

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 23-1000.01 Ed DeCecco x4216

HOUSE BILL 23-1304

HOUSE SPONSORSHIP

McCluskie and Frizell,

SENATE SPONSORSHIP

Roberts,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE AFFORDABLE HOUSING**
102 **PROGRAMS CREATED BY THE VOTERS' APPROVAL OF**
103 **PROPOSITION 123.**

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>.)

At the general election in 2022, voters approved proposition 123, which created new affordable housing programs funded with income tax revenue that the state is permitted to retain and spend as a voter-approved revenue change. 60% of the dedicated revenue is allocated to the affordable housing financing fund (financing fund) for 3 new affordable

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.*

HOUSE
Amended 2nd Reading
April 26, 2023

housing programs. This money is continuously appropriated to the office of economic development (office), which is required to give the money to an administrator selected by the office to administer the programs. 40% of the dedicated revenue is allocated to the affordable housing support fund (support fund), which is continuously appropriated to the division of housing for 3 other affordable housing programs, including the land planning capacity development program.

Local governments that seek additional affordable housing funding from these programs must commit to increasing the number of affordable housing units within the local government by 3% annually and expedite development approvals for affordable housing projects (conditions for funding). The funding for the new affordable housing programs is prohibited from supplanting existing state appropriations for affordable housing programs (maintenance of effort requirement).

The bill modifies the affordable housing programs by:

- Allowing tribal governments to participate in the programs, subject to the same conditions for funding;
- Requiring the division of local government, rather than the division of housing, to administer the land planning capacity development program and continuously appropriating money in the support fund to the division of local government for that purpose;
- Allowing the office to use a portion of the money in the financing fund for its administrative expenses, without increasing the total amount of money from the fund that may be used for administrative expenses;
- Clarifying that, for the affordable housing programs administered by the administrator, the area median income and rent levels are designated for each rental unit instead of being recalculated on a monthly basis and that the average area median income calculation does not apply to the modular and factory build manufacturer debt program;
- Clarifying the description of how money is transferred or allocated;
- For purposes of the 3% growth obligation that is a condition for funding, specifying that all units from projects funded through certain affordable housing programs are counted towards the obligation and allowing local governments and tribal governments to enter into a written agreement to divvy up the units that result from collaborative agreements;
- Establishing a process for rural resort communities to petition the division of housing to use different percentages of area median income than those percentages specified for eligibility for certain affordable housing programs funded

- through the financing fund;
- Exempting money originally from the federal coronavirus state fiscal recovery fund from the appropriations for fiscal year 2022-23 that are used to determine the state's maintenance of effort requirement; and
- Requiring the office and the division of housing to provide 3 annual reports to legislative committees about the affordable housing programs.

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

2 **SECTION 1.** In Colorado Revised Statutes, 29-32-101, **amend**
3 (2); and **add** (10) and (11) as follows:

4 **29-32-101. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (2) "Affordable housing" means rental housing affordable to a
7 household with an annual income of at or below sixty percent of the area
8 median income, and that costs the household less than thirty percent of its
9 monthly income. "Affordable housing" also means for-sale housing that
10 could be purchased by a household with an annual income of at or below
11 one hundred percent of the area median income, for which the mortgage
12 payment costs the household less than thirty percent of its monthly
13 income. Targets set for the local governments AND TRIBAL GOVERNMENTS
14 under section 29-32-105 for affordable housing shall be based on the
15 ~~average of the~~ area median income. If a local government OR TRIBAL
16 GOVERNMENT determines that application of this definition of affordable
17 housing would cause implementation of this article in a manner
18 inconsistent with DEMONSTRATED housing and workforce needs within
19 the jurisdiction, it may petition the division for leave to use the
20 calculation applicable to an adjacent jurisdiction or the state median
21 income that better reflects THE local GOVERNMENT'S OR TRIBAL

1 GOVERNMENT'S DEMONSTRATED needs.

2 (10) "RURAL RESORT COMMUNITY" MEANS ANY COUNTY
3 CLASSIFIED AS A "RURAL RESORT" BY THE DIVISION IN ACCORDANCE WITH
4 SECTION 29-4-1107 (1)(d), OR A MUNICIPALITY, WHETHER HOME RULE OR
5 STATUTORY, OR A LOCAL HOUSING AUTHORITY LOCATED WITHIN THE
6 COUNTY SO CLASSIFIED.

7 (11) "TRIBAL GOVERNMENT" MEANS A FEDERALLY RECOGNIZED
8 TRIBAL NATION THAT HAS LAND WITHIN COLORADO.

