK FORCE TO MEET DURING THE 2021 INTERIM AND ISSUE A REPORT WITH RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND THE GOVERNOR ON POLICIES TO CREATE TRANSFORMATIVE CHANGES IN THE AREA OF HOUSING;

(c) BY SUBSEQUENT EXECUTIVE COMMITTEE RESOLUTION, THE AFFORDABLE HOUSING TRANSFORMATIONAL TASK FORCE AND SUBPANEL (TASK FORCE), MADE UP OF LEGISLATORS, EXECUTIVE BRANCH MEMBERS, AND NONLEGISLATIVE MEMBERS INCLUDING INDUSTRY EXPERTS, WAS FORMED TO PROVIDE FUNDING AND POLICY RECOMMENDATIONS TO:

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.

(I) ADDRESS THE ISSUE OF AFFORDABLE HOUSING;

(II) ACHIEVE THE GOALS OUTLINED BY THE COMMITTEE THAT WERE DEVELOPED IN ACCORDANCE WITH SECTION 24-75-229 (6); AND

(III) SUPPORT COLORADANS AND THEIR HOUSING NEEDS; AND

(d) THE TASK FORCE RECOMMENDED THAT THE GENERAL ASSEMBLY CREATE A PROGRAM TO PROVIDE DIRECT FUNDING FOR INNOVATIVE HOUSING BUSINESSES THROUGH GRANTS THAT REIMBURSE OPERATING EXPENSES, INCENTIVES FOR PER-UNIT DEVELOPMENT, AND LOANS FOR FACTORY DEVELOPMENT TO FURTHER GROW THE INNOVATIVE HOUSING INDUSTRY IN THE STATE AND CREATE JOBS IN THE INDUSTRY, TO INCREASE THE SUPPLY OF AFFORDABLE HOUSING UNITS IN THE STATE, AND TO LOWER THE COST OF AFFORDABLE HOUSING FOR LOCAL GOVERNMENTS AND ORGANIZATIONS.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COAL TRANSITION COMMUNITY" HAS THE SAME MEANING AS SET FORTH IN SECTION 8-83-502 (1).

(b) "DIVISION" MEANS THE DIVISION OF HOUSING CREATED IN SECTION 24-32-704.

(c) "FUND" MEANS THE INNOVATIVE HOUSING INCENTIVE PROGRAM FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

(d) "INNOVATIVE HOUSING BUSINESS" MEANS A NEW OR EXISTING BUSINESS IN COLORADO WITH FIVE HUNDRED OR FEWER EMPLOYEES THAT:

(I) MANUFACTURES ONE OR MORE MANUFACTURED HOMES, AS DEFINED IN SECTION 24-32-3302 (20); OR

(II) MANUFACTURES HOUSING IN ANY OTHER MANNER THAT THE OFFICE DETERMINES TO BE INNOVATIVE AND ELIGIBLE FOR FUNDING INCLUDING, BUT NOT LIMITED TO, PREFABRICATED PANELIZED CONSTRUCTION, WHICH MAY INCLUDE STRUCTURAL INSULATED PANELS OR INSULATING CONCRETE FORMS, 3D-PRINTED HOUSING, KIT HOMES INSTALLED ON A PERMANENT FOUNDATION, OR TINY HOMES INSTALLED ON A PERMANENT FOUNDATION.

(e) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

(f) "PROGRAM" MEANS THE INNOVATIVE HOUSING INCENTIVE PROGRAM CREATED IN SUBSECTION (3) OF THIS SECTION.

(g) (I) "TINY HOME" MEANS A STRUCTURE THAT:

(A) IS PERMANENTLY CONSTRUCTED ON A VEHICLE CHASSIS;

(B) IS DESIGNED FOR LONG-TERM RESIDENCY;

(C) INCLUDES ELECTRICAL, MECHANICAL, OR PLUMBING SERVICES THAT ARE FABRICATED, FORMED, OR ASSEMBLED AT A LOCATION OTHER THAN THE SITE OF THE COMPLETED HOME;

(D) IS NOT SELF-PROPELLED; AND

(E) HAS A SQUARE FOOTAGE OF NOT MORE THAN FOUR HUNDRED SQUARE FEET.

(II) "TINY HOME" DOES NOT INCLUDE:

(A) A MANUFACTURED HOME;

(B) A RECREATIONAL PARK TRAILER AS DEFINED IN SECTION 24-32-902 (8);

(C) A RECREATIONAL VEHICLE AS DEFINED IN SECTION 24-32-902 (9);

(D) A SEMITRAILER AS DEFINED IN SECTION 42-1-102 (89); OR

(E) AN INTERMODAL SHIPPING CONTAINER.

