

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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
Finance

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 OR AFTER JANUARY
14 1, 2024, AN INDIVIDUAL OR FAMILY WHO BOTH APPLY TO A NONPROFIT
15 HOUSING PROVIDER TO PURCHASE AN AFFORDABLE FOR-SALE UNIT AND
16 WHOSE TOTAL INCOME IS AT OR BELOW EITHER:

17 (A) ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME OF
18 HOUSEHOLDS OF THE SAME SIZE IN THE COUNTY IN WHICH THE HOUSING IS
19 LOCATED; OR

20 (B) ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN
21 INCOME OF HOUSEHOLDS OF THE SAME SIZE IN THE COUNTY IN WHICH THE
22 HOUSING IS LOCATED, IF THE INDIVIDUAL OR FAMILY RESIDES IN A COUNTY
23 CLASSIFIED AS A RURAL RESORT COMMUNITY BY THE DIVISION OF HOUSING
24 PURSUANT TO SECTION 29-4-1107 (1)(d).

25 (d) "Nonprofit housing provider" means an organization that is
26 exempt from federal income tax pursuant to section 501 (c)(3) of the
27 federal "Internal Revenue Code of 1986", as amended, and that has a

1 primary organizational mission of:

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

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

17 (b) (I) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
18 JANUARY 1, 2024, THE PROPERTY TAX EXEMPTION DESCRIBED IN THIS
19 SECTION APPLIES FROM WHEN THE NONPROFIT HOUSING PROVIDER CLAIMS
20 THE EXEMPTION, THROUGH CONSTRUCTION, REHABILITATION, OR
21 IMPROVEMENT OF THE PROPERTY, UNTIL THE PROVIDER SELLS, TRANSFERS,
22 DONATES, OR LEASES THE PROPERTY.

23 (II) IF property IS sold by a nonprofit housing provider to a
24 low-income applicant, THE PROPERTY MAY QUALIFY FOR the property tax
25 exemption ~~pursuant to this subsection (2) shall be allowed~~ DESCRIBED IN
26 THIS SECTION until a certificate of occupancy is issued for the ~~housing~~
27 PROPERTY; except that PROPERTY MAY NOT QUALIFY FOR the property tax

1 exemption ~~shall not be allowed for longer~~ DESCRIBED IN THIS SECTION
2 MORE than one year after the ~~nonprofit housing~~ provider sells the property
3 to the low-income applicant.

4 (c) (I) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
5 JANUARY 1, 2011, BUT BEFORE JANUARY 1, 2024, in determining whether
6 a nonprofit housing provider satisfies the intent requirement of ~~this~~
7 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION with respect to
8 particular property, the administrator may consider indicators of intent,
9 including but not limited to:

10 (a) (A) The establishment by the nonprofit housing provider of a
11 committee or other structure for the purpose of planning the construction
12 or rehabilitation of housing on the property;

13 (b) (B) Steps taken by the nonprofit housing provider to obtain
14 any required local government approvals for the construction or
15 rehabilitation of housing on the property;

16 (c) (C) Steps taken by the nonprofit housing provider to develop
17 and implement a financing plan for the construction or rehabilitation of
18 housing on the property;

19 (d) (D) The hiring of architects, contractors, or other professionals
20 by the nonprofit housing provider in preparation for the actual
21 construction or rehabilitation of housing on the property; and

22 (e) (E) The solicitation or acceptance by the nonprofit housing
23 provider of applications from low-income applicants for housing to be
24 constructed or rehabilitated on the property.

25 (II) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
26 JANUARY 1, 2024, IN DETERMINING WHETHER A NONPROFIT HOUSING
27 PROVIDER SATISFIES THE INTENT REQUIREMENT OF SUBSECTION (2)(a) OF

1 THIS SECTION WITH RESPECT TO PARTICULAR PROPERTY, THE
2 ADMINISTRATOR MAY CONSIDER INDICATORS OF INTENT, INCLUDING BUT
3 NOT LIMITED TO:

4 (A) A LAND DONATION AGREEMENT BETWEEN THE LANDOWNER
5 AND THE NONPROFIT HOUSING PROVIDER THAT OUTLINES THE PURPOSE OF
6 THE PROPERTY DONATION;

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

10 (C) A RESOLUTION BY THE NONPROFIT HOUSING PROVIDER'S
11 BOARD THAT APPROVES THE PURCHASE OF THE PROPERTY FOR LAND
12 BANKING WITH THE PURPOSE OF CONSTRUCTING OR REHABILITATING
13 FOR-SALE AFFORDABLE HOUSING.