9 **SECTION 2.** In Colorado Revised Statutes, 29-32-103, **amend**
10 (1) and (2) as follows:

11 **29-32-103. Transfers of money - permitted uses of the fund -**
12 **continuous appropriation.** (1) The affordable housing support fund is
13 hereby created in the state treasury. The support fund shall consist of
14 money deposited into it under subsection (3) of this section. The division
15 OF HOUSING shall administer the support fund and expend the ~~moneys~~
16 MONEY in the support fund only for the purposes set forth in ~~section~~
17 ~~29-32-104 (3)~~ SECTION 29-32-104 (3)(a) AND (3)(b). THE DIVISION OF
18 LOCAL GOVERNMENT IN THE DEPARTMENT OF LOCAL AFFAIRS CREATED IN
19 SECTION 24-32-103 SHALL EXPEND THE MONEY IN THE SUPPORT FUND
20 ONLY FOR THE PURPOSES SET FORTH IN SECTION 29-32-104 (3)(c). All
21 money not expended or encumbered, and all interest earned on the
22 investment or deposit of money in the support fund, shall remain in the
23 support fund and shall not revert to the general fund or any other fund at
24 the end of any fiscal year. All money transferred to the support fund
25 pursuant to subsection (3) of this section is continuously appropriated to
26 the division OF HOUSING for the purposes set forth in ~~section 29-32-104~~
27 ~~(3)~~ SECTIONS 29-32-104 (3)(a) AND (3)(b) AND, TO THE EXTENT

1 ALLOCATED BY THE DIVISION OF HOUSING, TO THE DIVISION OF LOCAL
2 GOVERNMENT FOR THE PURPOSES SET FORTH IN SECTION 29-32-104 (3)(c).

3 (2) The affordable housing financing fund is hereby created in the
4 state treasury. The financing fund shall consist of money deposited into
5 it under subsection (3) of this section. The office shall administer the
6 financing fund and expend the ~~moneys~~ MONEY in the financing fund only
7 for the purposes set forth in section 29-32-104 (1) AND FOR THE OFFICE'S
8 ADMINISTRATIVE EXPENSES RELATED TO THE PROGRAMS CREATED IN THAT
9 SECTION. All money not expended or encumbered, and all interest earned
10 on the investment or deposit of money in the financing fund, shall remain
11 in the financing fund and shall not revert to the general fund or any other
12 fund at the end of any fiscal year. All money transferred to the financing
13 fund pursuant to subsection (3) of this section is continuously
14 appropriated to the office for the purposes set forth in section 29-32-104
15 (1) AND THIS SECTION.

16 **SECTION 3.** In Colorado Revised Statutes, 29-32-104, **amend**
17 (1) introductory portion, (1)(a), (1)(b), (1)(c)(III), (1)(c)(IV), and (3); and
18 **add** (1)(c)(V) and (4) as follows:

19 **29-32-104. Permissible expenditures - affordable housing**
20 **programs - report.** (1) The office shall contract with the administrator.
21 The office may select an administrator without a competitive procurement
22 process but shall announce the contract opening publicly and select the
23 administrator in a meeting that is open to the public, no less than
24 seventy-two hours after notice of such meeting is publicly available. No
25 single contract may exceed five years in duration. Upon the expiration of
26 any contract term, the office may renew the contract with the same
27 administrator or may select another administrator. The administrator

1 selected by the office shall expend the money transferred to the financing
2 fund in section 29-32-103 (2) THAT THE ADMINISTRATOR RECEIVES FROM
3 THE OFFICE to support the following programs only:

4 (a) A land banking program to be administered by the
5 administrator. The program shall provide grants to local governments
6 AND TRIBAL GOVERNMENTS and loans to non-profit organizations with a
7 demonstrated history of providing affordable housing to acquire and
8 preserve land for the development of affordable housing. FOR PURPOSES
9 OF THIS SUBSECTION (1)(a), "AFFORDABLE HOUSING" MEANS RENTAL
10 HOUSING THAT HAS A DESIGNATED IMPUTED INCOME LIMIT BY HOUSEHOLD
11 SIZE NOT TO EXCEED SIXTY PERCENT OF THE AREA MEDIAN INCOME AS
12 ESTABLISHED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
13 URBAN DEVELOPMENT AND PUBLISHED BY THE DEPARTMENT OR A
14 STATEWIDE POLITICAL SUBDIVISION OR AUTHORITY ON HOUSING, AND A
15 UNIT IN THE PROJECT MUST HAVE A GROSS RENT LIMIT THAT DOES NOT
16 EXCEED THIRTY PERCENT OF THE IMPUTED INCOME LIMITATION
17 APPLICABLE TO THE UNIT AND FOR-SALE HOUSING THAT COULD BE
18 PURCHASED BY A HOUSEHOLD WITH AN ANNUAL INCOME OF AT OR BELOW
19 ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME. Mixed use
20 development is an allowable use of land purchased under this program if
21 the ~~predominate~~ PREDOMINANT use of the land is affordable housing.
22 Loans made by the program shall be forgiven if land acquired with the
23 assistance of the program is properly zoned with an active plan for the
24 development of affordable housing within 5 years of date the loan is made
25 and if the development is permitted and funded within 10 years. The
26 lender and borrower may establish additional terms if needed. If land
27 acquired with the assistance of the program is not developed within the