(3) (a) THERE IS CREATED WITHIN THE OFFICE THE INNOVATIVE HOUSING INCENTIVE PROGRAM TO SUPPORT INNOVATIVE HOUSING BUSINESSES THROUGH FUNDING FROM GRANTS AND LOANS AND THE GROWTH OF AFFORDABLE HOUSING. THE OFFICE SHALL USE THE MONEY SPECIFIED IN SUBSECTION (5) OF THIS SECTION FOR THE PURPOSES SET FORTH IN SUBSECTIONS (3)(b) AND (4) OF THIS SECTION, IN ADDITION TO ANY RELATED ADMINISTRATIVE EXPENSES.

(b) IN ADDITION TO THE PROVISIONS SET FORTH IN SUBSECTION (4) OF THIS SECTION, THE OFFICE SHALL ESTABLISH A PROCESS FOR INNOVATIVE HOUSING BUSINESSES TO APPLY FOR A GRANT OR A LOAN UNDER THE PROGRAM, INCLUDING APPLICATION DEADLINES, THE INFORMATION AND DOCUMENTATION REQUIRED TO BE SUBMITTED TO THE OFFICE TO DEMONSTRATE ELIGIBILITY FOR A GRANT OR A LOAN, AND ANY OTHER REQUIREMENTS DETERMINED BY THE DIRECTOR OF THE OFFICE TO BE NECESSARY. THE OFFICE SHALL CONSULT WITH THE DIVISION, INDUSTRY EXPERTS, AND STAKEHOLDERS TO ESTABLISH THE PROCESS OUTLINED IN THIS SUBSECTION (3)(b). THE OFFICE MAY CONTRACT WITH ONE OR MORE THIRD PARTIES TO ADMINISTER THE PROGRAM.

(4) (a) THE OFFICE MAY AWARD GRANTS FOR OPERATING EXPENSES ON A BASIS OF NO MORE THAN TWENTY PERCENT OF DEMONSTRATED OPERATING EXPENDITURES AND IN AN AMOUNT NOT LESS THAN FIFTY THOUSAND DOLLARS; EXCEPT THAT, FOR AN INNOVATIVE HOUSING BUSINESS LOCATED IN A COAL TRANSITION COMMUNITY THE AMOUNT SHALL BE NOT LESS THAN SEVENTY-FIVE THOUSAND DOLLARS. THE OFFICE MAY CONSULT WITH THE DIVISION, INDUSTRY EXPERTS, AND STAKEHOLDERS TO CONSIDER OTHER AREAS WARRANTING AN AMOUNT NOT LESS THAN SEVENTY-FIVE THOUSAND DOLLARS, INCLUDING BUT NOT LIMITED TO CONCENTRATED AREAS WITH LIMITED ECONOMIC OPPORTUNITY AND INADEQUATE OR POOR-QUALITY HOUSING. GRANTS AWARDED FOR OPERATING EXPENSES MAY BE USED FOR OPERATING EXPENSES INCLUDING, BUT NOT LIMITED TO, PAYROLL, INVENTORY, OR MATERIALS.

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4)(b)(III) OF THIS SECTION, THE OFFICE MAY AWARD GRANTS FOR PERFORMANCE-BASED, PER-UNIT INCENTIVES FOR UNITS MANUFACTURED BY AN INNOVATIVE HOUSING BUSINESS AND INSTALLED IN COLORADO. GRANTS FOR PERFORMANCE-BASED, PER-UNIT INCENTIVES MAY BE USED DIRECTLY BY THE INNOVATIVE HOUSING BUSINESS OR MAY BE PASSED ON TO ANY SUPPLY CHAIN PARTICIPANT AS A REDUCED COST OR BENEFIT FOR THAT PARTICIPANT.

