

CHAPTER 207

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**GOVERNMENT - STATE**

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**HOUSE BILL 00-1427**

BY REPRESENTATIVES Webster, Smith, Young, Alexander, Bacon, Clapp, Dean, Fairbank, George, Gotlieb, Hefley, Hoppe, Johnson, Kaufman, Kester, King, Larson, Lee, Mace, McElhany, McKay, Miller, Mitchell, Morrison, Nuñez, Plant, Ragsdale, Scott, Sinclair, Spradley, Swenson, Tapia, Taylor, Tool, Veiga, Vigil, S. Williams, T. Williams, Witwer, Allen, Clarke, Coleman, Gagliardi, Gordon, Hagedorn, Lawrence, Spence, Tochtrop, Tupa, Windels, and Zimmerman;  
also SENATORS Owen, Dyer, Hernandez, Martinez, Sullivant, and Teck.

**AN ACT**

CONCERNING THE OFFICE OF SMART GROWTH, AND MAKING AN APPROPRIATION THEREFOR.

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

**SECTION 1.** Article 32 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 32  
OFFICE OF SMART GROWTH**

**24-32-3201. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE PURPOSE OF THIS PART 32 IS TO RECOGNIZE AND REWARD COMMUNITIES THAT COOPERATIVELY PLAN FOR AND MANAGE GROWTH. BY ENACTING THIS PART 32, THE GENERAL ASSEMBLY INTENDS THAT THE STATE WILL BE ABLE TO PROVIDE FINANCIAL AND OTHER SERVICES TO LOCAL GOVERNMENTS TO ASSIST SUCH GOVERNMENTS IN ANTICIPATING AND RESPONSIBLY ADDRESSING THE UNIQUE PUBLIC IMPACTS CAUSED BY GROWTH.

**24-32-3202. Definitions.** AS USED IN THIS PART 32, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COLORADO HERITAGE PLANNING GRANT" MEANS A GRANT AWARDED BY THE OFFICE OF SMART GROWTH PURSUANT TO SECTION 24-32-3203 (3) (c).

(2) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF LOCAL AFFAIRS.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(3) "ELIGIBLE PARTICIPANT" MEANS ONE OR MORE LOCAL GOVERNMENTS THAT SATISFY THE REQUIREMENTS FOR GRANT ELIGIBILITY PURSUANT TO SECTION 24-32-3203 (3).

(4) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS.

(5) "FUND" MEANS THE COLORADO HERITAGE COMMUNITIES FUND CREATED IN SECTION 24-32-3207.

(6) "GROWTH" MEANS CHANGES IN POPULATION THAT IMPACT LAND USE, INFRASTRUCTURE DEVELOPMENT, AND THE SURROUNDING ENVIRONMENT.

(7) "LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY AND COUNTY, CITY, TOWN, OR SPECIAL DISTRICT CREATED PURSUANT TO ARTICLE 1 OF TITLE 32, C.R.S.

(8) "OFFICE" MEANS THE OFFICE OF SMART GROWTH CREATED BY THIS PART 32.

**24-32-3203. Office of smart growth - creation - powers and duties of executive director.** (1) (a) THERE IS HEREBY CREATED WITHIN THE DEPARTMENT OF LOCAL AFFAIRS THE OFFICE OF SMART GROWTH. THE OFFICE SHALL BE ESTABLISHED WITHIN AN EXISTING DIVISION OF THE DEPARTMENT IN THE DISCRETION OF THE EXECUTIVE DIRECTOR.

(b) THE OFFICE SHALL BE IN THE CHARGE OF A DIRECTOR WHO SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR. THE DIRECTOR AND ANY ASSISTANTS AND EMPLOYEES OF THE OFFICE SHALL BE APPOINTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION.

(2) THE OFFICE SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS SPECIFIED BY THIS PART 32 UNDER THE DEPARTMENT OF LOCAL AFFAIRS AND THE EXECUTIVE DIRECTOR THEREOF AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 2** TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF THIS TITLE.

(3) THE EXECUTIVE DIRECTOR SHALL HAVE THE FOLLOWING POWERS AND DUTIES IN ADMINISTERING THIS PART 32:

(a) TO DESIGNATE AREAS WITHIN COLORADO AS COLORADO HERITAGE COMMUNITIES. AREAS DESIGNATED AS COLORADO HERITAGE COMMUNITIES SHALL BE ELIGIBLE FOR A COLORADO HERITAGE PLANNING GRANT BY THE OFFICE OUT OF MONEYS IN THE FUND CREATED BY SECTION 24-32-3207 IN ACCORDANCE WITH THE PROVISIONS OF THIS PART 32.