1 timeline above, the loan must be repaid, with interest, as soon as practical,
2 but not more than six months after expiration of said timeline. Land
3 acquired with the assistance of the program that is not developed within
4 the timeline above may be used by the owner for any purpose upon
5 payment of the loan with interest or, in exchange for a waiver of interest,
6 conveyed to a state agency or other entity for the development of
7 affordable housing with the approval of the administrator. All principal
8 and interest payments on loans made under this paragraph (a) shall be
9 paid to the administrator and used by the administrator for the purposes
10 set forth in this subsection (1). As determined by the administrator, a
11 minimum of 15% and a maximum of 25% of monies transferred to ~~the~~
12 ~~office from~~ the FINANCING fund annually may be used for the program.
13 The administrator may utilize ~~up to two percent~~ of the funds it receives
14 from the office for the program ~~annually~~ to pay for the costs of
15 administering the program; EXCEPT THAT THE TOTAL COMBINED ANNUAL
16 ADMINISTRATIVE EXPENDITURES OF MONEY FROM THE FINANCING FUND BY
17 THE ADMINISTRATOR AND THE OFFICE SHALL NOT EXCEED TWO PERCENT
18 OF THE FUNDS THE ADMINISTRATOR RECEIVES FROM THE OFFICE FOR THE
19 PROGRAM FOR THE STATE FISCAL YEAR.

20 (b) An affordable housing equity program to be administered by
21 the administrator. The program shall make equity investments in low- and
22 middle-income multi-family rental developments. The program shall also
23 make equity investments in existing ~~affordable housing~~ projects which
24 include multi-family rental units for the purpose of ensuring that said
25 projects remain affordable. The average ~~of rents~~ DESIGNATED IMPUTED
26 INCOME BY HOUSEHOLD SIZE for projects funded by the program
27 ~~(calculated by adding together the monthly rent for all units in a project~~

1 ~~and dividing by the number of units in the project) must not exceed be~~
2 ~~and remain permanently affordable such that a participating household~~
3 ~~shall not be required to spend more than 30% of household income on~~
4 ~~rent for households that are at or below 90% of the area median income~~
5 ~~of households of that size in the territory or jurisdiction of local~~
6 ~~government in which the housing is located, as calculated and published~~
7 ~~for a given year~~ MUST NOT EXCEED 90% OF THE AREA MEDIAN INCOME AS
8 ESTABLISHED by the United States Department of Housing and Urban
9 Development AND PUBLISHED BY THE DEPARTMENT OR A STATEWIDE
10 POLITICAL SUBDIVISION OR AUTHORITY ON HOUSING, AND A UNIT IN THE
11 PROJECT MUST HAVE A GROSS RENT LIMIT THAT DOES NOT EXCEED THIRTY
12 PERCENT OF THE IMPUTED INCOME LIMITATION APPLICABLE TO THE UNIT.
13 The program shall include a tenant equity vehicle, meaning, in projects
14 funded by the program, tenants who reside in the project for at least one
15 year shall be entitled to a share of the equity growth in the project, if any,
16 in the form of funding from the program for a down-payment on housing
17 or related purposes, WHICH MAY ALSO INCLUDE ONGOING OPPORTUNITIES
18 FOR TENANTS TO BUILD UP THEIR SAVINGS, in an amount determined by
19 the administrator. Equity investments made by the program shall be made
20 with the expectation of returns that are below the prevailing market
21 returns. Returns on program investments up to the amount of the
22 program's initial investment shall be retained in the program and
23 reinvested. Returns on program investments greater than the program's
24 initial investment shall be retained in the program to fund the tenant
25 equity vehicle. In selecting investments under this program, the
26 administrator shall prioritize high-density housing, mixed-income
27 housing, and projects consistent with the goal of environmental

1 sustainability. As determined by the administrator, a minimum of 40% of
2 monies and a maximum of 70% of monies transferred to ~~the office from~~
3 the FINANCING fund annually may be used for the program. The
4 administrator may utilize ~~up to two percent of~~ the funds it receives from
5 the office for the program ~~annually~~ to pay for the costs of administering
6 the program; EXCEPT THAT THE TOTAL COMBINED ANNUAL
7 ADMINISTRATIVE EXPENDITURES OF MONEY FROM THE FINANCING FUND BY
8 THE ADMINISTRATOR AND THE OFFICE SHALL NOT EXCEED TWO PERCENT
9 OF THE FUNDS THE ADMINISTRATOR RECEIVES FROM THE OFFICE FOR THE
10 PROGRAM FOR THE STATE FISCAL YEAR.

11 (c) A concessionary debt program to be administered by the
12 administrator. The program shall:

13 (III) Provide debt financing of existing ~~affordable housing~~
14 projects for the purpose of preserving existing affordable multi-family
15 rental units; ~~and~~

16 (IV) Provide debt financing for modular and factory build housing
17 manufacturers; AND

18 (V) INCLUDE THE FOLLOWING FEATURES:

19 (A) **[formerly second sentence of 29-32-104 (1)(c)(IV)]** The
20 average ~~of rents~~ DESIGNATED IMPUTED INCOME BY HOUSEHOLD SIZE for
21 projects funded by the program ~~(calculated by adding together the~~
22 ~~monthly rent for all units in a project and dividing by the number of units~~
23 ~~in the project) must be and remain permanently affordable (meaning that~~
24 ~~a household shall not be required to spend more than 30% of household~~
25 ~~income on rent and basic utilities) for households that are at or below~~
26 ~~60% of the area median income of households of that size in the territory~~
27 ~~or jurisdiction of local government in which the housing is located, as~~

