

## CHAPTER 141

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**GOVERNMENT - STATE**

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**HOUSE BILL 11-1160**

BY REPRESENTATIVE(S) Gerou, Looper, McNulty;  
also SENATOR(S) Jahn, Aguilar, Bacon, Boyd, Carroll, Foster, Giron, Guzman, Heath, Hodge, Hudak, Johnston, King S., Morse,  
Newell, Nicholson, Schwartz, Shaffer B., Steadman, Tochtrop, Williams S.

**AN ACT**

**CONCERNING THE ESTABLISHMENT OF A GREEN BUILDING INCENTIVE PILOT PROGRAM ADMINISTERED BY THE GOVERNOR'S ENERGY OFFICE TO INCENTIVIZE THE MAKING OF ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING RESIDENCES WITH CURRENT HOME ENERGY RATINGS BELOW MINIMUM STANDARDS FOR PEOPLE WHO PURCHASE HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION.**

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

**SECTION 1.** Article 38.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 2  
GREEN BUILDING INCENTIVE PILOT PROGRAM**

**24-38.5-201. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) AN INCENTIVE-BASED GREEN BUILDING PILOT PROGRAM WILL STRIVE TO REDUCE ELECTRICITY, GAS, AND WATER USE IN OLDER HOMES WHILE PROVIDING AN INCENTIVE FOR HOMEBUYERS TO PURCHASE NEW RESIDENTIAL CONSTRUCTION THAT MEETS STRINGENT ENERGY EFFICIENCY STANDARDS;

(b) PROVIDING INCENTIVES FOR NEW RESIDENTIAL CONSTRUCTION THAT MEETS STRINGENT ENERGY EFFICIENCY STANDARDS AND IMPROVING ENERGY EFFICIENCY IN EXISTING RESIDENCES CAN STIMULATE LOCAL AND STATE ECONOMIES AND PROVIDE OPPORTUNITIES FOR JOB GROWTH IN GREEN JOBS AND INDUSTRIES THAT ARE FOCUSED ON IMPROVING ENERGY EFFICIENCY OF BOTH NEW AND EXISTING RESIDENCES; AND

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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.*

(c) AN INCENTIVE-BASED GREEN BUILDING PILOT PROGRAM WILL BENEFIT HOMEBUYERS WHO ARE ATTEMPTING TO PURCHASE HIGHLY ENERGY EFFICIENT NEW RESIDENTIAL CONSTRUCTION AND RETROFIT EXISTING HOMES IN AN ATTEMPT TO REDUCE ENERGY AND WATER CONSUMPTION.

**24-38.5-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ENERGY CODE" MEANS THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE, OR ANY SUCCESSOR EDITION, PUBLISHED BY THE INTERNATIONAL CODE COUNCIL OR ANY STATE OR LOCAL ENERGY CODE THAT HAS MORE RECENT OR MORE STRINGENT REQUIREMENTS.

(2) "ENERGY EFFICIENCY IMPROVEMENT" MEANS:

(a) AN UPGRADE TO A STRUCTURE, APPLIANCE, FIXTURE, PLUMBING, HEATING OR COOLING SYSTEM, OR WATER HEATER IN ANY EXISTING RESIDENCE THAT IS INTENDED TO REDUCE THE CONSUMPTION OF ELECTRICITY, NATURAL GAS, WATER, OR ANY OTHER FUEL OR ENERGY SOURCE; AND

(b) THE INSTALLATION OR UPGRADE OF BUILDING INSULATION, AIR SEALING MEASURES, AND DUCT SEALING IN ANY EXISTING RESIDENCE.

(3) "EXISTING RESIDENCE" MEANS A RESIDENCE, EITHER SINGLE-FAMILY DETACHED OR MULTI-FAMILY, THAT:

(a) IS LOCATED IN COLORADO;

(b) IS USED AS THE QUALIFIED HOMEBUYER'S PRIMARY RESIDENCE; AND

(c) HAS A CURRENT HOME ENERGY RATING, AS DETERMINED BY A RECOGNIZED GREEN BUILDING RATING SYSTEM, THAT IS BELOW MINIMUM STANDARDS, AS DETERMINED BY THE ENERGY CODE.

(4) "GREEN BUILDING INCENTIVE PILOT PROGRAM" OR "PILOT PROGRAM" MEANS THE GREEN BUILDING INCENTIVE PILOT PROGRAM DESCRIBED IN SECTION 24-38.5-203.