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

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

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

27 (b) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER

1 JANUARY 1, 2024, THE PROPERTY TAX EXEMPTION DESCRIBED IN THIS
2 SECTION IS SUBJECT TO THE FOLLOWING LIMITATIONS:

3 (I) FOR NONPROFIT HOUSING PROVIDERS WHO HAVE NOT
4 PREVIOUSLY CLAIMED THE PROPERTY TAX EXEMPTION, THE EXEMPTION
5 MAY BE ALLOWED FOR A MAXIMUM OF TEN CONSECUTIVE PROPERTY TAX
6 YEARS, BEGINNING WITH THE PROPERTY TAX YEAR IN WHICH THE
7 NONPROFIT HOUSING PROVIDER CLAIMED THE EXEMPTION;

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

13 (III) THE NONPROFIT HOUSING PROVIDER IS LIABLE FOR ALL
14 PROPERTY TAXES THAT THE PROVIDER DID NOT PREVIOUSLY PAY DUE TO
15 THE EXEMPTION IF THE PROVIDER SELLS, DONATES, OR LEASES THE
16 PROPERTY TO ANYONE OTHER THAN:

17 (A) A LOW-INCOME APPLICANT WHO PURCHASED THE PROPERTY;
18 OR

19 (B) A COMMUNITY LAND TRUST OR NONPROFIT HOUSING PROVIDER
20 INTENDING TO SELL THE IMPROVEMENTS ON THE PROPERTY TO A
21 LOW-INCOME APPLICANT AND LEASE THE UNDERLYING LAND TO THE
22 LOW-INCOME APPLICANT THROUGH A LAND LEASE.

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

25 **39-3-127.7. Community land trust property - nonprofit**
26 **affordable homeownership developer property - exemption -**
27 **requirements - legislative declaration - definitions.** (1) (a) THE

1 GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

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

5 (II) ENTRY-LEVEL HOMEOWNERSHIP OPTIONS ARE INCREASINGLY
6 UNAVAILABLE, AND COMMUNITY LAND TRUSTS AND NONPROFIT
7 AFFORDABLE HOMEOWNERSHIP DEVELOPERS ARE PLAYING AN
8 INCREASINGLY LARGE ROLE IN HELPING LOW- AND MIDDLE-INCOME
9 COLORADANS ACCESS HOMEOWNERSHIP; AND

10 (III) COMPARED TO TOOLS USED TO INCENTIVIZE AFFORDABLE
11 RENTAL HOUSING, SUCH AS THE LOW-INCOME HOUSING TAX CREDIT, THERE
12 ARE FEWER TOOLS TO INCENTIVIZE THE CREATION OF AFFORDABLE
13 FOR-SALE HOUSING.

14 (b) THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO
15 PROVIDE A LIMITED PROPERTY TAX EXEMPTION TO COMMUNITY LAND
16 TRUSTS AND NONPROFIT AFFORDABLE HOMEOWNERSHIP DEVELOPERS IN
17 CERTAIN CIRCUMSTANCES.

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

20 (a) "AFFORDABLE HOMEOWNERSHIP PROPERTY" MEANS ANY
21 DWELLING THAT:

22 (I) IS RESTRICTED BY A DEED THAT IMPACTS OWNERSHIP OF THE
23 PROPERTY, LIMITS THE PROPERTY'S RESALE PRICE, REQUIRES A LONG-TERM
24 LAND LEASE WITH A COMMUNITY LAND TRUST OR NONPROFIT AFFORDABLE
25 HOMEOWNERSHIP DEVELOPER, OR IMPOSES ANY OTHER RESTRICTION THAT
26 LIMITS THE PROPERTY SUCH THAT IT MAY ONLY BE PURCHASED BY
27 DESIGNATED HOUSEHOLDS, A COMMUNITY LAND TRUST, OR A NONPROFIT

1 AFFORDABLE HOMEOWNERSHIP DEVELOPER;

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

6 (III) IS SOLD TO A PURCHASER TO BE USED AS A PRIMARY
7 RESIDENCE.

8 (b) "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.

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

19 (d) "LAND LEASE" MEANS A LONG-TERM LEASE USED IN
20 AFFORDABLE HOMEOWNERSHIP PROPERTIES TO LEASE THE REAL PROPERTY
21 THAT IS OWNED BY A COMMUNITY LAND TRUST OR NONPROFIT
22 AFFORDABLE HOMEOWNERSHIP DEVELOPER TO THE OWNER OF THE
23 IMPROVEMENTS ON THE REAL PROPERTY AND PRESERVE THE
24 IMPROVEMENTS AS AN AFFORDABLE HOMEOWNERSHIP PROPERTY.

