

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

INTRODUCED

LLS NO. 23-0429.02 Pierce Lively x2059

HOUSE BILL 23-1184

HOUSE SPONSORSHIP

Lindstedt and Frizell,

SENATE SPONSORSHIP

Roberts,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CERTAIN LOW-INCOME HOUSING PROPERTY THAT IS**
102 **DEEMED TO BE USED FOR A STRICTLY CHARITABLE PURPOSE,**
103 **AND, IN CONNECTION THEREWITH, CLARIFYING AND EXPANDING**
104 **THE PROPERTY TAX EXEMPTION FOR PROPERTY ACQUIRED BY**
105 **NONPROFIT HOUSING PROVIDERS FOR A STRICTLY CHARITABLE**
106 **LOW-INCOME HOUSING PURPOSE AND CREATING A PROPERTY**
107 **TAX EXEMPTION FOR PROPERTY HELD BY COMMUNITY LAND**
108 **TRUSTS OR NONPROFIT AFFORDABLE HOMEOWNERSHIP**
109 **DEVELOPERS AND USED FOR A STRICTLY CHARITABLE PURPOSE.**

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

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

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

Section 1 of the bill clarifies and expands the current property tax exemption for property acquired by nonprofit housing providers for low-income housing. The bill clarifies that property may qualify for the property tax exemption, through construction on the property, until the property is sold or transferred. The bill expands the definition of "low-income" applicants to include individuals or families who are at or below 100% of the area median income, rather than 80% of the area median income.

Section 2 deems certain property held by community land trusts and nonprofit affordable homeownership developers to be used for a strictly charitable purpose, and to consequently be exempt from property taxation in accordance with the state constitution. To qualify for the exemption, the property must be split into a separate taxable parcel from the improvements on the property and leased to the owner of the improvements as an affordable homeownership property.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-3-113.5, **amend**
3 (1)(c), (1)(d)(II), (2), and (3); and **add** (1)(a.5) and (1)(b.5) as follows:

4 **39-3-113.5. Property acquired by nonprofit housing provider**
5 **for low-income housing - use for charitable purposes - exemption -**
6 **limitations - definitions.** (1) As used in this section, unless the context
7 otherwise requires:

8 (a.5) "COMMUNITY LAND TRUST" MEANS A NONPROFIT
9 ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501
10 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
11 AMENDED, AND IS DESIGNED TO ENSURE LONG-TERM HOUSING
12 AFFORDABILITY THROUGH A SHARED-EQUITY MODEL BY ACQUIRING AND
13 MAINTAINING OWNERSHIP OF REAL PROPERTY, WHILE SELLING THE
14 IMPROVEMENTS TO LOW-TO-MIDDLE INCOME HOUSEHOLDS FOR USE AS A
15 PRIMARY RESIDENCE.

1 (b.5) "LAND LEASE" MEANS A LONG-TERM LEASE USED IN
2 AFFORDABLE HOMEOWNERSHIP PROPERTIES TO LEASE THE REAL PROPERTY
3 THAT IS OWNED BY A COMMUNITY LAND TRUST OR NONPROFIT
4 AFFORDABLE HOMEOWNERSHIP DEVELOPER TO THE OWNER OF THE
5 IMPROVEMENTS ON THE REAL PROPERTY AND PRESERVE THE
6 IMPROVEMENTS AS AN AFFORDABLE HOMEOWNERSHIP PROPERTY.

7 (c) "Low-income applicant" means:

8 (I) FOR PROPERTY TAX YEARS COMMENCING BEFORE JANUARY 1,
9 2024, an individual or family whose total income is no greater than eighty
10 percent of the area median income and who applies to a nonprofit housing
11 provider to assist in the construction and purchase of housing to be
12 constructed by the provider; AND

13 (II) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
14 JANUARY 1, 2024, AN INDIVIDUAL OR FAMILY WHOSE TOTAL INCOME IS AT
15 OR BELOW ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME OF
16 HOUSEHOLDS OF THE SAME SIZE IN THE COUNTY IN WHICH THE HOUSING IS
17 LOCATED AND WHO APPLIES TO A NONPROFIT HOUSING PROVIDER TO
18 PURCHASE AN AFFORDABLE FOR-SALE UNIT.