1 ~~calculated and published for a given year~~ SUBPROGRAMS SPECIFIED IN
2 SUBSECTIONS (1)(c)(I), (1)(c)(II), AND (1)(c)(III) OF THIS SECTION MUST
3 NOT EXCEED 60% OF THE AREA MEDIAN INCOME AS ESTABLISHED BY THE
4 United States Department of Housing and Urban Development AND
5 PUBLISHED BY THE DEPARTMENT OR A STATEWIDE POLITICAL SUBDIVISION
6 OR AUTHORITY ON HOUSING, AND A UNIT IN THE PROJECT MUST HAVE A
7 GROSS RENT LIMIT THAT DOES NOT EXCEED THIRTY PERCENT OF THE
8 IMPUTED INCOME LIMITATION APPLICABLE TO THE UNIT; ~~(the affordability~~
9 ~~threshold)~~; except that where the **program** SUBPROGRAM is a secondary
10 source of funding, the affordability threshold required by the primary
11 funding source, if any, may be operative. THE SUBPROGRAM SPECIFIED IN
12 SUBSECTION (1)(c)(IV) OF THIS SECTION DOES NOT HAVE A DESIGNATED
13 IMPUTED INCOME OR RENT LIMIT. Debt financing and loans made by the
14 program shall be made at below market interest rates as determined by the
15 administrator. Returns on program investments up to the amount of the
16 program's initial investment shall be retained in the program and
17 reinvested by the administrator in the program established in this
18 ~~paragraph (c)~~ SUBSECTION (1)(c). Returns on program investments greater
19 than the program's initial investment shall be retained in the program to
20 fund the tenant equity vehicle of the affordable housing equity program
21 created in subsection (1)(b) of this section.

22 (B) **[formerly last two sentences of 29-32-104 (1)(c)(IV)]** As
23 determined by the administrator, a minimum of 15% of monies and a
24 maximum of 35% of monies transferred to ~~the office from the~~ FINANCING
25 fund annually may be used for the program. The administrator may utilize
26 ~~up to two percent of the funds it receives from the office for the program~~
27 ~~annually~~ to pay for the costs of administering the program; EXCEPT THAT

1 THE TOTAL COMBINED ANNUAL ADMINISTRATIVE EXPENDITURES OF
2 MONEY FROM THE FINANCING FUND BY THE ADMINISTRATOR AND THE
3 OFFICE SHALL NOT EXCEED TWO PERCENT OF THE FUNDS THE
4 ADMINISTRATOR RECEIVES FROM THE OFFICE FOR THE PROGRAM FOR THE
5 STATE FISCAL YEAR.

6 (3) The division OF HOUSING AND THE DIVISION OF LOCAL
7 GOVERNMENT shall expend the money transferred to the support fund in
8 section 29-32-103 (1) to support the following programs only:

9 (a) An affordable home ownership program administered by the
10 division or one or more contractors of the division. The program shall
11 offer home ownership down-payment assistance to first-time homebuyers
12 and shall prioritize assistance, to the extent practicable, to first-generation
13 homebuyers. The assistance shall be provided to households with income
14 less than or equal to 120% of the area median income of households of
15 that size in the territory or jurisdiction of local government OR TRIBAL
16 GOVERNMENT in which the housing is located, as calculated and published
17 for a given year by the United States Department of Housing and Urban
18 Development, AND THE COST OF THE MONTHLY HOUSING PAYMENT
19 TOWARDS MORTGAGE PRINCIPAL, MORTGAGE INTEREST, PROPERTY TAXES,
20 MORTGAGE AND HOMEOWNER'S INSURANCE, HOMEOWNER ASSOCIATION
21 FEES, LAND LEASE FEES, AND METROPOLITAN DISTRICT FEES SHALL NOT
22 COST MORE THAN 35% OF MONTHLY HOUSEHOLD INCOME. The program
23 shall also make grants or loans to non-profits, LOCAL GOVERNMENTS,
24 TRIBAL GOVERNMENTS, COMMUNITY DEVELOPMENT FINANCIAL
25 INSTITUTIONS, and community land trusts to support affordable home
26 ownership and to groups or associations of mobile home owners to assist
27 them with the purchase of a mobile home park pursuant to section

1 38-12-217. Said grants and loans shall be used to support affordable
2 home ownership for households with income less than or equal to 100%
3 of the area median income of households of that size in the territory or
4 jurisdiction of local government OR TRIBAL GOVERNMENT in which the
5 households are located, as calculated and published for a given year by
6 the United States Department of Housing and Urban Development, AND
7 THE COST OF THE MONTHLY HOUSING PAYMENT TOWARDS MORTGAGE
8 PRINCIPAL, MORTGAGE INTEREST, PROPERTY TAXES, MORTGAGE AND
9 HOMEOWNER'S INSURANCE, HOMEOWNER ASSOCIATION FEES, LAND LEASE
10 FEES, AND METROPOLITAN DISTRICT FEES SHALL NOT COST MORE THAN
11 35% OF MONTHLY HOUSEHOLD INCOME. All principal and interest
12 payments on loans made under this paragraph (a) shall be paid to the
13 division and used by the ~~administrator~~ DIVISION for the purposes set forth
14 in this subsection (3). Up to 50% of monies transferred to ~~the division~~
15 ~~from~~ the SUPPORT fund annually may be used for the program. The
16 division shall determine how much of the available funding shall be
17 allocated to each aspect of the program. The division may utilize up to
18 5% of the funds it ~~receives~~ ALLOCATES from the fund for the program
19 ~~annually~~ EACH STATE FISCAL YEAR to pay for the direct and indirect costs
20 of administering the program.