(b) TO ADOPT AND PUBLICIZE CRITERIA REGARDING GRANTS MADE AVAILABLE BY THE OFFICE OUT OF MONEYS IN THE FUND PURSUANT TO PARAGRAPHS (c) AND (d) OF THIS SUBSECTION (3);

(c) TO REVIEW AND APPROVE APPLICATIONS FOR COLORADO HERITAGE PLANNING GRANTS AWARDED BY THE OFFICE OUT OF MONEYS IN THE FUND IN ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 32, AND TO DETERMINE THE AMOUNT OF MONEY TO

BE AWARDED UNDER EACH SUCH GRANT. AN APPLICATION FOR SUCH A GRANT SHALL:

(I) BE SUBMITTED JOINTLY BY THE GOVERNING BODIES OF AT LEAST TWO LOCAL GOVERNMENTS; AND

(II) ADDRESS CRITICAL PLANNING ISSUES, INCLUDING, WITHOUT LIMITATION, LAND USE AND DEVELOPMENT PATTERNS, TRANSPORTATION PLANNING, MITIGATION OF ENVIRONMENTAL HAZARDS, AND ENERGY USE.

(d) TO REVIEW AND APPROVE APPLICATIONS FOR GRANTS AWARDED BY THE OFFICE OUT OF MONEYS IN THE FUND TO ASSIST A LOCAL GOVERNMENT, AS APPLICABLE, IN DEVELOPING A MASTER PLAN IN CONFORMITY WITH SECTION 30-28-106 OR 31-23-206, C.R.S., AND TO DETERMINE THE AMOUNT OF MONEY TO BE AWARDED UNDER EACH SUCH GRANT PURSUANT TO SECTION 24-32-3207 (2);

(e) TO ATTEND AND PARTICIPATE IN MEETINGS OF COUNTY, MUNICIPAL, OR REGIONAL PLANNING BODIES, INTERSTATE AGENCIES, AND OTHER CONFERENCES OF SUCH BODIES, AGENCIES, OR RELATED ENTITIES;

(f) TO ADVISE THE GOVERNOR AND THE GENERAL ASSEMBLY ON MATTERS INVOLVING GROWTH, CONSULT WITH OTHER OFFICES OF STATE GOVERNMENT WITH RESPECT TO GROWTH ISSUES AFFECTING THE DUTIES OF THEIR OFFICES, AND, UPON REQUEST OF ANY LOCAL GOVERNMENT, REGIONAL AREA, OR GROUP OF ADJACENT COMMUNITIES HAVING COMMON OR RELATED PROBLEMS ARISING FROM GROWTH, RECOMMEND TO THE GOVERNOR AND THE GENERAL ASSEMBLY ANY PROPOSALS FOR LEGISLATION THAT WOULD ADDRESS THE IMPACT OF GROWTH; BUT NOTHING IN THIS PART 32 SHALL BE CONSTRUED TO GRANT TO THE OFFICE OR THE EXECUTIVE DIRECTOR ANY AUTHORITY OVER THE LAND USE OR PLANNING RESPONSIBILITIES OF LOCAL GOVERNMENTS; AND

(g) TO EXERCISE ALL OTHER POWERS NECESSARY AND PROPER FOR THE DISCHARGE OF THE EXECUTIVE DIRECTOR'S DUTIES AND THE CARRYING OUT OF THE INTENT OF THIS PART 32, INCLUDING THE COORDINATION OF THE PROVISIONS OF ARTICLE 28 OF TITLE 30 AND ARTICLE 23 OF TITLE 31, C.R.S.

(4) THE DIRECTOR OF THE OFFICE OF SMART GROWTH CREATED BY THIS SECTION SHALL ADVISE THE EXECUTIVE DIRECTOR IN CONNECTION WITH THE EXERCISE OF THE EXECUTIVE DIRECTOR'S POWERS AND DUTIES IN ADMINISTERING THIS PART 32.

**24-32-3204. Powers and duties of the office of smart growth.** (1) THE OFFICE SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(a) TO SERVE AS A CLEARING HOUSE, FOR THE BENEFIT OF LOCAL GOVERNMENTS, OF INFORMATION RELATING TO THE COMMON PROBLEMS FACED BY LOCAL GOVERNMENTS IN CONNECTION WITH GROWTH AND OF STATE AND FEDERAL RESOURCES AVAILABLE TO ASSIST IN THE RESOLUTION OF PROBLEMS CAUSED BY GROWTH;

(b) TO REFER LOCAL GOVERNMENTS TO APPROPRIATE DEPARTMENTS OR AGENCIES OF THE STATE OR FEDERAL GOVERNMENT FOR ADVICE, ASSISTANCE, OR AVAILABLE SERVICES IN CONNECTION WITH SPECIFIC PROBLEMS RELATING TO GROWTH;

