CITY OF FORT LUPTON
CITY COUNCIL/ENTERPRISE BOARDS
TOWN HALL MEETING AGENDA
Tuesday, May 30, 2023
6:00 PM
130 South McKinley Avenue

Zo Hubbard, Mayor
Valerie Blackston, Ward 1
Chris Ceretto, Ward 2
Carlos Barron, Ward 3
David Crespin, Ward 1
Claud Hanes, Ward 2
Bruce Fitzgerald, Ward 3

https://meet.goto.com/851983253

Call to Order

General Discussion – The Town Hall meeting is for the Public to have open discussion with Council regarding any topic. This list is not all-inclusive. The following topics are items to be presented to Council by staff and may or may not be followed by discussion. No transcripts or summary are taken during Town Hall meetings.

a. Marijuana Licensing Authority
-Carretera Ocho Cinco, LLC – Retail Marijuana License Renewal

b. Vendor and Booth Fees

c. Procode Contract Update

d. Grow Water Smart Workshop Report

e. Community Center Park Playground Purchase

f. New South Parking Lot- Proposal / Cost Estimates (South of Rec Center Soccer Fields)

g. Harrison Avenue Construction Contract

h. Asphalt/Concrete Repair Contract

i. Public Improvement Agreement - Sphere Renewable Site Plan

j. Row Dedication CR 8 (Sphere Renewables)

k. Community Development Block Grant Cooperation Agreement

l. Weld & Municipalities Quarterly Call - Proposition 123 Follow-Up with Board of County Commissioners (BOCC)

Adjourn

Be it enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 32 to title 29 as follows:

ARTICLE 32

Statewide Affordable Housing Fund

29-32-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADMINISTRATOR" MEANS A POLITICAL SUBDIVISION OF THE STATE OF COLORADO ESTABLISHED FOR THE PURPOSES, AMONG OTHERS, OF INCREASING THE SUPPLY OF DECENT, SAFE, AND SANITARY HOUSING FOR LOW- AND MODERATE-INCOME FAMILIES, OR OTHER THIRD PARTY ESTABLISHED FOR SUCH PURPOSES, SELECTED BY THE OFFICE TO ADMINISTER CERTAIN AFFORDABLE HOUSING PROGRAMS CREATED IN SECTION 29-32-104.

(2) "AFFORDABLE HOUSING" MEANS RENTAL HOUSING AFFORDABLE TO A HOUSEHOLD WITH AN ANNUAL INCOME OF AT OR BELOW SIXTY PERCENT OF THE AREA MEDIAN INCOME, AND THAT COSTS THE HOUSEHOLD LESS THAN THIRTY PERCENT OF ITS MONTHLY INCOME. "AFFORDABLE HOUSING" ALSO MEANS FOR-SALE HOUSING THAT COULD BE PURCHASED BY A HOUSEHOLD WITH AN ANNUAL INCOME OF AT OR BELOW ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME, FOR WHICH THE MORTGAGE PAYMENT COSTS THE HOUSEHOLD LESS THAN THIRTY PERCENT OF ITS MONTHLY INCOME. TARGETS SET FOR THE LOCAL GOVERNMENTS UNDER SECTION 29-32-105 FOR AFFORDABLE HOUSING SHALL BE BASED ON THE AVERAGE OF THE AREA MEDIAN INCOME. IF A LOCAL

GOVERNMENT DETERMINES THAT APPLICATION OF THIS DEFINITION OF AFFORDABLE HOUSING WOULD CAUSE IMPLEMENTATION OF THIS ARTICLE IN A MANNER INCONSISTENT WITH HOUSING AND WORKFORCE NEEDS WITHIN THE JURISDICTION, IT MAY PETITION THE DIVISION FOR LEAVE TO USE THE CALCULATION APPLICABLE TO AN ADJACENT JURISDICTION OR THE STATE MEDIAN INCOME THAT BETTER REFLECTS LOCAL NEEDS.

(3) "AREA MEDIAN INCOME" MEANS THE MEDIAN HOUSEHOLD INCOME OF HOUSEHOLDS OF A GIVEN SIZE IN THE MUNICIPALITY, OR METROPOLITAN STATISTICAL AREA ENCOMPASSING A MUNICIPALITY, OR COUNTY IN WHICH THE HOUSING IS LOCATED, AS CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(4) "DIVISION" MEANS THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-704 (1).

(5) "SUPPORT FUND" MEANS THE AFFORDABLE HOUSING SUPPORT FUND CREATED IN SECTION 29-32-103(1).

(6) "FUND" MEANS THE STATE AFFORDABLE HOUSING FUND CREATED IN SECTION 29-32-102 (1).

(7) "LOCAL GOVERNMENT" MEANS A MUNICIPALITY, WHETHER HOME RULE OR STATUTORY; A COUNTY, WHETHER HOME RULE OR STATUTORY; A CITY AND COUNTY; OR A LOCAL HOUSING AUTHORITY.

(8) "OFFICE" MEANS THE OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

(9) "FINANCING FUND" MEANS THE AFFORDABLE HOUSING FINANCING FUND CREATED IN SECTION 29-32-103(2).

29-32-102. State affordable housing fund. (1) THE STATE AFFORDABLE HOUSING FUND IS HEREBY CREATED IN THE STATE TREASURY. COMMENCING ON JANUARY 1, 2023, ALL STATE REVENUES COLLECTED FROM AN EXISTING TAX ON ONE-TENTH OF ONE PERCENT ON FEDERAL TAXABLE INCOME, AS MODIFIED BY LAW, OF EVERY INDIVIDUAL, ESTATE, TRUST, AND CORPORATION, AS DEFINED IN LAW, AS CALCULATED PURSUANT TO SUBSECTION (4) OF THIS SECTION, SHALL BE DEPOSITED IN THE FUND BY THE STATE TREASURER. THE REVENUE DEPOSITED INTO THE FUND PURSUANT TO THIS SUBSECTION (1) SHALL NOT BE SUBJECT TO THE LIMITATION ON FISCAL YEAR SPENDING SPECIFIED IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(2) THE FUND SHALL CONSIST OF MONEY DEPOSITED INTO THE FUND UNDER SUBSECTION (1) OF THIS SECTION; ANY MONEY APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY; AND ANY GIFTS, GRANTS, OR DONATIONS FROM ANY PUBLIC OR PRIVATE SOURCES, INCLUDING GOVERNMENTAL ENTITIES, THAT THE DIVISION AND THE OFFICE ARE HEREBY AUTHORIZED TO SEEK AND ACCEPT.

(3) ALL MONEY NOT EXPENDED OR ENCUMBERED, AND ALL INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEY IN THE FUND, SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

(4)(a) THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, SHALL CALCULATE THE AMOUNT OF REVENUES TO BE DEPOSITED IN THE FUND FOR THE PERIOD COMMENCING JANUARY 1, 2023 AND ENDING JUNE 30, 2023, AND FOR EACH STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2023. THE LEGISLATIVE COUNCIL AND THE OFFICE OF STATE PLANNING AND BUDGETING SHALL RELY UPON THE QUARTERLY STATE REVENUE ESTIMATES ISSUED BY THE LEGISLATIVE COUNCIL IN CALCULATING SUCH AMOUNTS AND SHALL UPDATE ITS CALCULATIONS NOT LATER THAN FIVE DAYS FOLLOWING THE ISSUANCE OF EACH QUARTERLY STATE REVENUE ESTIMATE.

