

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 14-0093.01 Bob Lackner x4350

HOUSE BILL 14-1017

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

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House Committees

Local Government
Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 CONCERNING MEASURES TO EXPAND THE AVAILABILITY OF
102 AFFORDABLE HOUSING IN THE STATE, AND, IN CONNECTION
103 THEREWITH, MAKING MODIFICATIONS TO STATUTORY
104 PROVISIONS ESTABLISHING THE HOUSING INVESTMENT TRUST
105 FUND, THE HOUSING DEVELOPMENT GRANT FUND, AND THE
106 LOW-INCOME HOUSING TAX CREDIT.

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://www.leg.state.co.us/billsummaries>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 15, 2014

HOUSE
3rd Reading Unamended
March 4, 2014

HOUSE
Amended 2nd Reading
March 3, 2014

In connection with the existing housing investment trust fund, the bill:

- ! Changes the name of the fund from the home investment trust fund to the housing investment trust fund (trust fund);
- ! Expands the sources of moneys that may be used to support the trust fund to include any moneys made available by the general assembly, all moneys collected by the division of housing (division) for the purpose of the trust fund from federal grants and from contributions, other grants, gifts, bequests, and donations received from any other organization, entity, or individual, public or private, and any fees or interest earned on such moneys;
- ! Clarifies that the division is authorized and directed to solicit, accept, expend, and disburse all moneys collected for the trust fund from the various public and private sources identified in the bill for the purpose of making, not just loans as under existing law, but also loan guarantees, and for program administration. The bill specifies that any moneys in the trust fund at the end of any fiscal year do not revert to the general fund and that moneys in the trust fund are continuously appropriated to the division for the purposes specified in statute.
- ! Under current law, upon the approval of the state housing board, the division is authorized to make a loan from moneys in the trust fund to any local housing authority, public nonprofit corporation, or private nonprofit corporation for development or redevelopment costs incurred prior to the completion or occupancy of low- or moderate-income housing or for the rehabilitation of such housing. The bill deletes the enumeration of the entities entitled to borrow such moneys and also eliminates the requirement that such loan moneys may be used for development or redevelopment costs incurred prior to the occupancy of low- or moderate-income housing; and
- ! Permits the division to charge the borrower an origination fee for loans made from the trust fund. The fee must be used for direct and indirect costs associated with the administration of the trust fund.

In connection with the existing housing development grant fund (fund), the bill:

- ! Expands the permissible uses of moneys in the fund to include program administration;
- ! Strikes existing language authorizing the division to make a grant or loan from the fund to finance foreclosure prevention activities, which has been repealed effective

June 30, 2011;

- ! Eliminates the requirement that the borrower is required to seek replacement loans or funding no later than 180 days from the date of the loan; and
- ! Under current law, not more than \$250,000 may be appropriated from the general fund in any one state fiscal year for any uses not related to construction grants or loans. The bill changes this requirement so that not more than 20% of the balance of moneys in the fund calculated as of July 1 of any state fiscal year may be appropriated from the general fund in any one state fiscal year for any housing-connected uses not related to construction grants or loans.

The bill also deletes obsolete language in existing statutory provisions governing the 2 funds.

In connection with the existing state low-income housing tax credit, the bill adds as a requirement for establishment of the credit that, where the qualified development contains 100 or more total residential units, at least 10% of the residential units in the development must be occupied by qualified residents. Where the qualified development contains less than 100 total residential units, not less than 15% of the total number of residential units in the development must be occupied by qualified residents. "Qualified resident" means an occupant of a residential unit in a qualified development whose household income is not more than 30% of the adjusted median income of the area in which the qualified development is located.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-32-717, **amend**
3 (1), (2), and (3); and **add** (3.5) as follows:

4 **24-32-717. Housing investment trust fund - loans - definitions.**

5 (1) (a) ~~For the purpose of meeting the federal matching fund~~
6 ~~requirements of Title II of the federal "National Housing Act", The~~
7 ~~division shall establish a home HOUSING investment trust fund, which~~
8 ~~shall be created and administered pursuant to the provisions of 24 CFR~~
9 ~~part 92, as may be amended from time to time REFERRED TO IN THIS~~
10 SECTION AS THE "TRUST FUND". The division shall pay into ~~such~~ THE

1 TRUST fund any moneys made available by the ~~state or federal~~
2 ~~government~~ GENERAL ASSEMBLY, ALL MONEYS COLLECTED BY THE
3 DIVISION FOR PURPOSES OF THIS SECTION FROM FEDERAL GRANTS AND
4 FROM OTHER CONTRIBUTIONS, GIFTS, GRANTS, AND DONATIONS RECEIVED
5 FROM ANY OTHER ORGANIZATION, ENTITY, OR INDIVIDUAL, PUBLIC OR
6 PRIVATE, AND FROM ANY FEES OR INTEREST EARNED ON SUCH MONEYS,
7 WHICH MONEYS THE DIVISION IS HEREBY AUTHORIZED AND DIRECTED TO
8 SOLICIT, ACCEPT, EXPEND, AND DISBURSE for the purpose of making loans
9 OR LOAN GUARANTEES AND FOR PROGRAM ADMINISTRATION as provided
10 in this section. Any moneys in ~~such~~ THE TRUST fund at the end of any
11 fiscal year ~~shall~~ DO not revert to the general fund. THE MONEYS IN THE
12 TRUST FUND ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE DIVISION
13 FOR THE PURPOSES SPECIFIED IN THIS SECTION. FOR ANY GIVEN STATE
14 FISCAL YEAR, NO MORE THAN THREE PERCENT OF THE MONEYS
15 APPROPRIATED FROM THE TRUST FUND MAY BE EXPENDED FOR THE
16 ADMINISTRATIVE COSTS OF THE DIVISION IN ADMINISTERING THE TRUST
17 FUND.