21 (b) A program serving persons experiencing homelessness to be
22 administered by the division. The program shall provide rental assistance,
23 housing vouchers, and eviction defense assistance, including legal,
24 financial, and case management, to persons experiencing homelessness
25 or at risk of experiencing homelessness. The program shall also make
26 grants or loans to non-profit organizations, local governments, TRIBAL
27 GOVERNMENTS, or private entities to support the development and

1 preservation of supportive housing for persons experiencing
2 homelessness, and other homelessness related activities the division
3 determines contribute to the resolution of or prevention of homelessness,
4 including housing programs paid for by non-profit organizations, local
5 governments, TRIBAL GOVERNMENTS, or private entities on a pay for
6 success basis, meaning an organization, local government, TRIBAL
7 GOVERNMENT, or private entity would receive financial support from the
8 program upon achieving objectives contractually agreed upon with the
9 division. All principal and interest payments on loans made under this
10 paragraph (b) shall be paid to the division and used by the ~~administrator~~
11 DIVISION for the purposes set forth in this subsection (3). Up to 45% of
12 monies transferred to ~~the division from~~ the SUPPORT fund annually may
13 be used for the program. The division may utilize up to 5% of the funds
14 it ~~receives~~ ALLOCATES from the fund for the program ~~annually~~ EACH
15 STATE FISCAL YEAR to pay for the direct and indirect costs of
16 administering the program.

17 (c) A local planning capacity development program administered
18 by the division OF LOCAL GOVERNMENT. The program shall provide grants
19 to local governments AND TRIBAL GOVERNMENTS to increase the capacity
20 of local government AND TRIBAL GOVERNMENT planning departments
21 responsible for processing land use, permitting and zoning applications
22 for housing projects. Up to 5% of monies transferred to ~~the division from~~
23 the SUPPORT fund annually may be used for the program. The division OF
24 LOCAL GOVERNMENT may utilize up to 5% of the funds ~~it receives~~ THAT
25 THE DIVISION OF HOUSING ALLOCATES from the fund for the program
26 ~~annually~~ EACH STATE FISCAL YEAR to pay for the direct and indirect costs
27 of administering the program.

1 (4) ON OR BEFORE OCTOBER 1, 2024, AND OCTOBER 1 OF THE
2 NEXT TWO YEARS THEREAFTER, THE OFFICE AND DIVISION SHALL
3 RESPECTIVELY PROVIDE TO THE JOINT BUDGET COMMITTEE, THE SENATE
4 LOCAL GOVERNMENT AND HOUSING COMMITTEE, AND THE HOUSE OF
5 REPRESENTATIVES TRANSPORTATION, HOUSING, AND LOCAL GOVERNMENT
6 COMMITTEE, OR SUCCESSOR COMMITTEES, A REPORT ABOUT THE
7 DISBURSEMENTS FROM THE FINANCING FUND AND SUPPORT FUND FOR THE
8 PRIOR STATE FISCAL YEAR. IN THE REPORTS, THE OFFICE AND THE DIVISION
9 SHALL INCLUDE THE FOLLOWING INFORMATION ABOUT EACH AFFORDABLE
10 HOUSING PROGRAM:

11 (a) THE APPLICANTS FOR FUNDING, THE PROJECTS FUNDED, AND
12 THE PROJECTS THAT WERE DENIED, ALONG WITH THE REASON FOR THE
13 DENIAL;

14 (b) THE ANTICIPATED OR ACTUAL NUMBER OF HOUSEHOLDS
15 SERVED AND THE NUMBER OF AFFORDABLE HOUSING RENTAL UNITS AND
16 FOR-SALE UNITS FUNDED; AND

17 (c) THE GEOGRAPHIC DISTRIBUTION OF THE FUNDING.

18 **SECTION 4.** In Colorado Revised Statutes, 29-32-105, **amend**
19 (1)(a), (1)(b), (1)(c) introductory portion, (1)(d), (1)(e), (2)(a), (2)(b),
20 (2)(c), and (3) as follows:

21 **29-32-105. Affordable housing commitments - local**
22 **governments - tribal governments - three-year commitment cycle -**
23 **expedited development approval process - eligibility for assistance**
24 **from the fund.** (1) (a) Not later than November 1, 2023, the governing
25 body of each local government, other than local housing authorities, OR
26 TRIBAL GOVERNMENT desiring to receive funding under this ~~section~~
27 ARTICLE or desiring to make affordable housing projects within its

1 territorial boundaries eligible for funding under this ~~section~~ ARTICLE shall
2 make and file with the division a commitment specifying how, by
3 December 31, 2026, the combined number of newly constructed
4 affordable housing units and existing units converted to affordable
5 housing, within its territorial boundaries shall be increased by three
6 percent each year over the baseline number of affordable housing units
7 within its territorial boundaries, determined as provided in subsection
8 (1)(c) of this section.