(b) TO ENSURE THAT ALL FUND REVENUES ARE TRANSFERRED TO THE FUND AND THAT OTHER STATE REVENUES ARE NOT ERRONEOUSLY TRANSFERRED TO THE FUND:

(I) NO LATER THAN TWO DAYS AFTER CALCULATING OR RECALCULATING THE AMOUNT OF FUND REVENUES FOR THE PERIOD COMMENCING JANUARY 1, 2023 AND ENDING JUNE 30, 2023, AND FOR ANY FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2023, THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, SHALL CERTIFY TO THE DEPARTMENT OF REVENUE THE AMOUNT OF FUND REVENUES THAT THE DEPARTMENT SHALL TRANSFER TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND ON THE FIRST DAY OF EACH OF THE THREE SUCCEEDING CALENDAR MONTHS AS REQUIRED BY PARAGRAPH (c) OF THIS SUBSECTION (4);

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), NO LATER THAN MAY 25 OF 2023 AND OF ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2023, THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, MAY CERTIFY TO THE DEPARTMENT OF REVENUE AN ADJUSTED AMOUNT FOR ANY TRANSFER TO BE MADE ON THE FIRST BUSINESS DAY OF THE IMMEDIATELY SUCCEEDING JUNE; AND

(III) SUBJECT TO REVIEW BY THE STATE AUDITOR, THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, MAY CORRECT ANY ERROR IN THE TOTAL AMOUNT OF STATE AFFORDABLE HOUSING REVENUES TRANSFERRED DURING ANY STATE FISCAL YEAR BY ADJUSTING THE AMOUNT OF ANY TRANSFER TO BE MADE DURING THE NEXT STATE FISCAL YEAR.

(c) ON THE FIRST BUSINESS DAY OF EACH CALENDAR MONTH THAT COMMENCES AFTER JANUARY 5, 2023, THE DEPARTMENT OF REVENUE SHALL TRANSFER TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND REVENUES IN AN AMOUNT CERTIFIED TO THE DEPARTMENT BY THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4).

29-32-103. Transfers of money - permitted uses of the fund - continuous appropriation. (1) THE AFFORDABLE HOUSING SUPPORT FUND IS HEREBY CREATED IN THE STATE TREASURY. THE SUPPORT FUND SHALL CONSIST OF MONEY DEPOSITED INTO IT UNDER SUBSECTION (3) OF THIS SECTION. THE DIVISION SHALL ADMINISTER THE SUPPORT

FUND AND EXPEND THE MONEYS IN THE SUPPORT FUND ONLY FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(3). ALL MONEY NOT EXPENDED OR ENCUMBERED, AND ALL INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEY IN THE SUPPORT FUND, SHALL REMAIN IN THE SUPPORT FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR. ALL MONEY TRANSFERRED TO THE SUPPORT FUND PURSUANT TO SUBSECTION (3) OF THIS SECTION IS CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(3).

(2) THE AFFORDABLE HOUSING FINANCING FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FINANCING FUND SHALL CONSIST OF MONEY DEPOSITED INTO IT UNDER SUBSECTION (3) OF THIS SECTION. THE OFFICE SHALL ADMINISTER THE FINANCING FUND AND EXPEND THE MONEYS IN THE FINANCING FUND ONLY FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(1). ALL MONEY NOT EXPENDED OR ENCUMBERED, AND ALL INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEY IN THE FINANCING FUND, SHALL REMAIN IN THE FINANCING FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR. ALL MONEY TRANSFERRED TO THE FINANCING FUND PURSUANT TO SUBSECTION (3) OF THIS SECTION IS CONTINUOUSLY APPROPRIATED TO THE OFFICE FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(1).

(3) ON JULY 1, 2023, OR AS SOON AS PRACTICABLE THEREAFTER, AND ON JULY 1 OF EACH STATE FISCAL YEAR THEREAFTER, THE STATE TREASURER SHALL TRANSFER FORTY PERCENT OF THE BALANCE OF THE FUND ON THE DATE OF THE TRANSFER TO THE

SUPPORT FUND AND SIXTY PERCENT OF THE BALANCE OF THE FUND ON THE DATE OF THE TRANSFER TO THE FINANCING FUND.

29-32-104. Permissible expenditures – affordable housing programs. (1) THE OFFICE SHALL CONTRACT WITH THE ADMINISTRATOR. THE OFFICE MAY SELECT AN ADMINISTRATOR WITHOUT A COMPETITIVE PROCUREMENT PROCESS BUT SHALL ANNOUNCE THE CONTRACT OPENING PUBLICLY AND SELECT THE ADMINISTRATOR IN A MEETING THAT IS OPEN TO THE PUBLIC, NO LESS THAN SEVENTY-TWO HOURS AFTER NOTICE OF SUCH MEETING IS PUBLICLY AVAILABLE. NO SINGLE CONTRACT MAY EXCEED FIVE YEARS IN DURATION. UPON THE EXPIRATION OF ANY CONTRACT TERM, THE OFFICE MAY RENEW THE CONTRACT WITH THE SAME ADMINISTRATOR OR MAY SELECT ANOTHER ADMINISTRATOR. THE ADMINISTRATOR SELECTED BY THE OFFICE SHALL EXPEND THE MONEY TRANSFERRED TO THE FINANCING FUND IN SECTION 29-32-103(2) TO SUPPORT THE FOLLOWING PROGRAMS ONLY:

(a) A LAND BANKING PROGRAM TO BE ADMINISTERED BY THE ADMINISTRATOR. THE PROGRAM SHALL PROVIDE GRANTS TO LOCAL GOVERNMENTS AND LOANS TO NON-PROFIT ORGANIZATIONS WITH A DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING TO ACQUIRE AND PRESERVE LAND FOR THE DEVELOPMENT OF AFFORDABLE HOUSING. MIXED USE DEVELOPMENT IS AN ALLOWABLE USE OF LAND PURCHASED UNDER THIS PROGRAM IF THE PREDOMINATE USE OF THE LAND IS AFFORDABLE HOUSING. LOANS MADE BY THE PROGRAM SHALL BE FORGIVEN IF LAND ACQUIRED WITH THE ASSISTANCE OF THE PROGRAM IS PROPERLY ZONED WITH AN ACTIVE PLAN FOR THE DEVELOPMENT OF

AFFORDABLE HOUSING WITHIN 5 YEARS OF DATE THE LOAN IS MADE AND IF THE DEVELOPMENT IS PERMITTED AND FUNDED WITHIN 10 YEARS. THE LENDER AND BORROWER MAY ESTABLISH ADDITIONAL TERMS IF NEEDED. IF LAND ACQUIRED WITH THE ASSISTANCE OF THE PROGRAM IS NOT DEVELOPED WITHIN THE TIMELINE ABOVE, THE LOAN MUST BE REPAID, WITH INTEREST, AS SOON AS PRACTICAL, BUT NOT MORE THAN SIX MONTHS AFTER EXPIRATION OF SAID TIMELINE. LAND ACQUIRED WITH THE ASSISTANCE OF THE PROGRAM THAT IS NOT DEVELOPED WITHIN THE TIMELINE ABOVE MAY BE USED BY THE OWNER FOR ANY PURPOSE UPON PAYMENT OF THE LOAN WITH INTEREST OR, IN EXCHANGE FOR A WAIVER OF INTEREST, CONVEYED TO A STATE AGENCY OR OTHER ENTITY FOR THE DEVELOPMENT OF AFFORDABLE HOUSING WITH THE APPROVAL OF THE ADMINISTRATOR. ALL PRINCIPAL AND INTEREST PAYMENTS ON LOANS MADE UNDER THIS PARAGRAPH (a) SHALL BE PAID TO THE ADMINISTRATOR AND USED BY THE ADMINISTRATOR FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (1). AS DETERMINED BY THE ADMINISTRATOR, A MINIMUM OF 15% AND A MAXIMUM OF 25% OF MONIES TRANSFERRED TO THE OFFICE FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE ADMINISTRATOR MAY UTILIZE UP TO TWO PERCENT OF THE FUNDS IT RECEIVES FROM THE OFFICE FOR THE PROGRAM ANNUALLY TO PAY FOR THE COSTS OF ADMINISTERING THE PROGRAM.