(c) TO PERFORM SUCH RESEARCH AS IS NECESSARY TO CARRY OUT THE FUNCTIONS OF THE OFFICE;

(d) TO ENCOURAGE AND, WHEN SO REQUESTED, ASSIST COOPERATIVE EFFORTS AMONG LOCAL GOVERNMENTS TOWARD THE SOLUTION OF COMMON PROBLEMS RELATING TO GROWTH;

(e) UPON REQUEST BY LOCAL GOVERNMENTS, TO PROVIDE TECHNICAL ASSISTANCE TO SUCH GOVERNMENTS IN ADDRESSING PROBLEMS CAUSED BY THE IMPACTS OF GROWTH IN SUCH AREAS AS, WITHOUT LIMITATION, COMPLETION OF COMPREHENSIVE OR MASTER PLANS AND THE RESOLUTION OF LAND USE DISPUTES INVOLVING OTHER GOVERNMENTAL ENTITIES; AND

(f) TO ACCEPT AND RECEIVE GRANTS AND SERVICES RELEVANT TO THE FULFILLMENT OF THIS PART 32 FROM THE FEDERAL GOVERNMENT, OTHER STATE AGENCIES, LOCAL GOVERNMENTS, OR PRIVATE AND CIVIC SOURCES.

**24-32-3205. Qualifications.** (1) SUBJECT TO THE REQUIREMENTS OF THIS PART 32, THE GOVERNING BODY OR BODIES OF ANY ELIGIBLE PARTICIPANT OR PARTICIPANTS, AS APPLICABLE, MAY SUBMIT AN APPLICATION TO THE EXECUTIVE DIRECTOR REQUESTING A GRANT PURSUANT TO THIS PART 32. ANY GRANT APPROVED BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH THE REQUIREMENTS OF THIS PART 32 SHALL BE AWARDED TO THE GOVERNING BODY OR BODIES THAT SUBMITTED THE APPLICATION.

(2) IN ORDER TO OBTAIN GRANT MONEYS UNDER THIS PART 32 AND AS A CONDITION OF THE RECEIPT OF MONEYS UNDER SAID PART, EACH ELIGIBLE PARTICIPANT SHALL AGREE TO:

(a) USE ANY GRANT MONEYS IN ACCORDANCE WITH THE CRITERIA PUBLICIZED BY THE EXECUTIVE DIRECTOR PURSUANT TO SECTION 24-32-3203 (3) (b); AND

(b) PERFORM SUCH OTHER REQUIREMENTS AS THE EXECUTIVE DIRECTOR DEEMS APPROPRIATE IN THE EXERCISE OF HIS OR HER DISCRETION TO FURTHER THE PURPOSES OF THIS PART 32.

(3) ELIGIBLE PARTICIPANTS SHALL APPLY FOR GRANTS MADE AVAILABLE PURSUANT TO THIS PART 32 ON OFFICIAL APPLICATION FORMS PROVIDED BY THE OFFICE. ELIGIBLE PARTICIPANTS SHALL PROVIDE SUCH INFORMATION ON THE FORMS AS THE EXECUTIVE DIRECTOR MAY REQUIRE IN FURTHERANCE OF THE PURPOSES OF THIS PART 32.

**24-32-3206. Reporting.** ALL ELIGIBLE PARTICIPANTS RECEIVING FUNDS UNDER THIS PART 32 SHALL SUBMIT TO THE EXECUTIVE DIRECTOR BY JANUARY 1 OF EACH YEAR FOLLOWING THE YEAR IN WHICH A GRANT WAS MADE A REPORT CONTAINING A STATEMENT OF ALL MONEYS RECEIVED UNDER THIS PART 32, THE PURPOSES FOR WHICH THE MONEYS WERE USED, THE PARTICIPANT'S COMPLIANCE WITH THIS ARTICLE, AND SUCH OTHER INFORMATION THAT THE EXECUTIVE DIRECTOR MAY REQUIRE. AN ELIGIBLE PARTICIPANT MAY SUBMIT THE INFORMATION REQUIRED TO BE SUBMITTED TO THE EXECUTIVE DIRECTOR PURSUANT TO THIS SECTION AS PART OF THE REPORTING OF ANY OTHER INFORMATION REQUIRED TO BE SUBMITTED TO THE DEPARTMENT

UNDER ANY OTHER APPLICABLE LAW BY THE DATE SPECIFIED IN THIS SECTION.