(5) "HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION" MEANS A NEW SINGLE-FAMILY DETACHED RESIDENCE OR NEW MULTI-FAMILY RESIDENCE LOCATED IN COLORADO THAT IS DESIGNED AND CONSTRUCTED TO BE AT LEAST TWENTY-FIVE PERCENT MORE EFFICIENT THAN THE ENERGY CODE'S REQUIREMENTS, AS DOCUMENTED BY A RECOGNIZED GREEN BUILDING RATING SYSTEM.

(6) "HOME ENERGY AUDIT" MEANS AN INSPECTION, SURVEY, AND ANALYSIS OF A HOME'S STRUCTURE AND SYSTEMS IN ORDER TO QUANTIFY THE BUILDING'S PROJECTED ENERGY CONSUMPTION.

(7) "HOME ENERGY RATING" MEANS AN OBJECTIVE AND STANDARD MEASUREMENT OF A HOME'S ENERGY EFFICIENCY RELATIVE TO STANDARDS

CONTAINED IN AN ENERGY CODE, SUCH AS THOSE DEVELOPED BY THE RESIDENTIAL ENERGY SERVICES NETWORK OR ANY SUCCESSOR ORGANIZATION.

(8) "QUALIFIED HOMEBUYER" MEANS A PERSON THAT HAS ENTERED INTO A SALES CONTRACT TO PURCHASE HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION AND WILL BE SELLING THE PERSON'S EXISTING RESIDENCE IN ORDER TO PURCHASE THE HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION AS THE PERSON'S PRIMARY RESIDENCE.

(9) "RECOGNIZED GREEN BUILDING RATING SYSTEM" MEANS A SYSTEM OF RULES FOR COMPARING THE PERFORMANCE OF A WHOLE BUILDING OR BUILDING SYSTEM TO THE ENERGY CODE, TO A PROBLEM, OR TO A TEST CASE THAT SERVES AS A BASIS FOR EVALUATION OR COMPARISON. "RECOGNIZED GREEN BUILDING RATING SYSTEM" INCLUDES, BUT IS NOT LIMITED TO:

(a) THE FEDERAL ENERGY STAR PROGRAM, JOINTLY OPERATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE UNITED STATES DEPARTMENT OF ENERGY, OR ITS SUCCESSOR PROGRAM;

(b) THE JANUARY 2008 VERSION, OR ANY SUCCESSOR STANDARD, OF THE "LEED FOR HOMES RATING SYSTEM" ADMINISTERED BY THE UNITED STATES GREEN BUILDING COUNCIL OR ITS SUCCESSOR ORGANIZATION;

(c) THE NATIONAL GREEN BUILDING STANDARD, COMMONLY CITED AS ANSI/ICC 700-2008, ESTABLISHED BY THE NATIONAL ASSOCIATION OF HOME BUILDERS AND THE INTERNATIONAL COUNCIL CODE, OR ANY SUCCESSOR STANDARD; AND

(d) ENERGY AUDITS THAT ARE PERFORMED BY THE ELECTRIC UTILITY, OR ITS DESIGNEE, PROVIDING SERVICE TO THE RESIDENCE.

**24-38.5-203. Green building incentive pilot program.** (1) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF SUBSECTION (9) OF THIS SECTION, THE GOVERNOR'S ENERGY OFFICE SHALL ESTABLISH AND ADMINISTER A GREEN BUILDING INCENTIVE PILOT PROGRAM IN ACCORDANCE WITH THE REQUIREMENTS ESTABLISHED IN THIS PART 2.

(2) (a) A QUALIFIED HOMEBUYER MAY SUBMIT AN APPLICATION, PROVIDED BY THE GOVERNOR'S ENERGY OFFICE, TO THE GOVERNOR'S ENERGY OFFICE FOR A GRANT TO MAKE ENERGY EFFICIENCY IMPROVEMENTS TO THE HOMEBUYER'S EXISTING RESIDENCE THAT THE HOMEBUYER IS SELLING IN PREPARATION FOR PURCHASING A HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION.

(b) THE GOVERNOR'S ENERGY OFFICE SHALL AWARD A LARGER GRANT TO A QUALIFIED HOMEBUYER WITH AN EXISTING RESIDENCE THAT HAS A HOME ENERGY RATING OR HOME ENERGY AUDIT SHOWING GREATER INEFFICIENCY.

(3) THE ENERGY EFFICIENCY IMPROVEMENTS SHALL BE PERFORMED BY CONTRACTORS APPROVED BY THE GOVERNOR'S ENERGY OFFICE AS SPECIFIED IN SUBSECTION (6) OF THIS SECTION.