(b) AN AFFORDABLE HOUSING EQUITY PROGRAM TO BE ADMINISTERED BY THE ADMINISTRATOR. THE PROGRAM SHALL MAKE EQUITY INVESTMENTS IN LOW- AND MIDDLE-INCOME MULTI-FAMILY RENTAL DEVELOPMENTS. THE PROGRAM SHALL ALSO

MAKE EQUITY INVESTMENTS IN EXISTING AFFORDABLE HOUSING PROJECTS WHICH INCLUDE MULTI-FAMILY RENTAL UNITS FOR THE PURPOSE OF ENSURING THAT SAID PROJECTS REMAIN AFFORDABLE. THE AVERAGE OF RENTS FOR PROJECTS FUNDED BY THE PROGRAM (CALCULATED BY ADDING TOGETHER THE MONTHLY RENT FOR ALL UNITS IN A PROJECT AND DIVIDING BY THE NUMBER OF UNITS IN THE PROJECT) MUST BE AND REMAIN PERMANENTLY AFFORDABLE SUCH THAT A PARTICIPATING HOUSEHOLD SHALL NOT BE REQUIRED TO SPEND MORE THAN 30% OF HOUSEHOLD INCOME ON RENT FOR HOUSEHOLDS THAT ARE AT OR BELOW 90% OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE TERRITORY OR JURISDICTION OF LOCAL GOVERNMENT IN WHICH THE HOUSING IS LOCATED, AS CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. THE PROGRAM SHALL INCLUDE A TENANT EQUITY VEHICLE, MEANING, IN PROJECTS FUNDED BY THE PROGRAM, TENANTS WHO RESIDE IN THE PROJECT FOR AT LEAST ONE YEAR SHALL BE ENTITLED TO A SHARE OF THE EQUITY GROWTH IN THE PROJECT, IF ANY, IN THE FORM OF FUNDING FROM THE PROGRAM FOR A DOWN-PAYMENT ON HOUSING OR RELATED PURPOSES, IN AN AMOUNT DETERMINED BY THE ADMINISTRATOR. EQUITY INVESTMENTS MADE BY THE PROGRAM SHALL BE MADE WITH THE EXPECTATION OF RETURNS THAT ARE BELOW THE PREVAILING MARKET RETURNS. RETURNS ON PROGRAM INVESTMENTS UP TO THE AMOUNT OF THE PROGRAM'S INITIAL INVESTMENT SHALL BE RETAINED IN THE PROGRAM AND REINVESTED. RETURNS ON PROGRAM INVESTMENTS GREATER THAN THE PROGRAM'S INITIAL INVESTMENT SHALL BE RETAINED IN THE PROGRAM TO FUND THE TENANT EQUITY VEHICLE. IN SELECTING INVESTMENTS UNDER THIS PROGRAM, THE ADMINISTRATOR

SHALL PRIORITIZE HIGH-DENSITY HOUSING, MIXED-INCOME HOUSING, AND PROJECTS CONSISTENT WITH THE GOAL OF ENVIRONMENTAL SUSTAINABILITY. AS DETERMINED BY THE ADMINISTRATOR, A MINIMUM OF 40% OF MONIES AND A MAXIMUM OF 70% OF MONIES TRANSFERRED TO THE OFFICE FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE ADMINISTRATOR MAY UTILIZE UP TO TWO PERCENT OF THE FUNDS IT RECEIVES FROM THE OFFICE FOR THE PROGRAM ANNUALLY TO PAY FOR THE COSTS OF ADMINISTERING THE PROGRAM.

(c) A CONCESSIONARY DEBT PROGRAM TO BE ADMINISTERED BY THE ADMINISTRATOR. THE PROGRAM SHALL:

(I) PROVIDE DEBT FINANCING OF LOW- AND MIDDLE-INCOME MULTI-FAMILY RENTAL DEVELOPMENTS,

(II) PROVIDE GAP FINANCING IN THE FORM OF SUBORDINATE DEBT AND PRE-DEVELOPMENT LOANS FOR PROJECTS THAT QUALIFY FOR FEDERAL LOW INCOME HOUSING TAX CREDITS,

(III) PROVIDE DEBT FINANCING OF EXISTING AFFORDABLE HOUSING PROJECTS FOR THE PURPOSE OF PRESERVING EXISTING AFFORDABLE MULTI-FAMILY RENTAL UNITS, AND

(IV) PROVIDE DEBT FINANCING FOR MODULAR AND FACTORY BUILD HOUSING MANUFACTURERS.

THE AVERAGE OF RENTS FOR PROJECTS FUNDED BY THE PROGRAM (CALCULATED BY ADDING TOGETHER THE MONTHLY RENT FOR ALL UNITS IN A PROJECT AND DIVIDING BY

THE NUMBER OF UNITS IN THE PROJECT) MUST BE AND REMAIN PERMANENTLY AFFORDABLE (MEANING THAT A HOUSEHOLD SHALL NOT BE REQUIRED TO SPEND MORE THAN 30% OF HOUSEHOLD INCOME ON RENT AND BASIC UTILITIES) FOR HOUSEHOLDS THAT ARE AT OR BELOW 60% OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE TERRITORY OR JURISDICTION OF LOCAL GOVERNMENT IN WHICH THE HOUSING IS LOCATED, AS CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (THE AFFORDABILITY THRESHOLD); EXCEPT THAT WHERE THE PROGRAM IS A SECONDARY SOURCE OF FUNDING, THE AFFORDABILITY THRESHOLD REQUIRED BY THE PRIMARY FUNDING SOURCE, IF ANY, MAY BE OPERATIVE. DEBT FINANCING AND LOANS MADE BY THE PROGRAM SHALL BE MADE AT BELOW MARKET INTEREST RATES AS DETERMINED BY THE ADMINISTRATOR. RETURNS ON PROGRAM INVESTMENTS UP TO THE AMOUNT OF THE PROGRAM'S INITIAL INVESTMENT SHALL BE RETAINED IN THE PROGRAM AND REINVESTED BY THE ADMINISTRATOR IN THE PROGRAM ESTABLISHED IN THIS PARAGRAPH (C). RETURNS ON PROGRAM INVESTMENTS GREATER THAN THE PROGRAM'S INITIAL INVESTMENT SHALL BE RETAINED IN THE PROGRAM TO FUND THE TENANT EQUITY VEHICLE OF THE AFFORDABLE HOUSING EQUITY PROGRAM CREATED IN SUBSECTION (1)(b) OF THIS SECTION. AS DETERMINED BY THE ADMINISTRATOR, A MINIMUM OF 15% OF MONIES AND A MAXIMUM OF 35% OF MONIES TRANSFERRED TO THE OFFICE FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE ADMINISTRATOR MAY UTILIZE UP TO TWO PERCENT OF THE FUNDS IT RECEIVES FROM THE OFFICE FOR THE PROGRAM ANNUALLY TO PAY FOR THE COSTS OF ADMINISTERING THE PROGRAM.

(2) IN SELECTING INVESTMENTS TO BE MADE BY THE PROGRAMS OF SUBSECTION (1) OF THIS SECTION, THE ADMINISTRATOR SHALL PRIORITIZE PROJECTS THAT ACHIEVE HIGH-DENSITY HOUSING, MIXED-INCOME HOUSING, AND PROJECTS CONSISTENT WITH THE GOAL OF ENVIRONMENTAL SUSTAINABILITY, AS APPROPRIATE.