9 (b) In the case of a county, the requirements of this subsection (1)
10 only apply to the unincorporated areas of the county, EXCEPT AS SET
11 FORTH IN SUBSECTION (3)(d)(II) OF THIS SECTION.

12 (c) The baseline number of affordable housing units within the
13 territorial boundaries of a local government OR TRIBAL GOVERNMENT, as
14 referenced in this subsection (1), shall be determined by the local
15 government OR TRIBAL GOVERNMENT by reference to:

16 (d) By November 1, 2026 and by November 1st of each
17 subsequent year in which the baseline resets, the governing body of each
18 local government, other than local housing authorities, OR TRIBAL
19 GOVERNMENT desiring to receive funding under this ~~section~~ ARTICLE or
20 desiring to make affordable housing projects within its territorial
21 boundaries eligible for funding under this ~~section~~ ARTICLE shall make and
22 file with the division a commitment specifying how, by December 31 of
23 the third year thereafter, the combined number of newly constructed
24 affordable housing units and existing units converted to affordable
25 housing, within its territorial boundaries shall be increased by three
26 percent each year over the baseline number of affordable housing units
27 within its territorial boundaries determined as provided in subsection

1 (1)(c) of this section.

2 (e) In drafting and enacting commitments under this subsection
3 (1) local governments AND TRIBAL GOVERNMENTS should prioritize
4 high-density housing, mixed-income housing, and projects consistent with
5 the goal of environmental sustainability, when appropriate, and should
6 prioritize affordable housing in communities in which low concentrations
7 of affordable housing exist.

8 (2) (a) In order to receive financial assistance under this article,
9 or for affordable housing projects within a TRIBAL GOVERNMENT,
10 municipality, a city and county, or the unincorporated area of a county to
11 be eligible for funding, the TRIBAL GOVERNMENT OR local government,
12 other than a local affordable housing authority, must establish processes
13 to enable it to provide a final decision on any application for a special
14 permit, variance, or other development permit, excluding subdivisions, of
15 a development project for which fifty percent or more of the residential
16 units in the development constitute affordable housing not more than
17 ninety calendar days after submission of a complete application, referred
18 to herein as a "fast-track approval process."

19 (b) A local government's OR TRIBAL GOVERNMENT'S fast-track
20 approval process may include an option to extend the review period for
21 an additional ninety days at the request of a developer, for compliance
22 with state law or court order, or for a review period required by another
23 local government, TRIBAL GOVERNMENT, or agency, within the local
24 government OR TRIBAL GOVERNMENT or outside, for any component of
25 the application requiring that government's or agency's approval.

26 (c) A local government's OR TRIBAL GOVERNMENT'S fast-track
27 approval process may include extensions to allow for the submission of

1 additional information or revisions to an application in response to
2 requests from the local government OR TRIBAL GOVERNMENT. Such
3 extensions shall not exceed the amount of time from the request to the
4 submission of the applicant's response plus thirty days. Applicants shall
5 provide such additional information or responses promptly and shall,
6 whenever practicable, provide a response within five business days.

7 (3) (a) Beginning in 2027, to be eligible under this article for
8 direct funding, or for affordable housing projects within a local
9 government's OR TRIBAL GOVERNMENT'S territorial boundaries to be
10 eligible for funding, local governments, other than local housing
11 authorities, OR TRIBAL GOVERNMENTS must satisfy both the requirements
12 of subsection (1) of this section to commit to and achieve annual
13 increases in the number of affordable housing units within their territorial
14 boundaries, and the requirements of subsection (2) of this section to
15 implement a system to expedite the development approval process for
16 affordable housing projects.

17 (b) (I) If a local government OR TRIBAL GOVERNMENT makes and
18 files with the division the commitment required by subsection (1) of this
19 section by November 1, 2023, it shall be deemed to have satisfied the
20 requirements of subsection (1) of this section through December 31,
21 2026.

22 (II) If a local government OR TRIBAL GOVERNMENT makes and
23 files with the division the commitment required by subsection (1) of this
24 section by November 1, 2026, or by November 1ST of a subsequent year
25 in which the baseline resets, and it met its commitment to increase
26 affordable housing made under subsection (1) of this section for the
27 previous three-year cycle, it shall be deemed to have satisfied the

1 requirements of subsection (1) of this section through the end of the
2 current three-year cycle.

3 (III) If a local government, other than a local housing authority,
4 OR TRIBAL GOVERNMENT fails to make and file with the division the
5 commitment required by subsection (1) of this section by November 1,
6 2023, or by November 1ST of a subsequent year in which the baseline
7 resets, it shall be ineligible to receive financial assistance from the
8 division or administrator during the following calendar year.

9 (IV) If a local government OR TRIBAL GOVERNMENT fails to meet
10 its commitment to increase affordable housing made and filed pursuant
11 to subsection (1) of this section for any three-year cycle, it shall be
12 ineligible to receive financial assistance from the division or
13 administrator during the first calendar year of the next three-year cycle.

14 (V) An ineligible local government OR TRIBAL GOVERNMENT may
15 apply for a subsequent year with a new commitment under subsection (1)
16 of this section for the balance of the then-current three-year cycle.