19 (d) "Nonprofit housing provider" means an organization that is
20 exempt from federal income tax pursuant to section 501 (c)(3) of the
21 federal "Internal Revenue Code of 1986", as amended, and that has a
22 primary organizational mission of:

23 (II) Selling property OR IMPROVEMENTS to low-income applicants
24 ~~and then working with the low-income applicants to construct or~~
25 ~~rehabilitate housing for their~~ FOR THE LOW-INCOME APPLICANTS'
26 residential use.

27 (2) (a) Subject to the limitations specified in subsection (3) of this

1 section, for property tax years commencing on or after January 1, 2011,
2 real property acquired by a nonprofit housing provider upon which the
3 provider intends to construct or rehabilitate housing to be sold to
4 low-income applicants or which the provider intends to sell to
5 low-income applicants ~~for the purpose of constructing or rehabilitating~~
6 ~~housing~~ for their residential use is deemed to be being used for strictly
7 charitable purposes, regardless of whether or not there is actual physical
8 use of the property, and shall be exempt from property taxation in
9 accordance with section 5 of article X of the state constitution. ~~In the case~~
10 ~~of~~

11 (b) (I) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
12 JANUARY 1, 2024, THE PROPERTY TAX EXEMPTION DESCRIBED IN THIS
13 SECTION APPLIES FROM WHEN THE NONPROFIT HOUSING PROVIDER CLAIMS
14 THE EXEMPTION, THROUGH CONSTRUCTION, REHABILITATION, OR
15 IMPROVEMENT OF THE PROPERTY, UNTIL THE PROVIDER SELLS, TRANSFERS,
16 DONATES, OR LEASES THE PROPERTY.

17 (II) IF property IS sold by a nonprofit housing provider to a
18 low-income applicant, THE PROPERTY MAY QUALIFY FOR the property tax
19 exemption ~~pursuant to this subsection (2) shall be allowed~~ DESCRIBED IN
20 THIS SECTION until a certificate of occupancy is issued for the ~~housing~~
21 PROPERTY; except that PROPERTY MAY NOT QUALIFY FOR the property tax
22 exemption ~~shall not be allowed for longer~~ DESCRIBED IN THIS SECTION
23 MORE than one year after the ~~nonprofit housing~~ provider sells the property
24 to the low-income applicant.

25 (c) (I) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
26 JANUARY 1, 2011, BUT BEFORE JANUARY 1, 2024, in determining whether
27 a nonprofit housing provider satisfies the intent requirement of ~~this~~

1 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION WITH RESPECT TO
2 PARTICULAR PROPERTY, THE ADMINISTRATOR MAY CONSIDER INDICATORS OF INTENT,
3 INCLUDING BUT NOT LIMITED TO:

4 ~~(a)~~ (A) THE ESTABLISHMENT BY THE NONPROFIT HOUSING PROVIDER OF A
5 COMMITTEE OR OTHER STRUCTURE FOR THE PURPOSE OF PLANNING THE CONSTRUCTION
6 OR REHABILITATION OF HOUSING ON THE PROPERTY;

7 ~~(b)~~ (B) STEPS TAKEN BY THE NONPROFIT HOUSING PROVIDER TO OBTAIN
8 ANY REQUIRED LOCAL GOVERNMENT APPROVALS FOR THE CONSTRUCTION OR
9 REHABILITATION OF HOUSING ON THE PROPERTY;

10 ~~(c)~~ (C) STEPS TAKEN BY THE NONPROFIT HOUSING PROVIDER TO DEVELOP
11 AND IMPLEMENT A FINANCING PLAN FOR THE CONSTRUCTION OR REHABILITATION OF
12 HOUSING ON THE PROPERTY;

13 ~~(d)~~ (D) THE HIRING OF ARCHITECTS, CONTRACTORS, OR OTHER PROFESSIONALS
14 BY THE NONPROFIT HOUSING PROVIDER IN PREPARATION FOR THE ACTUAL
15 CONSTRUCTION OR REHABILITATION OF HOUSING ON THE PROPERTY; AND

16 ~~(e)~~ (E) THE SOLICITATION OR ACCEPTANCE BY THE NONPROFIT HOUSING
17 PROVIDER OF APPLICATIONS FROM LOW-INCOME APPLICANTS FOR HOUSING TO BE
18 CONSTRUCTED OR REHABILITATED ON THE PROPERTY.