(3) THE DIVISION SHALL EXPEND THE MONEY TRANSFERRED TO THE SUPPORT FUND IN SECTION 29-32-103(1) TO SUPPORT THE FOLLOWING PROGRAMS ONLY:

(a) AN AFFORDABLE HOME OWNERSHIP PROGRAM ADMINISTERED BY THE DIVISION OR ONE OR MORE CONTRACTORS OF THE DIVISION. THE PROGRAM SHALL OFFER HOME OWNERSHIP DOWN-PAYMENT ASSISTANCE TO FIRST-TIME HOMEBUYERS AND SHALL PRIORITIZE ASSISTANCE, TO THE EXTENT PRACTICABLE, TO FIRST-GENERATION HOMEBUYERS. THE ASSISTANCE SHALL BE PROVIDED TO HOUSEHOLDS WITH INCOME LESS THAN OR EQUAL TO 120% OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE TERRITORY OR JURISDICTION OF LOCAL GOVERNMENT IN WHICH THE HOUSING IS LOCATED, AS CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. THE PROGRAM SHALL ALSO MAKE GRANTS OR LOANS TO NON-PROFITS AND COMMUNITY LAND TRUSTS TO SUPPORT AFFORDABLE HOME OWNERSHIP AND TO GROUPS OR ASSOCIATIONS OF MOBILE HOME OWNERS TO ASSIST THEM WITH THE PURCHASE OF A MOBILE HOME PARK PURSUANT TO SECTION 38-12-217. SAID GRANTS AND LOANS SHALL BE USED TO SUPPORT AFFORDABLE HOME OWNERSHIP FOR HOUSEHOLDS WITH INCOME LESS THAN OR EQUAL TO 100% OF THE

AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE TERRITORY OR JURISDICTION OF LOCAL GOVERNMENT IN WHICH THE HOUSEHOLDS ARE LOCATED, AS CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. ALL PRINCIPAL AND INTEREST PAYMENTS ON LOANS MADE UNDER THIS PARAGRAPH (a) SHALL BE PAID TO THE DIVISION AND USED BY THE ADMINISTRATOR FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (3). UP TO 50% OF MONIES TRANSFERRED TO THE DIVISION FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE DIVISION SHALL DETERMINE HOW MUCH OF THE AVAILABLE FUNDING SHALL BE ALLOCATED TO EACH ASPECT OF THE PROGRAM. THE DIVISION MAY UTILIZE UP TO 5% OF THE FUNDS IT RECEIVES FROM THE FUND FOR THE PROGRAM ANNUALLY TO PAY FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE PROGRAM.

(b) A PROGRAM SERVING PERSONS EXPERIENCING HOMELESSNESS TO BE ADMINISTERED BY THE DIVISION. THE PROGRAM SHALL PROVIDE RENTAL ASSISTANCE, HOUSING VOUCHERS, AND EVICTION DEFENSE ASSISTANCE, INCLUDING LEGAL, FINANCIAL, AND CASE MANAGEMENT, TO PERSONS EXPERIENCING HOMELESSNESS OR AT RISK OF EXPERIENCING HOMELESSNESS. THE PROGRAM SHALL ALSO MAKE GRANTS OR LOANS TO NON-PROFIT ORGANIZATIONS, LOCAL GOVERNMENTS OR PRIVATE ENTITIES TO SUPPORT THE DEVELOPMENT AND PRESERVATION OF SUPPORTIVE HOUSING FOR PERSONS EXPERIENCING HOMELESSNESS, AND OTHER HOMELESSNESS RELATED ACTIVITIES THE DIVISION DETERMINES CONTRIBUTE TO THE RESOLUTION OF OR PREVENTION OF HOMELESSNESS, INCLUDING HOUSING PROGRAMS PAID FOR BY NON-PROFIT

ORGANIZATIONS, LOCAL GOVERNMENTS OR PRIVATE ENTITIES ON A PAY FOR SUCCESS BASIS, MEANING AN ORGANIZATION, LOCAL GOVERNMENT OR PRIVATE ENTITY WOULD RECEIVE FINANCIAL SUPPORT FROM THE PROGRAM UPON ACHIEVING OBJECTIVES CONTRACTUALLY AGREED UPON WITH THE DIVISION. ALL PRINCIPAL AND INTEREST PAYMENTS ON LOANS MADE UNDER THIS PARAGRAPH (b) SHALL BE PAID TO THE DIVISION AND USED BY THE ADMINISTRATOR FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (3). UP TO 45% OF MONIES TRANSFERRED TO THE DIVISION FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE DIVISION MAY UTILIZE UP TO 5% OF THE FUNDS IT RECEIVES FROM THE FUND FOR THE PROGRAM ANNUALLY TO PAY FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE PROGRAM.

(c) A LOCAL PLANNING CAPACITY DEVELOPMENT PROGRAM ADMINISTERED BY THE DIVISION. THE PROGRAM SHALL PROVIDE GRANTS TO LOCAL GOVERNMENTS TO INCREASE THE CAPACITY OF LOCAL GOVERNMENT PLANNING DEPARTMENTS RESPONSIBLE FOR PROCESSING LAND USE, PERMITTING AND ZONING APPLICATIONS FOR HOUSING PROJECTS. UP TO 5% OF MONIES TRANSFERRED TO THE DIVISION FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE DIVISION MAY UTILIZE UP TO 5% OF THE FUNDS IT RECEIVES FROM THE FUND FOR THE PROGRAM ANNUALLY TO PAY FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE PROGRAM.

(5) IF THE LEGISLATIVE COUNCIL STAFF'S MARCH ECONOMIC AND REVENUE FORECAST IN ANY GIVEN YEAR PROJECTS REVENUE FOR THE NEXT STATE FISCAL YEAR WILL FALL BELOW THE REVENUE LIMIT IMPOSED UNDER SECTION 20 OF ARTICLE X OF THE

STATE CONSTITUTION, THE GENERAL ASSEMBLY MAY REDUCE THE FUNDING ALLOCATED TO THE OFFICE REQUIRED BY THIS SECTION FOR THE NEXT STATE FISCAL YEAR IN ORDER TO BALANCE THE STATE BUDGET FOR SAID STATE FISCAL YEAR.

29-32-105. Local government affordable housing commitments – three-year commitment cycle - expedited development approval process - eligibility for assistance from the fund. (1) (a) NOT LATER THAN NOVEMBER 1, 2023, THE GOVERNING BODY OF EACH LOCAL GOVERNMENT, OTHER THAN LOCAL HOUSING AUTHORITIES, DESIRING TO RECEIVE FUNDING UNDER THIS SECTION OR DESIRING TO MAKE AFFORDABLE HOUSING PROJECTS WITHIN ITS TERRITORIAL BOUNDARIES ELIGIBLE FOR FUNDING UNDER THIS SECTION SHALL MAKE AND FILE WITH THE DIVISION A COMMITMENT SPECIFYING HOW, BY DECEMBER 31, 2026, THE COMBINED NUMBER OF NEWLY CONSTRUCTED AFFORDABLE HOUSING UNITS AND EXISTING UNITS CONVERTED TO AFFORDABLE HOUSING, WITHIN ITS TERRITORIAL BOUNDARIES SHALL BE INCREASED BY THREE PERCENT EACH YEAR OVER THE BASELINE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN ITS TERRITORIAL BOUNDARIES, DETERMINED AS PROVIDED IN SUBSECTION (1)(C) OF THIS SECTION.

(b) IN THE CASE OF A COUNTY, THE REQUIREMENTS OF THIS SUBSECTION (1) ONLY APPLY TO THE UNINCORPORATED AREAS OF THE COUNTY.