25 (e) "NONPROFIT AFFORDABLE HOMEOWNERSHIP DEVELOPER"
26 MEANS AN ORGANIZATION THAT IS EXEMPT FROM FEDERAL INCOME TAX
27 PURSUANT TO SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE

1 CODE OF 1986", AS AMENDED, AND THAT HAS A PRIMARY
2 ORGANIZATIONAL MISSION OF PROVIDING FOR-SALE AFFORDABLE HOUSING
3 UNITS TO LOW-TO-MIDDLE INCOME HOUSEHOLDS FOR USE AS A PRIMARY
4 RESIDENCE.

5 (3) (a) FOR PROPERTY TAX YEARS COMMENCING ON OR AFTER
6 JANUARY 1, 2024, REAL PROPERTY IS DEEMED TO BE USED FOR A STRICTLY
7 CHARITABLE PURPOSE, AND IS EXEMPT FROM PROPERTY TAXATION IN
8 ACCORDANCE WITH SECTION 5 OF ARTICLE X OF THE STATE CONSTITUTION,
9 IF THE REAL PROPERTY:

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

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

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

16 (b) THE REAL PROPERTY DESCRIBED IN SUBSECTION (3)(a) OF THIS
17 SECTION IS DEEMED TO BE USED FOR A STRICTLY CHARITABLE PURPOSE,
18 AND IS EXEMPT FROM PROPERTY TAXATION IN ACCORDANCE WITH SECTION
19 5 OF ARTICLE X OF THE STATE CONSTITUTION, UNTIL THE REAL PROPERTY
20 IS NO LONGER USED AS AN AFFORDABLE HOMEOWNERSHIP PROPERTY.

21 (4) IF A COMMUNITY LAND TRUST OR NONPROFIT AFFORDABLE
22 HOMEOWNERSHIP DEVELOPER CLAIMS A PROPERTY TAX EXEMPTION
23 PURSUANT TO THIS SECTION FOR A REAL PROPERTY AND THEN
24 SUBSEQUENTLY SELLS, DONATES, OR LEASES THAT REAL PROPERTY SO
25 THAT THE REAL PROPERTY NO LONGER QUALIFIES AS AN AFFORDABLE
26 HOMEOWNERSHIP PROPERTY, THE COMMUNITY LAND TRUST OR NONPROFIT
27 AFFORDABLE HOMEOWNERSHIP DEVELOPER IS LIABLE FOR ALL PROPERTY

1 TAXES FOR THE REAL PROPERTY FOR THE PROPERTY TAX YEARS WHEN THE
2 REAL PROPERTY DID NOT QUALIFY AS AN AFFORDABLE HOMEOWNERSHIP
3 PROPERTY AND DURING WHICH THE COMMUNITY LAND TRUST OR
4 NONPROFIT AFFORDABLE HOMEOWNERSHIP DEVELOPER DID NOT PAY
5 PROPERTY TAXES FOR THE REAL PROPERTY DUE TO THE PROPERTY TAX
6 EXEMPTION DESCRIBED IN THIS SECTION.

7 (5) IMPROVEMENTS ON REAL PROPERTY THAT QUALIFIES FOR THE
8 PROPERTY TAX EXEMPTION DESCRIBED IN THIS SECTION ARE NOT EXEMPT
9 FROM PROPERTY TAXATION.

10 (6) A COMMUNITY LAND TRUST OR NONPROFIT AFFORDABLE HOME
11 OWNERSHIP DEVELOPER THAT OWNS REAL PROPERTY THAT QUALIFIES FOR
12 THE PROPERTY TAX EXEMPTION DESCRIBED IN THIS SECTION SHALL SUBMIT
13 THE LAND LEASE FOR EACH REAL PROPERTY THAT QUALIFIES FOR THE
14 PROPERTY TAX EXEMPTION DESCRIBED IN THIS SECTION TO THE
15 APPROPRIATE COUNTY ASSESSOR WITHIN TWENTY-FIVE DAYS OF THE
16 INITIAL EXECUTION OF THE LAND LEASE.

17 **SECTION 3. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly; except
20 that, if a referendum petition is filed pursuant to section 1 (3) of article V
21 of the state constitution against this act or an item, section, or part of this
22 act within such period, then the act, item, section, or part will not take
23 effect unless approved by the people at the general election to be held in
24 November 2024 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.