17 (VI) A developer, whether for-profit or nonprofit, or a local
18 government OR TRIBAL GOVERNMENT developing an affordable housing
19 project within the territorial boundaries of a local government OR TRIBAL
20 GOVERNMENT that fails to meet the requirements of subsection (1) or (2)
21 of this section shall be ineligible to receive financial assistance from the
22 division or administrator. Notwithstanding this restriction, a project
23 within the territorial boundaries of an eligible municipality shall be
24 eligible for funding even if the county in which the project is located is
25 ineligible.

26 (VII) Ineligible local governments AND TRIBAL GOVERNMENTS
27 AND developers of projects in ineligible local government AND TRIBAL

1 GOVERNMENT jurisdictions shall not be required to pay back to the
2 division or the administrator money paid to them under this article prior
3 to ineligibility.

4 (d) (I) The division shall be responsible for determining
5 compliance with this section. For the purpose of calculating whether a
6 local government OR TRIBAL GOVERNMENT has met the requirements of
7 subsection (1) of this section, a new residential housing unit is to be
8 counted at the time it is permitted rather than the time it is constructed.
9 An existing housing unit newly qualifying as affordable housing is to be
10 counted at the time it is permitted and fully funded rather than at the time
11 the conversion is completed. For the purpose of calculating whether a
12 local government OR TRIBAL GOVERNMENT has met the requirements of
13 subsection (1) of this section, in addition to affordable housing growth
14 achieved through the programs in this article, any new deed restricted
15 affordable housing, newly constructed or converted to affordable, within
16 a local government's OR TRIBAL GOVERNMENT'S territorial boundaries
17 shall be counted toward the local government's OR TRIBAL GOVERNMENT'S
18 growth requirement. ~~Affordable housing growth in another jurisdiction
19 resulting directly from a local government's funding of such affordable
20 housing in cooperation with another local government shall be attributed
21 to a local government in proportion to the funding provided by the local
22 government to such housing.~~ FOR THE PURPOSE OF CALCULATING
23 WHETHER A LOCAL GOVERNMENT OR TRIBAL GOVERNMENT HAS MET THE
24 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, ALL UNITS FUNDED
25 THROUGH THE PROGRAMS CREATED IN SECTION 29-32-104 (1)(b),
26 (1)(c)(I), (1)(c)(II), AND (1)(c)(III) ARE COUNTED TOWARDS THE LOCAL
27 GOVERNMENT'S OR TRIBAL GOVERNMENT'S GROWTH REQUIREMENT.

1 (II) REGIONAL COLLABORATION AND PARTNERSHIP IS
2 ENCOURAGED. LOCAL GOVERNMENTS AND TRIBAL GOVERNMENTS MAY
3 ENTER INTO WRITTEN AGREEMENTS WITH OTHER LOCAL GOVERNMENTS
4 AND TRIBAL GOVERNMENTS THAT ALLOW EACH JURISDICTION TO RECEIVE
5 PARTIAL CREDIT TOWARDS THE LOCAL GOVERNMENT'S OR TRIBAL
6 GOVERNMENT'S GROWTH REQUIREMENT FOR THE PURPOSE OF
7 CALCULATING WHETHER A LOCAL GOVERNMENT OR TRIBAL GOVERNMENT
8 HAS MET THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION. THE
9 SUM OF THE TOTAL UNITS CREDITED TO THE LOCAL GOVERNMENTS AND
10 TRIBAL GOVERNMENTS SHALL NOT EXCEED THE TOTAL NUMBER OF UNITS
11 PRODUCED THROUGH THE COLLABORATION.

12 **SECTION 5.** In Colorado Revised Statutes, **add** 29-32-105.5 as
13 follows:

14 **29-32-105.5. Alternative eligibility for programs - rural resort**
15 **community - petition - legislative declaration - definition.** (1) (a) THE
16 GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

17 (I) THE LACK OF AFFORDABLE HOUSING IS AN ISSUE THROUGHOUT
18 THE STATE, AND VOTERS THROUGHOUT THE STATE VOTED IN FAVOR OF
19 PROPOSITION 123 AT THE STATEWIDE GENERAL ELECTION IN 2022 TO
20 ADDRESS THIS ISSUE;

21 (II) THE STATE INCOME TAX REVENUE THAT IS THE DEDICATED
22 SOURCE OF FUNDING FOR THE AFFORDABLE HOUSING PROGRAMS CREATED
23 IN THIS ARTICLE SHOULD BE AVAILABLE TO ALL ELIGIBLE COMMUNITIES IN
24 THE STATE; AND

25 (III) IT IS DIFFICULT TO ESTABLISH A UNIFORM STANDARD FOR
26 ELIGIBILITY FOR AFFORDABLE HOUSING PROGRAMS THAT IS SUITABLE FOR
27 EVERY COMMUNITY, INCLUDING RURAL COMMUNITIES AND RURAL RESORT

1 COMMUNITIES.

2 (b) THEREFORE, IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE
3 PETITION PROCESS ESTABLISHED IN THIS SECTION HELPS TO ENSURE THAT
4 ELIGIBLE RURAL RESORT COMMUNITIES ARE ABLE TO RECEIVE FUNDING
5 FOR AFFORDABLE HOUSING PROJECTS THAT MEET THE DEMONSTRATED
6 HOUSING NEEDS OF THEIR COMMUNITIES.