(C) THE BASELINE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN THE TERRITORIAL BOUNDARIES OF A LOCAL GOVERNMENT, AS REFERENCED IN THIS SUBSECTION (1), SHALL BE DETERMINED BY THE LOCAL GOVERNMENT BY REFERENCE TO:

(I) THE 2017-2021 AMERICAN COMMUNITY SURVEY 5-YEAR ESTIMATES PUBLISHED BY THE UNITED STATES CENSUS BUREAU. THE BASELINE NUMBER SHALL RESET FOR 2027, BASED ON THE 2020-2024 AMERICAN COMMUNITY SURVEY 5-YEAR ESTIMATES, EXPECTED TO BE PUBLISHED IN THE SPRING OF 2026 AND EVERY THIRD YEAR THEREAFTER WITH THE PUBLICATION OF THE CORRESPONDING AMERICAN COMMUNITY SURVEY 5-YEAR ESTIMATES; OR

(II) THE MOST RECENTLY AVAILABLE COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES ESTIMATES PUBLISHED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; OR

(III) A WEB-BASED SYSTEM CREATED, MAINTAINED, AND UPDATED BY THE DIVISION WITH THE ESTIMATES SPECIFIED IN SUBSECTION (1)(C)(I) OF THIS SECTION, OR IF THE DIVISION FINDS THAT THE ESTIMATES SPECIFIED IN SAID SUBSECTION (1)(C)(I) WOULD BE IMPRACTICAL OR DELETERIOUS TO THE EFFICACIOUS IMPLEMENTATION OF THIS SECTION, AN ALTERNATIVE SOURCE OF ESTIMATES THAT THE DIVISION FINDS TO BE APPROPRIATE.

(d) BY NOVEMBER 1, 2026 AND BY NOVEMBER 1ST OF EACH SUBSEQUENT YEAR IN WHICH THE BASELINE RESETS, THE GOVERNING BODY OF EACH LOCAL GOVERNMENT, OTHER THAN LOCAL HOUSING AUTHORITIES, DESIRING TO RECEIVE FUNDING UNDER THIS SECTION OR DESIRING TO MAKE AFFORDABLE HOUSING PROJECTS WITHIN ITS TERRITORIAL BOUNDARIES ELIGIBLE FOR FUNDING UNDER THIS SECTION SHALL MAKE AND FILE WITH THE DIVISION A COMMITMENT SPECIFYING HOW, BY DECEMBER 31 OF THE

THIRD YEAR THEREAFTER, THE COMBINED NUMBER OF NEWLY CONSTRUCTED AFFORDABLE HOUSING UNITS AND EXISTING UNITS CONVERTED TO AFFORDABLE HOUSING, WITHIN ITS TERRITORIAL BOUNDARIES SHALL BE INCREASED BY THREE PERCENT EACH YEAR OVER THE BASELINE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN ITS TERRITORIAL BOUNDARIES DETERMINED AS PROVIDED IN SUBSECTION (1)(C) OF THIS SECTION.

(e) IN DRAFTING AND ENACTING COMMITMENTS UNDER THIS SUBSECTION (1) LOCAL GOVERNMENTS SHOULD PRIORITIZE HIGH-DENSITY HOUSING, MIXED-INCOME HOUSING, AND PROJECTS CONSISTENT WITH THE GOAL OF ENVIRONMENTAL SUSTAINABILITY, WHEN APPROPRIATE, AND SHOULD PRIORITIZE AFFORDABLE HOUSING IN COMMUNITIES IN WHICH LOW CONCENTRATIONS OF AFFORDABLE HOUSING EXIST.

(2)(a) IN ORDER TO RECEIVE FINANCIAL ASSISTANCE UNDER THIS ARTICLE, OR FOR AFFORDABLE HOUSING PROJECTS WITHIN A MUNICIPALITY, A CITY AND COUNTY, OR THE UNINCORPORATED AREA OF A COUNTY TO BE ELIGIBLE FOR FUNDING, THE LOCAL GOVERNMENT, OTHER THAN A LOCAL AFFORDABLE HOUSING AUTHORITY, MUST ESTABLISH PROCESSES TO ENABLE IT TO PROVIDE A FINAL DECISION ON ANY APPLICATION FOR A SPECIAL PERMIT, VARIANCE, OR OTHER DEVELOPMENT PERMIT, EXCLUDING SUBDIVISIONS, OF A DEVELOPMENT PROJECT FOR WHICH FIFTY PERCENT OR MORE OF THE RESIDENTIAL UNITS IN THE DEVELOPMENT CONSTITUTE AFFORDABLE HOUSING NOT MORE THAN NINETY CALENDAR DAYS AFTER SUBMISSION OF A COMPLETE APPLICATION, REFERRED TO HEREIN AS A "FAST-TRACK APPROVAL PROCESS."

(b) A LOCAL GOVERNMENT'S FAST-TRACK APPROVAL PROCESS MAY INCLUDE AN OPTION TO EXTEND THE REVIEW PERIOD FOR AN ADDITIONAL NINETY DAYS AT THE REQUEST OF A DEVELOPER, FOR COMPLIANCE WITH STATE LAW OR COURT ORDER, OR FOR A REVIEW PERIOD REQUIRED BY ANOTHER LOCAL GOVERNMENT OR AGENCY, WITHIN THE LOCAL GOVERNMENT OR OUTSIDE, FOR ANY COMPONENT OF THE APPLICATION REQUIRING THAT GOVERNMENT'S OR AGENCY'S APPROVAL.

(c) A LOCAL GOVERNMENT'S FAST-TRACK APPROVAL PROCESS MAY INCLUDE EXTENSIONS TO ALLOW FOR THE SUBMISSION OF ADDITIONAL INFORMATION OR REVISIONS TO AN APPLICATION IN RESPONSE TO REQUESTS FROM THE LOCAL GOVERNMENT. SUCH EXTENSIONS SHALL NOT EXCEED THE AMOUNT OF TIME FROM THE REQUEST TO THE SUBMISSION OF THE APPLICANT'S RESPONSE PLUS THIRTY DAYS. APPLICANTS SHALL PROVIDE SUCH ADDITIONAL INFORMATION OR RESPONSES PROMPTLY AND SHALL, WHENEVER PRACTICABLE, PROVIDE A RESPONSE WITHIN FIVE BUSINESS DAYS.

(d) NOTHING IN THIS SUBSECTION (2) SHALL BE INTERPRETED AS REQUIRING AN AFFORDABLE HOUSING DEVELOPER TO UTILIZE A FAST-TRACK APPROVAL PROCESS.

(3) (a) BEGINNING IN 2027, TO BE ELIGIBLE UNDER THIS ARTICLE FOR DIRECT FUNDING, OR FOR AFFORDABLE HOUSING PROJECTS WITHIN A LOCAL GOVERNMENT'S TERRITORIAL BOUNDARIES TO BE ELIGIBLE FOR FUNDING, LOCAL GOVERNMENTS, OTHER THAN LOCAL HOUSING AUTHORITIES, MUST SATISFY BOTH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION TO COMMIT TO AND ACHIEVE ANNUAL INCREASES IN

THE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN THEIR TERRITORIAL BOUNDARIES, AND THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION TO IMPLEMENT A SYSTEM TO EXPEDITE THE DEVELOPMENT APPROVAL PROCESS FOR AFFORDABLE HOUSING PROJECTS.

(b)(I) IF A LOCAL GOVERNMENT MAKES AND FILES WITH THE DIVISION THE COMMITMENT REQUIRED BY SUBSECTION (1) OF THIS SECTION BY NOVEMBER 1, 2023, IT SHALL BE DEEMED TO HAVE SATISFIED THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION THROUGH DECEMBER 31, 2026.

(II) IF A LOCAL GOVERNMENT MAKES AND FILES WITH THE DIVISION THE COMMITMENT REQUIRED BY SUBSECTION (1) OF THIS SECTION BY NOVEMBER 1, 2026, OR BY NOVEMBER 1ST OF A SUBSEQUENT YEAR IN WHICH THE BASELINE RESETS, AND IT MET ITS COMMITMENT TO INCREASE AFFORDABLE HOUSING MADE UNDER SUBSECTION (1) OF THIS SECTION FOR THE PREVIOUS THREE-YEAR CYCLE, IT SHALL BE DEEMED TO HAVE SATISFIED THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION THROUGH THE END OF THE CURRENT THREE-YEAR CYCLE.