19 (II) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
20 JANUARY 1, 2024, IN DETERMINING WHETHER A NONPROFIT HOUSING
21 PROVIDER SATISFIES THE INTENT REQUIREMENT OF SUBSECTION (2)(a) OF
22 THIS SECTION WITH RESPECT TO PARTICULAR PROPERTY, THE
23 ADMINISTRATOR MAY CONSIDER INDICATORS OF INTENT, INCLUDING BUT
24 NOT LIMITED TO:

25 (A) A LAND DONATION AGREEMENT BETWEEN THE LANDOWNER
26 AND THE NONPROFIT HOUSING PROVIDER THAT OUTLINES THE PURPOSE OF
27 THE PROPERTY DONATION;

1 (B) A RESOLUTION BY THE NONPROFIT HOUSING PROVIDER'S
2 BOARD THAT DESIGNATES THE PROPERTY FOR CONSTRUCTION OR
3 REHABILITATION OF FOR-SALE AFFORDABLE HOUSING; OR

4 (C) A RESOLUTION BY THE NONPROFIT HOUSING PROVIDER'S
5 BOARD THAT APPROVES THE PURCHASE OF THE PROPERTY FOR LAND
6 BANKING WITH THE PURPOSE OF CONSTRUCTING OR REHABILITATING
7 FOR-SALE AFFORDABLE HOUSING.

8 (3) (a) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
9 JANUARY 1, 2011, BUT BEFORE JANUARY 1, 2024, the property tax
10 exemption ~~allowed to a nonprofit housing provider by subsection (2) of~~
11 DESCRIBED IN this section is subject to the following limitations:

12 (a) (I) The exemption may be allowed for a maximum of five
13 consecutive property tax years, beginning with the property tax year in
14 which the nonprofit housing provider obtained title to the property; and

15 (b) (II) If the nonprofit housing provider is allowed an exemption
16 for any property tax year and subsequently sells, donates, or leases the
17 property to any person other than a low-income applicant who assisted or
18 will assist in the construction of housing for the applicant's residential use
19 on the property, the provider shall be liable for all property taxes that the
20 provider did not previously pay due to the exemption.

21 (b) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
22 JANUARY 1, 2024, THE PROPERTY TAX EXEMPTION DESCRIBED IN THIS
23 SECTION IS SUBJECT TO THE FOLLOWING LIMITATIONS:

24 (I) FOR NONPROFIT HOUSING PROVIDERS WHO HAVE NOT
25 PREVIOUSLY CLAIMED THE PROPERTY TAX EXEMPTION, THE EXEMPTION
26 MAY BE ALLOWED FOR A MAXIMUM OF TEN CONSECUTIVE PROPERTY TAX
27 YEARS, BEGINNING WITH THE PROPERTY TAX YEAR IN WHICH THE

1 NONPROFIT HOUSING PROVIDER CLAIMED THE EXEMPTION;

2 (II) FOR NONPROFIT HOUSING PROVIDERS WHO HAVE PREVIOUSLY
3 CLAIMED THE PROPERTY TAX EXEMPTION, THE EXEMPTION MAY BE
4 ALLOWED FOR A MAXIMUM OF FIVE CONSECUTIVE PROPERTY TAX YEARS,
5 IN ADDITION TO THE FIVE-YEAR PERIOD DESCRIBED IN SUBSECTION
6 (3)(a)(I) OF THIS SECTION; AND

7 (III) THE NONPROFIT HOUSING PROVIDER IS LIABLE FOR ALL
8 PROPERTY TAXES THAT THE PROVIDER DID NOT PREVIOUSLY PAY DUE TO
9 THE EXEMPTION IF THE PROVIDER SELLS, DONATES, OR LEASES THE
10 PROPERTY TO ANYONE OTHER THAN:

11 (A) A LOW-INCOME APPLICANT WHO PURCHASED THE PROPERTY;
12 OR

13 (B) A COMMUNITY LAND TRUST OR NONPROFIT HOUSING PROVIDER
14 INTENDING TO SELL THE IMPROVEMENTS ON THE PROPERTY TO A
15 LOW-INCOME APPLICANT AND LEASE THE UNDERLYING LAND TO THE
16 LOW-INCOME APPLICANT THROUGH A LAND LEASE.