**24-32-3207. Colorado heritage communities fund - creation - source of funds.**

(1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE COLORADO HERITAGE COMMUNITIES FUND, WHICH FUND SHALL BE ADMINISTERED BY THE DIRECTOR AND WHICH SHALL CONSIST OF ALL MONEYS APPROPRIATED TO SAID FUND BY THE GENERAL ASSEMBLY AND ALL OTHER MONEYS COLLECTED BY THE OFFICE FOR THE FUND FROM FEDERAL GRANTS OR OTHER CONTRIBUTIONS, GRANTS, GIFTS, BEQUESTS, OR DONATIONS RECEIVED FROM OTHER AGENCIES OF STATE GOVERNMENT, INDIVIDUALS, PRIVATE ORGANIZATIONS, OR FOUNDATIONS. SUCH MONEYS SHALL BE TRANSMITTED TO THE STATE TREASURER TO BE CREDITED TO THE FUND.

(2) NOT MORE THAN AN AMOUNT EQUAL TO THIRTY PERCENT OF ANY MONEYS IN THE FUND AS OF THE BEGINNING OF ANY GIVEN FISCAL YEAR SHALL BE MADE AVAILABLE BEFORE THE END OF THAT SAME FISCAL YEAR TO LOCAL GOVERNMENTS IN GRANT MONEYS FOR THE DEVELOPMENT OF MASTER PLANS PURSUANT TO SECTION 24-32-3203 (3) (d).

(3) ANY MONEYS IN THE FUND NOT EXPENDED OR ENCUMBERED FROM ANY APPROPRIATION AT THE END OF ANY FISCAL YEAR SHALL REMAIN AVAILABLE FOR EXPENDITURE IN THE NEXT FISCAL YEAR WITHOUT FURTHER APPROPRIATION.

(4) ALL MONEYS, INCLUDING INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE FUND, SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR.

**24-32-3208. Additional sources of funding.** (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 32, GRANTS TO BE MADE TO ELIGIBLE PARTICIPANTS IN ACCORDANCE WITH THIS PART 32 MAY BE MADE FROM ANY COMBINATION OF MONEYS IN THE COLORADO HERITAGE COMMUNITIES FUND CREATED IN SECTION 24-32-3207 AND ANY OTHER MONEYS COLLECTED BY THE EXECUTIVE DIRECTOR FOR SUCH PURPOSES CONSISTENT WITH THE INTENT OF THIS PART 32.

(2) ANY ELIGIBLE PARTICIPANT MAY PURSUE ADDITIONAL SOURCES OF FUNDING FOR PURPOSES CONSISTENT WITH THE INTENT OF THIS PART 32, INCLUDING, WITHOUT LIMITATION, GRANTS, DONATIONS, OR CONTRIBUTIONS FROM ANY OTHER PUBLIC OR PRIVATE SOURCES.

**24-32-3209. Department to maintain list of qualified professionals to assist in resolving land use disputes.** THE DEPARTMENT SHALL MAINTAIN A LIST OF QUALIFIED PROFESSIONALS THAT ARE AVAILABLE TO ASSIST IN RESOLVING LAND USE DISPUTES ARISING BETWEEN LOCAL GOVERNMENTS. SUCH LIST SHALL INCLUDE ONLY THOSE PERSONS AND ORGANIZATIONS THE DEPARTMENT DETERMINES HAVE PROFESSIONAL EXPERTISE AND SKILLS IN LAND USE, PLANNING, ZONING, SUBDIVISION, ANNEXATION, REAL ESTATE, PUBLIC ADMINISTRATION, MEDIATION, ARBITRATION, OR RELATED DISCIPLINES. SUCH LIST SHALL BE MADE AVAILABLE TO GOVERNMENTAL ENTITIES AND THE PUBLIC THROUGH THE OFFICE CREATED BY THIS PART 32 FOR THE PURPOSE OF FACILITATING THE RESOLUTION OF DISPUTES BETWEEN OR AMONG LOCAL GOVERNMENTS ARISING OUT OF LAND USE MATTERS.

**SECTION 2. Appropriation.** (1) In addition to any other appropriation, there

is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of local affairs, for the fiscal year beginning July 1, 2000, the sum of one hundred fifteen thousand nine hundred ninety-eight dollars (\$115,998) and 2.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the Colorado heritage communities fund created in section 24-32-3207, Colorado Revised Statutes, for the fiscal year beginning July 1, 2000, the sum of seven hundred thirty-five thousand four hundred eighty-five dollars (\$735,485).

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado heritage communities fund not otherwise appropriated, for the fiscal year beginning July 1, 2000, the sum of seven hundred thirty-five thousand four hundred eighty-five dollars (\$735,485), or so much thereof as may be necessary, for the implementation of this act.

(4) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 2000, the sum of one thousand fifty-seven dollars (\$1,057), or so much thereof as may be necessary, for the provision of legal services to the department of local affairs related to the implementation of this act. Such sum shall be cash funds exempt received from the department of local affairs out of the appropriation made in subsection (1) of this section.

**SECTION 3. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 24, 2000