(III) IF A LOCAL GOVERNMENT, OTHER THAN A LOCAL HOUSING AUTHORITY, FAILS TO MAKE AND FILE WITH THE DIVISION THE COMMITMENT REQUIRED BY SUBSECTION (1) OF THIS SECTION BY NOVEMBER 1, 2023, OR BY NOVEMBER 1ST OF A SUBSEQUENT YEAR IN WHICH THE BASELINE RESETS, IT SHALL BE INELIGIBLE TO RECEIVE FINANCIAL ASSISTANCE FROM THE DIVISION OR ADMINISTRATOR DURING THE FOLLOWING CALENDAR YEAR.

(IV) IF A LOCAL GOVERNMENT FAILS TO MEET ITS COMMITMENT TO INCREASE AFFORDABLE HOUSING MADE AND FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR ANY THREE-YEAR CYCLE, IT SHALL BE INELIGIBLE TO RECEIVE FINANCIAL ASSISTANCE FROM THE DIVISION OR ADMINISTRATOR DURING THE FIRST CALENDAR YEAR OF THE NEXT THREE-YEAR CYCLE.

(V) AN INELIGIBLE LOCAL GOVERNMENT MAY APPLY FOR A SUBSEQUENT YEAR WITH A NEW COMMITMENT UNDER SUBSECTION (1) OF THIS SECTION FOR THE BALANCE OF THE THEN-CURRENT THREE-YEAR CYCLE.

(VI) A DEVELOPER, WHETHER FOR-PROFIT OR NONPROFIT, OR A LOCAL GOVERNMENT DEVELOPING AN AFFORDABLE HOUSING PROJECT WITHIN THE TERRITORIAL BOUNDARIES OF A LOCAL GOVERNMENT THAT FAILS TO MEET THE REQUIREMENTS OF SUBSECTION (1) OR (2) OF THIS SECTION SHALL BE INELIGIBLE TO RECEIVE FINANCIAL ASSISTANCE FROM THE DIVISION OR ADMINISTRATOR. NOTWITHSTANDING THIS RESTRICTION, A PROJECT WITHIN THE TERRITORIAL BOUNDARIES OF AN ELIGIBLE MUNICIPALITY SHALL BE ELIGIBLE FOR FUNDING EVEN IF THE COUNTY IN WHICH THE PROJECT IS LOCATED IS INELIGIBLE.

(VII) INELIGIBLE LOCAL GOVERNMENTS AND DEVELOPERS OF PROJECTS IN INELIGIBLE LOCAL GOVERNMENT JURISDICTIONS SHALL NOT BE REQUIRED TO PAY BACK TO THE DIVISION OR THE ADMINISTRATOR MONEY PAID TO THEM UNDER THIS ARTICLE PRIOR TO INELIGIBILITY.

(d) THE DIVISION SHALL BE RESPONSIBLE FOR DETERMINING COMPLIANCE WITH THIS SECTION. FOR THE PURPOSE OF CALCULATING WHETHER A LOCAL GOVERNMENT HAS MET THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, A NEW RESIDENTIAL HOUSING UNIT IS TO BE COUNTED AT THE TIME IT IS PERMITTED RATHER THAN THE TIME IT IS CONSTRUCTED. AN EXISTING HOUSING UNIT NEWLY QUALIFYING AS AFFORDABLE HOUSING IS TO BE COUNTED AT THE TIME IT IS PERMITTED AND FULLY FUNDED RATHER THAN AT THE TIME THE CONVERSION IS COMPLETED. FOR THE PURPOSE OF CALCULATING WHETHER A LOCAL GOVERNMENT HAS MET THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, IN ADDITION TO AFFORDABLE HOUSING GROWTH ACHIEVED THROUGH THE PROGRAMS IN THIS ARTICLE, ANY NEW DEED RESTRICTED AFFORDABLE HOUSING, NEWLY CONSTRUCTED OR CONVERTED TO AFFORDABLE, WITHIN A LOCAL GOVERNMENT'S TERRITORIAL BOUNDARIES SHALL BE COUNTED TOWARD THE LOCAL GOVERNMENT'S GROWTH REQUIREMENT. AFFORDABLE HOUSING GROWTH IN ANOTHER JURISDICTION RESULTING DIRECTLY FROM A LOCAL GOVERNMENT'S FUNDING OF SUCH AFFORDABLE HOUSING IN COOPERATION WITH ANOTHER LOCAL GOVERNMENT SHALL BE ATTRIBUTED TO A LOCAL GOVERNMENT IN PROPORTION TO THE FUNDING PROVIDED BY THE LOCAL GOVERNMENT TO SUCH HOUSING.

29-32-106. Maintenance of effort. FOR ANY STATE FISCAL YEAR IN WHICH MONEY IS APPROPRIATED FROM THE FUND IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE, ANY SUCH MONEY APPROPRIATED MUST SUPPLEMENT AND SHALL NOT

SUPPLANT THE LEVEL OF GENERAL FUND AND CASH FUND APPROPRIATIONS FOR AFFORDABLE HOUSING PROGRAMS AS OF STATE FISCAL YEAR 2022-23.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

REREVISED

This Version Includes All Amendments Adopted in the Second House

LLS NO. 23-1000.01 Ed DeCecco x4216 **HOUSE BILL 23-1304**

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SENATE
Amended 2nd Reading
May 3, 2023

HOUSE
3rd Reading Unamended
April 29, 2023

HOUSE
Amended 2nd Reading
April 26, 2023

A BILL FOR AN ACT

CONCERNING MODIFICATIONS TO THE AFFORDABLE HOUSING PROGRAMS CREATED BY THE VOTERS' APPROVAL OF 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.

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.

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

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

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

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

GOVERNMENT'S DEMONSTRATED needs.

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

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

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

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

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

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

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

29-32-104. Permissible expenditures - affordable housing programs - report. (1) The office shall contract with the administrator. The office may select an administrator without a competitive procurement process but shall announce the contract opening publicly and select the administrator in a meeting that is open to the public, no less than seventy-two hours after notice of such meeting is publicly available. No single contract may exceed five years in duration. Upon the expiration of any contract term, the office may renew the contract with the same administrator or may select another administrator. The administrator selected by the office shall expend the money transferred to the financing fund in section 29-32-103 (2) THAT THE ADMINISTRATOR RECEIVES FROM THE OFFICE to support the following programs only:

(a) A land banking program to be administered by the administrator. The program shall provide grants to local governments AND TRIBAL GOVERNMENTS and loans to non-profit organizations with a demonstrated history of providing affordable housing to acquire and preserve land for the development of affordable housing. FOR PURPOSES OF THIS SUBSECTION (1)(a), "AFFORDABLE HOUSING" MEANS RENTAL HOUSING THAT HAS A DESIGNATED IMPUTED INCOME LIMIT BY HOUSEHOLD SIZE NOT TO EXCEED SIXTY PERCENT OF THE AREA MEDIAN INCOME AS ESTABLISHED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND PUBLISHED BY THE DEPARTMENT OR A STATEWIDE POLITICAL SUBDIVISION OR AUTHORITY ON HOUSING, AND REGULATED UNITS IN THE PROJECT MUST HAVE A GROSS RENT LIMIT THAT DOES NOT EXCEED THIRTY PERCENT OF THE IMPUTED INCOME LIMITATION APPLICABLE TO THE UNITS AND FOR-SALE HOUSING THAT COULD BE PURCHASED BY A HOUSEHOLD WITH AN ANNUAL INCOME OF AT OR BELOW ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME. Mixed use development is an allowable use of land purchased under this program if the ~~predominate~~ PREDOMINANT use of the land is affordable housing. Loans made by the program shall be forgiven if land acquired with the assistance of the program is properly zoned with an active plan for the development of affordable housing within 5 years of date the loan is made and if the development is permitted and funded within 10 years. The lender and borrower may establish additional terms if needed. If land acquired with the assistance of the program is not developed within the timeline above, the loan must be repaid, with interest, as soon as practical, but not more than six months after expiration of said timeline, UNLESS THE OFFICE AGREES TO EXTEND ALL OR A PORTION OF THE TIMELINE IN ITS REASONABLE DISCRETION. Land acquired with the assistance of the program that is not developed within the timeline above may be used by the owner for any purpose upon payment of the loan with interest or, in exchange for a waiver of interest, conveyed to a state agency or other entity for the development of affordable housing with the approval of the administrator. All principal and interest payments on loans made under this paragraph (a) shall be paid to the administrator and used by the administrator for the purposes set forth in this subsection (1). As determined by the administrator, a minimum of 15% and a maximum of 25% of monies transferred to ~~the office from~~ the FINANCING fund annually may be used for the program. The administrator may utilize ~~up to two percent of~~ the funds it receives from the office for the program ~~annually~~ to pay for the costs of administering the program; EXCEPT THAT THE TOTAL COMBINED ANNUAL ADMINISTRATIVE EXPENDITURES OF MONEY FROM THE FINANCING FUND BY THE ADMINISTRATOR AND THE OFFICE SHALL NOT EXCEED TWO PERCENT OF THE FUNDS THE ADMINISTRATOR RECEIVES FROM THE OFFICE FOR THE PROGRAM FOR THE STATE FISCAL YEAR.

(b) An affordable housing equity program to be administered by the administrator. The program shall make equity investments in low- and middle-income multi-family rental developments. The program shall also make equity investments in existing ~~affordable housing~~ projects which include multi-family rental units for the purpose of ensuring that said projects remain affordable. The average ~~of rents~~ DESIGNATED IMPUTED

INCOME BY HOUSEHOLD SIZE for projects funded by the program ~~(calculated by adding together the monthly rent for all units in a project and dividing by the number of units in the project) must not exceed be and remain permanently affordable such that a participating household shall not be required to spend more than 30% of household income on rent for households that are at or below 90% of the area median income of households of that size in the territory or jurisdiction of local government in which the housing is located, as calculated and published for a given year~~ MUST NOT EXCEED 90% OF THE AREA MEDIAN INCOME AS ESTABLISHED by the United States Department of Housing and Urban Development AND PUBLISHED BY THE DEPARTMENT OR A STATEWIDE POLITICAL SUBDIVISION OR AUTHORITY ON HOUSING, AND REGULATED UNITS IN THE PROJECT MUST HAVE A GROSS RENT LIMIT THAT DOES NOT EXCEED THIRTY PERCENT OF THE IMPUTED INCOME LIMITATION APPLICABLE TO THE UNITS. The program shall include a tenant equity vehicle, meaning, in projects funded by the program, tenants who reside in the project for at least one year shall be entitled to a share of the equity growth in the project, if any, in the form of funding from the program for a down-payment on housing or related purposes, WHICH MAY ALSO INCLUDE ONGOING OPPORTUNITIES FOR TENANTS TO BUILD UP THEIR SAVINGS, in an amount determined by the administrator. Equity investments made by the program shall be made with the expectation of returns that are below the prevailing market returns. Returns on program investments up to the amount of the program's initial investment shall be retained in the program and reinvested. Returns on program investments greater than the program's initial investment shall be retained in the program to fund the tenant equity vehicle. In selecting investments under this program, the administrator shall prioritize high-density housing, mixed-income housing, and projects consistent with the goal of environmental sustainability. As determined by the administrator, a minimum of 40% of monies and a maximum of 70% of monies transferred to ~~the office from~~ the FINANCING fund annually may be used for the program. The administrator may utilize ~~up to two percent of~~ the funds it receives from the office for the program ~~annually~~ to pay for the costs of administering the program; EXCEPT THAT THE TOTAL COMBINED ANNUAL ADMINISTRATIVE EXPENDITURES OF MONEY FROM THE FINANCING FUND BY THE ADMINISTRATOR AND THE OFFICE SHALL NOT EXCEED TWO PERCENT OF THE FUNDS THE ADMINISTRATOR RECEIVES FROM THE OFFICE FOR THE PROGRAM FOR THE STATE FISCAL YEAR.

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

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

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

(V) INCLUDE THE FOLLOWING FEATURES:

(A) **[formerly second sentence of 29-32-104 (1)(c)(IV)]** The average ~~of rents~~ DESIGNATED IMPUTED INCOME BY HOUSEHOLD SIZE for projects funded by the ~~program (calculated by adding together the monthly rent for all units in a project and dividing by the number of units in the project) must be and remain permanently affordable (meaning that a household shall not be required to spend more than 30% of household income on rent and basic utilities) for households that are at or below~~

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

(B) **[formerly last two sentences of 29-32-104 (1)(c)(IV)]** As determined by the administrator, a minimum of 15% of monies and a maximum of 35% of monies transferred to ~~the office from~~ the FINANCING fund annually may be used for the program. The administrator may utilize

~~up to two percent of~~ the funds it receives from the office for the program ~~annually~~ to pay for the costs of administering the program; EXCEPT THAT THE TOTAL COMBINED ANNUAL ADMINISTRATIVE EXPENDITURES OF MONEY FROM THE FINANCING FUND BY THE ADMINISTRATOR AND THE OFFICE SHALL NOT EXCEED TWO PERCENT OF THE FUNDS THE ADMINISTRATOR RECEIVES FROM THE OFFICE FOR THE PROGRAM FOR THE STATE FISCAL YEAR.

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

(a) An affordable home ownership program administered by the division or one or more contractors of the division. The program shall offer home ownership down-payment assistance to first-time homebuyers and shall prioritize assistance, to the extent practicable, to first-generation homebuyers. The assistance shall be provided to households with income less than or equal to 120% of the area median income of households of that size in the territory or jurisdiction of local government OR TRIBAL GOVERNMENT in which the housing is located, as calculated and published for a given year by the United States Department of Housing and Urban Development, AND THE COST OF THE MONTHLY HOUSING PAYMENT TOWARDS MORTGAGE PRINCIPAL, MORTGAGE INTEREST, PROPERTY TAXES, MORTGAGE AND HOMEOWNER'S INSURANCE, HOMEOWNER ASSOCIATION FEES, LAND LEASE FEES, AND METROPOLITAN DISTRICT FEES SHALL NOT COST MORE THAN 35% OF MONTHLY HOUSEHOLD INCOME. The program shall also make grants ~~or loans~~ to non-profits, LOCAL GOVERNMENTS, TRIBAL GOVERNMENTS, COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS, and community land trusts to support affordable home ownership. ~~and~~ THE PROGRAM SHALL ALSO MAKE GRANTS OR LOANS to groups or associations of mobile home owners AND THEIR ASSIGNEES to assist them with the purchase of a mobile home park pursuant to section 38-12-217. Said grants and loans shall be used to support affordable home ownership for households with income less than or equal to 100% of the area median income of households of that size in the territory or jurisdiction of local government OR TRIBAL GOVERNMENT in which the households are located, as calculated and published for a given year by the United States Department of Housing and Urban Development, AND THE COST OF THE MONTHLY HOUSING PAYMENT TOWARDS MORTGAGE PRINCIPAL, MORTGAGE INTEREST, PROPERTY TAXES, MORTGAGE AND HOMEOWNER'S INSURANCE, HOMEOWNER ASSOCIATION FEES, LAND LEASE FEES, AND METROPOLITAN DISTRICT FEES SHALL NOT COST MORE THAN 35% OF MONTHLY HOUSEHOLD INCOME. All principal and interest payments on loans made under this paragraph (a) shall be paid to the division and used by the ~~administrator~~ DIVISION for the purposes set forth in this subsection (3). Up to 50% of monies transferred to ~~the division from~~ the SUPPORT fund annually may be used for the program. The division shall determine how much of the available funding shall be allocated to each aspect of the program. The division may utilize up to 5% of the funds it ~~receives~~ ALLOCATES from the fund for the program ~~annually~~ EACH STATE FISCAL YEAR to pay for the direct and indirect costs of administering the program.