17 **SECTION 2.** In Colorado Revised Statutes, **add** 39-3-127.7 as
18 follows:

19 **39-3-127.7. Community land trust property - nonprofit**
20 **affordable homeownership developer property - exemption -**
21 **requirements - legislative declaration - definitions.** (1) (a) THE
22 GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

23 (I) THE COST OF HOMEOWNERSHIP HAS RISEN DRAMATICALLY IN
24 COLORADO: FROM DECEMBER 2020 TO DECEMBER 2022, THE MEDIAN
25 HOME VALUE IN COLORADO INCREASED OVER THIRTY PERCENT;

26 (II) ENTRY-LEVEL HOMEOWNERSHIP OPTIONS ARE INCREASINGLY
27 UNAVAILABLE, AND COMMUNITY LAND TRUSTS AND NONPROFIT

1 AFFORDABLE HOMEOWNERSHIP DEVELOPERS ARE PLAYING AN
2 INCREASINGLY LARGE ROLE IN HELPING LOW- AND MIDDLE-INCOME
3 COLORADANS ACCESS HOMEOWNERSHIP; AND

4 (III) COMPARED TO TOOLS USED TO INCENTIVIZE AFFORDABLE
5 RENTAL HOUSING, SUCH AS THE LOW-INCOME HOUSING TAX CREDIT, THERE
6 ARE FEWER TOOLS TO INCENTIVIZE THE CREATION OF AFFORDABLE
7 FOR-SALE HOUSING.

8 (b) THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO
9 PROVIDE A LIMITED PROPERTY TAX EXEMPTION TO COMMUNITY LAND
10 TRUSTS AND NONPROFIT AFFORDABLE HOMEOWNERSHIP DEVELOPERS IN
11 CERTAIN CIRCUMSTANCES.

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

14 (a) "AFFORDABLE HOMEOWNERSHIP PROPERTY" MEANS ANY
15 DWELLING THAT:

16 (I) IS RESTRICTED BY A DEED THAT IMPACTS OWNERSHIP OF THE
17 PROPERTY, LIMITS THE PROPERTY'S RESALE PRICE, REQUIRES A LONG-TERM
18 LAND LEASE WITH A COMMUNITY LAND TRUST OR NONPROFIT AFFORDABLE
19 HOMEOWNERSHIP DEVELOPER, OR IMPOSES ANY OTHER RESTRICTION THAT
20 LIMITS THE PROPERTY SUCH THAT IT MAY ONLY BE PURCHASED BY
21 DESIGNATED HOUSEHOLDS, A COMMUNITY LAND TRUST, OR A NONPROFIT
22 AFFORDABLE HOMEOWNERSHIP DEVELOPER;

23 (II) IS SOLD TO A HOUSEHOLD WHO AT THE TIME OF PURCHASE IS
24 AT OR BELOW ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME OF
25 HOUSEHOLDS OF THAT SAME SIZE IN THE COUNTY IN WHICH THE HOUSING
26 IS LOCATED; AND

27 (III) IS INTENDED BY THE PURCHASER TO BE USED AS A PRIMARY

1 RESIDENCE.

2 (b) "COMMUNITY LAND TRUST" MEANS A NONPROFIT
3 ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER SECTION 501
4 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
5 AMENDED, AND IS DESIGNED TO ENSURE LONG-TERM HOUSING
6 AFFORDABILITY THROUGH A SHARED-EQUITY MODEL BY ACQUIRING AND
7 MAINTAINING OWNERSHIP OF REAL PROPERTY, WHILE SELLING THE
8 IMPROVEMENTS TO LOW-TO-MIDDLE INCOME HOUSEHOLDS FOR USE AS A
9 PRIMARY RESIDENCE.