(II) THE OFFICE SHALL ESTABLISH THE INCENTIVES FOR WHICH A UNIT MANUFACTURED BY AN INNOVATIVE HOUSING BUSINESS MAY QUALIFY, WHICH MAY VARY, AND MAY INCLUDE AS CONSIDERATION FOR A BASE INCENTIVE DIFFERENT LEVELS OF AFFORDABILITY TO THE END USER, WITH ADDITIONAL CUMULATIVE INCENTIVES FOR INSTALLATION IN CERTAIN AREAS OF THE STATE AS IDENTIFIED BY THE OFFICE, RESILIENCY CRITERIA, COMPLIANCE WITH INTERNATIONAL ENERGY CONSERVATION CODE REQUIREMENTS, OR ENERGY EFFICIENCY SUCH AS PRE-WIRING FOR SOLAR IMPROVEMENTS, HOME ENERGY RATING SYSTEM SCORE OF FIFTY OR LESS, AND NEAR NET-ZERO ENERGY EFFICIENCY. THE OFFICE, IN CONSULTATION WITH THE DIVISION, INDUSTRY EXPERTS, AND OTHER STAKEHOLDERS, MAY DETERMINE OTHER OPPORTUNITIES FOR ADDITIONAL INCENTIVES. IN ORDER TO IDENTIFY CERTAIN AREAS OF THE STATE ELIGIBLE FOR ADDITIONAL CUMULATIVE INCENTIVES PURSUANT TO THIS SUBSECTION (4)(b)(II), THE OFFICE MAY CONSIDER WHETHER THE AREA HAS LIMITED ECONOMIC OPPORTUNITY OR INADEQUATE OR POOR-QUALITY HOUSING, WHETHER THE AREA HAS A LACK OF HOUSING INVENTORY, ESPECIALLY WORKFORCE HOUSING, DUE TO POPULATION MIGRATION FROM URBAN AREAS, AND OTHER RELEVANT DATA AS DETERMINED BY THE OFFICE.

(III) AN INNOVATIVE HOUSING BUSINESS IS NOT ELIGIBLE TO RECEIVE ANY GRANT FOR PERFORMANCE-BASED, PER-UNIT INCENTIVES SET FORTH IN THIS SUBSECTION (4)(b) FOR UNITS INSTALLED IN A MOBILE HOME PARK, AS DEFINED IN SECTION 38-12-201.5 (6), THAT IS OWNED BY A FOR-PROFIT ENTITY OR FOR-PROFIT INDIVIDUALS.

(c) (I) THE OFFICE MAY AWARD LOANS TO FUND A NEW PRIVATELY OWNED HOUSING FACTORY OR THE EXPANSION OF AN EXISTING PRIVATELY OWNED HOUSING FACTORY LOCATED IN THE STATE BY AN INNOVATIVE HOUSING BUSINESS THAT PRODUCES A PERCENTAGE OF AFFORDABLE HOUSING UNITS THAT ARE INSTALLED IN THE STATE. THE OFFICE MAY ESTABLISH LOANS, OR A PORTION OF LOANS, AWARDED THROUGH THE PROGRAM AS REVOLVING LOANS.

(II) IN CONSULTATION WITH THE DIVISION, THE OFFICE SHALL:

(A) ESTABLISH A FAIR AND RIGOROUS OPEN COMPETITION PROCESS AMONG ELIGIBLE APPLICANTS TO AWARD LOANS; AND

(B) REVIEW LOAN APPLICATIONS AND THE APPROVAL OF LOAN AWARDS, WHICH MAY INCLUDE NEGOTIATIONS WITH AN APPLICANT.

(III) PARAMETERS AND ELIGIBILITY TO BE CONSIDERED FOR A LOAN UNDER THE PROGRAM MAY INCLUDE, BUT ARE NOT LIMITED TO:

(A) AN APPLICANT'S WILLINGNESS TO DEDICATE A PORTION OF ITS PRODUCTION

FOR PURCHASE BY NONPROFIT OR PUBLIC HOUSING AGENCIES AT A REDUCED PRICE OR MARGIN OR A PORTION OF ITS PRODUCTION FOR PURCHASE BY INDIVIDUALS OR ORGANIZATIONS PROVIDING AFFORDABLE HOME OWNERSHIP OPPORTUNITIES, INCLUDING OPPORTUNITIES THAT PROMOTE LONG-TERM AFFORDABILITY;

(B) AN APPLICANT'S OPERATIONAL CAPABILITY AND FINANCIAL VIABILITY AND SUSTAINABILITY;

(C) THE LEVEL OF SUBSIDY REQUIRED BY THE APPLICANT IN THE INTEREST RATE STRUCTURE, THE DEGREE TO WHICH THE LOAN IS FORGIVABLE, POSITION IN THE CAPITAL STACK, OR OTHER TERMS OF THE LOAN;

(D) AN APPLICANT'S COMMITMENT TO PRODUCTION OF AFFORDABLE HOUSING UNITS WITHIN THE PROPOSED FACTORY;

(E) THE ECONOMIC IMPACT OF THE PROPOSED FACTORY IN THE COMMUNITY WHERE IT WILL BE LOCATED, INCLUDING JOB CREATION; OR

(F) AN APPLICANT'S COMMITMENT TO PRODUCTION OF ENERGY EFFICIENT UNITS WITHIN THE PROPOSED FACTORY.