(b) A program serving persons experiencing homelessness to be administered by the division. The program shall provide rental assistance, housing vouchers, and eviction defense assistance, including legal, financial, and case management, to persons experiencing homelessness or at risk of experiencing homelessness. The program shall also make grants or loans to non-profit organizations, local governments, TRIBAL GOVERNMENTS, or private entities to support the development and preservation of supportive housing for persons experiencing homelessness, and other homelessness related activities the division determines contribute to the resolution of or prevention of homelessness, including housing programs paid for by non-profit organizations, local governments, TRIBAL GOVERNMENTS, or private entities on a pay for success basis, meaning an organization, local government, TRIBAL GOVERNMENT, or private entity would receive financial support from the program upon achieving objectives contractually agreed upon with the division. All principal and interest payments on loans made under this paragraph (b) shall be paid to the division and used by the ~~administrator~~ DIVISION for the purposes set forth in this subsection (3). Up to 45% of monies transferred to ~~the division from~~ the SUPPORT fund annually may be used for the program. The division may utilize up to 5% of the funds it ~~receives~~ ALLOCATES from the fund for the program ~~annually~~ EACH STATE FISCAL YEAR to pay for the direct and indirect costs of administering the program.

(c) A local planning capacity development program administered by the division OF LOCAL GOVERNMENT. The program shall provide grants to local governments AND TRIBAL GOVERNMENTS to increase the capacity of local government AND TRIBAL GOVERNMENT planning departments responsible for processing land use, permitting and zoning applications for housing projects. Up to 5% of monies transferred to ~~the division from~~ the SUPPORT fund annually may be used for the program. The division OF LOCAL GOVERNMENT may utilize up to 5% of the funds ~~it receives~~ THAT

THE DIVISION OF HOUSING ALLOCATES from the fund for the program ~~annually~~ EACH STATE FISCAL YEAR to pay for the direct and indirect costs of administering the program.

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

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

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

(c) THE GEOGRAPHIC DISTRIBUTION OF THE FUNDING.

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

29-32-105. Affordable housing commitments - local governments - tribal governments - three-year commitment cycle - expedited development approval process - eligibility for assistance from the fund. (1) (a) Not later than November 1, 2023, the governing body of each local government, other than local housing authorities, OR TRIBAL GOVERNMENT desiring to receive funding under this ~~section~~ ARTICLE or desiring to make affordable housing projects within its territorial boundaries eligible for funding under this ~~section~~ ARTICLE shall make and file with the division a commitment specifying how, by December 31, 2026, the combined number of newly constructed affordable housing units and existing units converted to affordable housing, within its territorial boundaries shall be increased by three percent each year over the baseline number of affordable housing units within its territorial boundaries, determined as provided in subsection (1)(c) of this section.

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

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

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

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

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

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

(c) A local government's OR TRIBAL GOVERNMENT'S fast-track approval process may include extensions to allow for the submission of additional information or revisions to an application in response to requests from the local government OR TRIBAL GOVERNMENT. Such extensions shall not exceed the amount of time from the request to the submission of the applicant's response plus thirty days. Applicants shall provide such additional information or responses promptly and shall, whenever practicable, provide a response within five business days.

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

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

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

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

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

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

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

(VII) Ineligible local governments AND TRIBAL GOVERNMENTS AND developers of projects in ineligible local government AND TRIBAL GOVERNMENT jurisdictions shall not be required to pay back to the division or the administrator money paid to them under this article prior to ineligibility.

(d) (I) The division shall be responsible for determining compliance with this section. For the purpose of calculating whether a local government OR TRIBAL GOVERNMENT has met the requirements of subsection (1) of this section, a new residential housing unit is to be counted at the time it is permitted rather than the time it is constructed. An existing housing unit newly qualifying as affordable housing is to be counted at the time it is permitted and fully funded rather than at the time the conversion is completed. For the purpose of calculating whether a local government OR TRIBAL GOVERNMENT has met the requirements of subsection (1) of this section, in addition to affordable housing growth achieved through the programs in this article, any new deed restricted affordable housing, newly constructed or converted to affordable, within a local government's OR TRIBAL GOVERNMENT'S territorial boundaries shall be counted toward the local government's OR TRIBAL GOVERNMENT'S growth requirement. ~~Affordable housing growth in another jurisdiction resulting directly from a local government's funding of such affordable housing in cooperation with another local government shall be attributed to a local government in proportion to the funding provided by the local government to such housing.~~ FOR THE PURPOSE OF CALCULATING WHETHER A LOCAL GOVERNMENT OR TRIBAL GOVERNMENT HAS MET THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, ALL UNITS FUNDED

THROUGH THE PROGRAMS CREATED IN SECTION 29-32-104 (1)(b), (1)(c)(I), (1)(c)(II), AND (1)(c)(III) ARE COUNTED TOWARDS THE LOCAL GOVERNMENT'S OR TRIBAL GOVERNMENT'S GROWTH REQUIREMENT.

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

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

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

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

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

(III) COLORADANS SHOULD BE ABLE TO LIVE WHERE THEY WORK AND NOT HAVE TO SPEND MORE THAN THIRTY PERCENT OF THEIR INCOME ON HOUSING COSTS, ESPECIALLY IN RURAL AND RURAL RESORT COMMUNITIES WHERE HOUSING NEEDS ARE UNIQUE.

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

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

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

(a) THE LAND BANKING PROGRAM;

(b) THE AFFORDABLE HOUSING EQUITY PROGRAM; AND

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

(4) THE DIVISION SHALL POST NOTICE THAT A PETITION HAS BEEN FILED ON THE DIVISION'S WEBSITE AND SHALL ESTABLISH A PROCEDURE FOR RECEIVING PUBLIC COMMENTS ON A PETITION, INCLUDING COMMENTS

THROUGH THE DIVISION'S WEBSITE. THE DIVISION SHALL CONSIDER THE PUBLIC COMMENTS WHEN CONSIDERING THE PETITION.

(5) THE DIVISION MAY APPROVE THE PETITION TO USE DIFFERENT PERCENTAGES OF AREA MEDIAN INCOME, BUT ONLY IF:

(a) THE SUBMITTED HOUSING NEEDS ASSESSMENT:

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

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

(III) IS ACCOMPANIED BY A NARRATIVE DESCRIPTION OF WHY OTHER FUNDING SOURCES CANNOT BE UTILIZED, ARE NOT SUFFICIENT, OR ARE NOT ACCESSIBLE TO MEET THE HOUSING NEEDS DESCRIBED WITHIN THE PETITION; AND

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

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

(7) THE APPROVAL OF A RURAL RESORT COMMUNITY'S PETITION DOES NOT AFFECT THE ADMINISTRATOR'S OBLIGATION IN SELECTING

INVESTMENTS THAT PRIORITIZE HIGH-DENSITY HOUSING, MIXED-INCOME HOUSING, AND PROJECTS CONSISTENT WITH THE GOAL OF ENVIRONMENTAL SUSTAINABILITY. A PROJECT MUST STILL MEET THE RURAL RESORT COMMUNITY'S DEMONSTRATED HOUSING NEEDS.

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

29-32-106. Maintenance of effort. (1) For any state fiscal year in which money is appropriated from the FINANCING fund OR THE SUPPORT FUND in accordance with the requirements of this article, any such money appropriated must supplement and shall not supplant the level of general fund and cash fund appropriations for affordable housing programs ~~as of~~ FOR the state fiscal year 2022-23.

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

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