7 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES, "PETITION" MEANS A PETITION SUBMITTED BY A RURAL RESORT
9 COMMUNITY TO THE DIVISION IN ACCORDANCE WITH SUBSECTION (3) OF
10 THIS SECTION.

11 (3) NOTWITHSTANDING THE REQUIREMENTS SET FORTH IN SECTION
12 29-32-104 (1), A RURAL RESORT COMMUNITY MAY, BASED ON THE
13 AVERAGE NEEDS IDENTIFIED IN A HOUSING NEEDS ASSESSMENT, PETITION
14 THE DIVISION TO USE DIFFERENT PERCENTAGES OF AREA MEDIAN INCOME
15 THAN THOSE PERCENTAGES SPECIFIED FOR ELIGIBILITY FOR A GIVEN
16 FUNDING CYCLE FOR:

17 (a) THE LAND BANKING PROGRAM;

18 (b) THE AFFORDABLE HOUSING EQUITY PROGRAM; AND

19 (c) DEBT FINANCING PROGRAMS THAT ARE PART OF THE
20 CONCESSIONARY DEBT PROGRAM SPECIFIED IN SECTION 29-32-104 (1)(c)(I)
21 AND (1)(c)(III).

22 (4) THE DIVISION SHALL POST NOTICE THAT A PETITION HAS BEEN
23 FILED ON THE DIVISION'S WEBSITE AND SHALL ESTABLISH A PROCEDURE
24 FOR RECEIVING PUBLIC COMMENTS ON A PETITION, INCLUDING COMMENTS
25 THROUGH THE DIVISION'S WEBSITE. THE DIVISION SHALL CONSIDER THE
26 PUBLIC COMMENTS WHEN CONSIDERING THE PETITION.

27 (5) THE DIVISION MAY APPROVE THE PETITION TO USE DIFFERENT

1 PERCENTAGES OF AREA MEDIAN INCOME, BUT ONLY IF:

2 (a) THE SUBMITTED HOUSING NEEDS ASSESSMENT:

3 (I) IS PUBLISHED BY THE STATE OR IS A LOCAL HOUSING NEEDS
4 ASSESSMENT THAT UTILIZES DATA FROM THE STATE DEMOGRAPHER OR
5 OTHER PUBLICLY ACCESSIBLE SOURCES, WHICH IN EITHER CASE MAY BE
6 SUPPORTED BY OTHER RELEVANT AND VERIFIABLE COMMUNITY DATA; AND

7 (II) HAS BEEN COMPLETED WITHIN THE PAST THREE YEARS OF THE
8 PETITION DATE; AND

9 (b) THE DIVISION DETERMINES THAT THE CURRENT ELIGIBILITY
10 STANDARDS WOULD CAUSE IMPLEMENTATION OF THIS ARTICLE IN A
11 MANNER INCONSISTENT WITH DEMONSTRATED HOUSING AND WORKFORCE
12 NEEDS WITHIN THE JURISDICTION, TAKING INTO CONSIDERATION REGIONAL
13 WORKFORCE COMMUTING TRENDS.

14 (6) IF THE DIVISION GRANTS THE PETITION, THE DIVISION SHALL
15 ESTABLISH THE PERCENTAGES OF AREA MEDIAN INCOME BASED ON THE
16 AVERAGE NEEDS IDENTIFIED IN A HOUSING NEEDS ASSESSMENT. A RURAL
17 RESORT COMMUNITY MAY APPLY FOR MORE THAN ONE PROGRAM IN A
18 PETITION.

19 (7) THE APPROVAL OF A RURAL RESORT COMMUNITY'S PETITION
20 DOES NOT AFFECT THE ADMINISTRATOR'S OBLIGATION IN SELECTING
21 INVESTMENTS THAT PRIORITIZE HIGH-DENSITY HOUSING, MIXED-INCOME
22 HOUSING, AND PROJECTS CONSISTENT WITH THE GOAL OF ENVIRONMENTAL
23 SUSTAINABILITY. A PROJECT MUST STILL MEET THE RURAL RESORT
24 COMMUNITY'S DEMONSTRATED HOUSING NEEDS.

25 **SECTION 6.** In Colorado Revised Statutes, **amend** 29-32-106 as
26 follows:

27 **29-32-106. Maintenance of effort.** (1) For any state fiscal year

1 in which money is appropriated from the FINANCING fund OR THE
2 SUPPORT FUND in accordance with the requirements of this article, any
3 such money appropriated must supplement and shall not supplant the
4 level of general fund and cash fund appropriations for affordable housing
5 programs ~~as of~~ FOR the state fiscal year 2022-23.

6 (2) FOR PURPOSES OF DETERMINING THE APPROPRIATIONS FOR
7 AFFORDABLE HOUSING PROGRAMS FOR THE STATE FISCAL YEAR 2022-23,
8 CASH FUND APPROPRIATIONS DO NOT INCLUDE ANY APPROPRIATIONS OF
9 MONEY THAT ORIGINATED FROM MONEY THE STATE RECEIVED FROM THE
10 FEDERAL CORONAVIRUS STATE FISCAL RECOVERY FUND.

11 **SECTION 7. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.