10 (c) "IMPROVEMENT" MEANS A PERMANENT CHANGE TO REAL
11 PROPERTY THAT AUGMENTS THE REAL PROPERTY'S VALUE INCLUDING BUT
12 NOT LIMITED TO A SINGLE-FAMILY HOME, TOWNHOME, OR CONDOMINIUM.

13 (d) "LAND LEASE" MEANS A LONG-TERM LEASE USED IN
14 AFFORDABLE HOMEOWNERSHIP PROPERTIES TO LEASE THE REAL PROPERTY
15 THAT IS OWNED BY A COMMUNITY LAND TRUST OR NONPROFIT
16 AFFORDABLE HOMEOWNERSHIP DEVELOPER TO THE OWNER OF THE
17 IMPROVEMENTS ON THE REAL PROPERTY AND PRESERVE THE
18 IMPROVEMENTS AS AN AFFORDABLE HOMEOWNERSHIP PROPERTY.

19 (e) "NONPROFIT AFFORDABLE HOMEOWNERSHIP DEVELOPER"
20 MEANS AN ORGANIZATION THAT IS EXEMPT FROM FEDERAL INCOME TAX
21 PURSUANT TO SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE
22 CODE OF 1986", AS AMENDED, AND THAT HAS A PRIMARY
23 ORGANIZATIONAL MISSION OF PROVIDING FOR-SALE AFFORDABLE HOUSING
24 UNITS TO LOW-TO-MIDDLE INCOME HOUSEHOLDS FOR USE AS A PRIMARY
25 RESIDENCE.

26 (3) (a) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
27 JANUARY 1, 2024, REAL PROPERTY IS DEEMED TO BE USED FOR A STRICTLY

1 CHARITABLE PURPOSE, AND IS EXEMPT FROM PROPERTY TAXATION IN
2 ACCORDANCE WITH SECTION 5 OF ARTICLE X OF THE STATE CONSTITUTION,
3 IF THE REAL PROPERTY:

4 (I) IS HELD BY EITHER A COMMUNITY LAND TRUST OR A NONPROFIT
5 AFFORDABLE HOMEOWNERSHIP DEVELOPER;

6 (II) HAS BEEN SPLIT INTO A SEPARATE TAXABLE PARCEL FROM THE
7 IMPROVEMENTS; AND

8 (III) IS LEASED TO THE OWNER OF THE IMPROVEMENTS AS AN
9 AFFORDABLE HOMEOWNERSHIP PROPERTY.

10 (b) THE REAL PROPERTY DESCRIBED IN SUBSECTION (3)(a) OF THIS
11 SECTION IS DEEMED TO BE USED FOR A STRICTLY CHARITABLE PURPOSE,
12 AND IS EXEMPT FROM PROPERTY TAXATION IN ACCORDANCE WITH SECTION
13 5 OF ARTICLE X OF THE STATE CONSTITUTION, UNTIL THE REAL PROPERTY
14 IS NO LONGER USED AS AN AFFORDABLE HOMEOWNERSHIP PROPERTY.

15 (4) IMPROVEMENTS ON REAL PROPERTY THAT QUALIFIES FOR THE
16 PROPERTY TAX EXEMPTION DESCRIBED IN THIS SECTION ARE NOT EXEMPT
17 FROM PROPERTY TAXATION.

18 (5) A COMMUNITY LAND TRUST OR NONPROFIT AFFORDABLE HOME
19 OWNERSHIP DEVELOPER THAT OWNS REAL PROPERTY THAT QUALIFIES FOR
20 THE PROPERTY TAX EXEMPTION DESCRIBED IN THIS SECTION SHALL SUBMIT
21 THE LAND LEASE FOR EACH REAL PROPERTY THAT QUALIFIES FOR THE
22 PROPERTY TAX EXEMPTION DESCRIBED IN THIS SECTION TO THE
23 APPROPRIATE COUNTY ASSESSOR WITHIN TWENTY-FIVE DAYS OF THE
24 INITIAL EXECUTION OF THE LAND LEASE.

25 **SECTION 3. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly; except

1 that, if a referendum petition is filed pursuant to section 1 (3) of article V
2 of the state constitution against this act or an item, section, or part of this
3 act within such period, then the act, item, section, or part will not take
4 effect unless approved by the people at the general election to be held in
5 November 2024 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.