(IV) THE OFFICE AND THE DIVISION SHALL COLLABORATE ON REVIEWING LOAN APPLICATIONS AND THE APPROVAL OF LOAN AWARDS. IN CONNECTION WITH THE REVIEW OF LOAN APPLICATIONS AND AWARDS, THE OFFICE SHALL SOLICIT INPUT FROM A STAKEHOLDER GROUP THAT INCLUDES REPRESENTATIVES FROM THE OFFICE, THE DIVISION, GEOGRAPHICALLY DIVERSE INDUSTRY EXPERTS, AFFORDABLE HOUSING EXPERTS, AND OTHER RELEVANT STAKEHOLDERS.

(V) THE OFFICE MAY CONTRACT WITH A THIRD-PARTY ENTITY, SUCH AS THE COLORADO HOUSING AND FINANCE AUTHORITY CREATED IN SECTION 29-4-704 (1), TO ADMINISTER PROGRAM LOANS. IF THE OFFICE CONTRACTS WITH THE COLORADO HOUSING AND FINANCE AUTHORITY, THE OFFICE MAY DO SO WITHOUT A COMPETITIVE PROCUREMENT PROCESS. LOAN TERMS AND AGREEMENTS SHALL BE SET BY THE THIRD-PARTY ENTITY IN ACCORDANCE WITH THE TERMS AGREED TO IN THE LOAN APPLICATION REVIEW AND NEGOTIATION PROCESS.

(5)(a) THE INNOVATIVE HOUSING INCENTIVE PROGRAM FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY TRANSFERRED TO THE FUND IN ACCORDANCE WITH SUBSECTION (5)(e) OF THIS SECTION, ANY OTHER MONEY THAT THE GENERAL ASSEMBLY APPROPRIATES OR TRANSFERS TO THE FUND, AND ANY GIFTS, GRANTS, OR DONATIONS CREDITED TO THE FUND PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION.

(b) THE OFFICE MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION. THE OFFICE SHALL TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

(c) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(d) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE OFFICE FOR PURPOSES SPECIFIED IN THIS SECTION. THE OFFICE MAY EXPEND UP TO TWO PERCENT OF THE MONEY TRANSFERRED TO THE FUND PURSUANT TO SUBSECTION (5)(e) OF THIS SECTION ON AN ANNUAL BASIS TO PAY FOR ITS DIRECT AND INDIRECT COSTS IN IMPLEMENTING AND ADMINISTERING THIS SECTION.

(e) ON JULY 1, 2022, THE STATE TREASURER SHALL TRANSFER FORTY MILLION DOLLARS OF MONEY FROM THE AFFORDABLE HOUSING AND HOME OWNERSHIP CASH FUND, CREATED IN SECTION 24-75-229 (3)(a), THAT ORIGINATES FROM THE GENERAL FUND TO THE FUND.

(6) (a) ON OR BEFORE SEPTEMBER 1, 2022, AND ON OR BEFORE SEPTEMBER 1 OF EACH YEAR THEREAFTER, INNOVATIVE HOUSING BUSINESSES PARTICIPATING IN THE PROGRAM SHALL PROVIDE AN ANNUAL REPORT TO THE OFFICE. THE REPORT SHALL INCLUDE:

(I) THE NUMBER OF UNITS THE INNOVATIVE HOUSING BUSINESS BUILT IN THE YEAR;

(II) THE NUMBER OF UNITS BUILT BY THE INNOVATIVE HOUSING BUSINESS AND INSTALLED IN THE STATE;

(III) THE NUMBER OF NET NEW JOBS IN THE STATE CREATED BY THE INNOVATIVE HOUSING BUSINESS; AND

(IV) ANY OTHER INFORMATION REQUIRED OR REQUESTED BY THE OFFICE.

(b) ON OR BEFORE NOVEMBER 1, 2022, AND ON OR BEFORE NOVEMBER 1 OF EACH YEAR THEREAFTER, THE OFFICE SHALL SUBMIT A REPORT DETAILING THE EXPENDITURE OF MONEY FROM THE FUND TO THE GENERAL ASSEMBLY. AT A MINIMUM, THE REPORT MUST INCLUDE INFORMATION FOR THE PAST FISCAL YEAR CONCERNING:

(I) THE NUMBER OF INNOVATIVE HOUSING BUSINESSES APPLYING TO THE PROGRAM;

(II) THE PERCENTAGE OF APPLICANTS FUNDED AND AVERAGE RATE OF FUNDING UNDER THE PROGRAM, INCLUDING DETAIL ON WHAT TYPE OF HOUSING THE INNOVATIVE HOUSING BUSINESSES THAT RECEIVE FUNDING MANUFACTURE; AND

(III) THE GEOGRAPHIC DISTRIBUTION OF THE APPLICANTS FOR AND RECIPIENTS OF GRANTS AND LOANS.

(c) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORTS REQUIRED IN THIS SUBSECTION (6) CONTINUES INDEFINITELY.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and

declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 20, 2022