(4) THE GOVERNOR'S ENERGY OFFICE SHALL REQUIRE THE QUALIFIED HOMEBUYER

TO SUBMIT DOCUMENTATION:

(a) THAT THE HOME ENERGY RATING OF THE QUALIFIED HOMEBUYER'S EXISTING RESIDENCE IS BELOW THE ENERGY CODE'S REQUIREMENTS;

(b) THAT THE QUALIFIED HOMEBUYER HAS ENTERED INTO A SALES CONTRACT TO PURCHASE A HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION;

(c) OF THE ESTIMATED COMPLETION DATE OF THE QUALIFIED HOMEBUYER'S HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION;

(d) OF THE NAME OR NAMES OF THE CONTRACTORS THAT WILL PERFORM THE ENERGY EFFICIENCY IMPROVEMENTS ON THE EXISTING RESIDENCE; AND

(e) THAT THE HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION MEETS THE DEFINITION SPECIFIED IN SECTION 24-38.5-202 (5). THE QUALIFIED HOMEBUYER MAY SEEK SUCH DOCUMENTATION FROM THE HOME BUILDER, WHO MAY THEN SUBMIT THE DOCUMENTATION ON BEHALF OF THE QUALIFIED HOMEBUYER.

(5) ENERGY EFFICIENCY IMPROVEMENTS MADE TO AN EXISTING RESIDENCE SHALL BE COMPLETED IN A MANNER THAT IS CONSISTENT WITH A HOME ENERGY RATING OR A HOME ENERGY AUDIT, AND SHALL RESULT IN IMPROVED ENERGY EFFICIENCY. RETROFITS AND UPGRADES TO IMPROVE THE ENERGY EFFICIENCY OF A QUALIFIED HOMEBUYER'S EXISTING RESIDENCE SHALL BE COMPLETED BEFORE THE CLOSING OF THE SALE OF THE RESIDENCE.

(6) THE GOVERNOR'S ENERGY OFFICE SHALL CREATE A LIST OF CONTRACTORS ELIGIBLE TO PERFORM ENERGY EFFICIENCY IMPROVEMENTS TO A QUALIFIED HOMEBUYER'S EXISTING RESIDENCE.

(7) IN ORDER TO CONFIRM THAT THE QUALIFIED HOMEBUYER MET THE REQUIREMENTS OF THE PILOT PROGRAM, THE QUALIFIED HOMEBUYER SHALL SUBMIT TO THE GOVERNOR'S ENERGY OFFICE COPIES OF CLOSING DOCUMENTATION FOR THE HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION NO LATER THAN THIRTY DAYS AFTER THE CONSTRUCTION IS COMPLETE. IF CONSTRUCTION IS DELAYED AND NOT COMPLETED BY THE ESTIMATED COMPLETION DATE, THE GOVERNOR'S ENERGY OFFICE MAY GRANT A WAIVER OR EXTENSION FOR SUBMISSION OF THIS DOCUMENTATION.

(8) IF THE PURCHASE OF THE HIGHLY EFFICIENT NEW RESIDENTIAL CONSTRUCTION IS NOT FINALIZED FOR ANY REASON, INCLUDING BUT NOT LIMITED TO THE CANCELLATION OF THE SALE BY THE QUALIFIED HOMEBUYER OR THE FAILURE OF THE QUALIFIED HOMEBUYER TO SECURE FINANCING, THE QUALIFIED HOMEBUYER SHALL REIMBURSE THE TOTAL AMOUNT OF THE GRANT TO THE GOVERNOR'S ENERGY OFFICE WITHIN THIRTY DAYS AFTER SUCH CANCELLATION OR FAILURE.

(9) (a) FUNDING FOR THE PILOT PROGRAM SHALL BE PROVIDED FROM FEDERAL FUNDS TRANSFERRED TO THE GOVERNOR'S ENERGY OFFICE THAT THE GOVERNOR'S ENERGY OFFICE HAS ALREADY RECEIVED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION OR MAY RECEIVE AFTER THE EFFECTIVE DATE OF THIS SECTION. THE GOVERNOR'S ENERGY OFFICE MAY REQUIRE ADDITIONAL DOCUMENTATION OR INFORMATION FROM THE QUALIFIED HOMEBUYER AS REQUIRED TO SECURE ANY

## ADDITIONAL FEDERAL FUNDS.

(b) THE GOVERNOR'S ENERGY OFFICE SHALL NOT ESTABLISH THE PILOT PROGRAM SET FORTH IN THIS PART 2 IF FEDERAL FUNDS ARE NOT AVAILABLE.

**SECTION 2. Act subject to petition - 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 (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 4, 2011