18 (b) ~~Notwithstanding any provision of paragraph (a) of this~~
19 ~~subsection (1) to the contrary, on June 1, 2009, the state treasurer shall~~
20 ~~deduct one million two hundred eighty-four thousand dollars from the~~
21 ~~home investment trust fund and transfer such sum to the general fund.~~

22 (2) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, upon the
23 approval of the board, the division may make a loan from moneys in the
24 ~~home investment trust fund to any local housing authority, public~~
25 ~~nonprofit corporation, or private nonprofit corporation~~ for development
26 or redevelopment costs incurred prior to the completion ~~or occupancy~~ of
27 low- or moderate-income housing or for the rehabilitation of such

1 housing. The interest rate on such loan shall be determined by the board
2 and set forth in the loan agreement signed by the applicant. In conjunction
3 with the making of such loan, the division shall require the borrower to
4 furnish collateral security in such amounts and in such form as the
5 division shall determine to be necessary to assure the payment of such
6 loan and the interest thereon as the same become due. The loan shall be
7 subject to the terms and conditions imposed by the division and shall be
8 repaid within the time and in the manner specified by the division in the
9 loan agreement. IN MAKING LOANS OF MONEYS FROM THE TRUST FUND,
10 THE DIVISION SHALL GIVE PRIORITY TO OWNERS OF PROPERTY THAT WAS
11 EITHER DESTROYED OR INCURRED SUBSTANTIAL DAMAGE AS A RESULT OF
12 ONE OR MORE STATE OR FEDERALLY DECLARED NATURAL DISASTERS.

13 (3) As principal and interest payments are received by the division
14 from the borrower, such moneys shall be deposited in the ~~home~~
15 ~~investment~~ trust fund.

16 (3.5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
17 ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED:

18 (a) THE DIVISION MAY CHARGE THE BORROWER AN ORIGINATION
19 FEE FOR LOANS MADE FROM THE TRUST FUND. THE FEE MUST BE USED FOR
20 DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF
21 THE TRUST FUND;

22 (b) THE DIVISION SHALL NOT GUARANTEE ANY LOAN MADE TO A
23 FOR-PROFIT ORGANIZATION OR ENTITY UNLESS THE LOAN IS SECURED ON
24 A RECOURSE BASIS; AND

25 (c) THE TOTAL AMOUNT OF LOAN GUARANTEES THAT MAY BE
26 MADE BY THE DIVISION AGAINST THE TRUST FUND SHALL NOT EXCEED
27 EITHER TWO MILLION DOLLARS FOR ANY ONE PROJECT OR UP TO FIVE

1 MILLION DOLLARS FOR ALL SUCH PROJECTS AT ANY ONE TIME.

2 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-32-721 as
3 follows:

4 **24-32-721. Colorado affordable housing construction grants**
5 **and loans - housing development grant fund - creation.** (1) There is
6 hereby created in the state treasury the housing development grant fund,
7 which fund shall be administered by the division and is referred to in this
8 section as the "fund". The fund shall consist of moneys appropriated to
9 the Colorado affordable housing construction grants and loan fund by the
10 general assembly, all moneys collected by the division for purposes of
11 this section from federal grants, ~~and other contributions, grants, gifts,~~
12 ~~bequests, and donations received from other governmental entities,~~
13 ~~individuals, private organizations, or foundations and any interest~~
14 ~~earnings on such moneys, which moneys~~ FROM OTHER CONTRIBUTIONS,
15 GIFTS, GRANTS, AND DONATIONS RECEIVED FROM ANY OTHER
16 ORGANIZATION, ENTITY, OR INDIVIDUAL, PUBLIC OR PRIVATE, AND FROM
17 ANY FEES OR INTEREST EARNED ON SUCH MONEYS. The division is hereby
18 authorized and directed to solicit, accept, expend, and disburse ALL
19 MONEYS COLLECTED FOR THE FUND FROM THE SOURCES SPECIFIED IN THIS
20 SUBSECTION (1) for the purpose of making grants or loans AND FOR
21 PROGRAM ADMINISTRATION as provided in this section. All such moneys
22 shall be transmitted to the state treasurer to be credited to the fund. The
23 moneys in the fund are hereby continuously appropriated to the division
24 for the purposes of this section. The moneys in the fund may be expended
25 for the purpose of funding activities initiated during the ~~2008-09~~
26 CURRENT state fiscal year that are to be completed in subsequent state
27 fiscal years.

1 (2) (a) ~~SUBJECT TO THE REQUIREMENTS OF THIS SECTION,~~ upon the
2 approval of the board, the division may make a grant or loan from moneys
3 in the fund to improve, preserve, or expand the supply of affordable
4 housing ~~and to finance foreclosure prevention activities~~ in Colorado as
5 well as to fund the acquisition of housing and economic data necessary
6 to advise the board on local housing conditions. ~~IN MAKING LOANS OF~~
7 ~~MONEYS OR GRANTS FROM THE FUND, THE DIVISION SHALL GIVE PRIORITY~~
8 ~~TO OWNERS OF PROPERTY THAT WAS EITHER DESTROYED OR INCURRED~~
9 ~~SUBSTANTIAL DAMAGE AS A RESULT OF ONE OR MORE STATE OR~~
10 ~~FEDERALLY DECLARED NATURAL DISASTERS WHERE THE PROPERTY OWNER~~
11 ~~HAS RECEIVED THE MAXIMUM INSURANCE PROCEEDS AND PUBLIC~~
12 ~~DISASTER ASSISTANCE.~~

13 (b) ~~In the case of any loan made from moneys in the fund for~~
14 ~~which the division is the primary lender, the borrower shall be required~~
15 ~~to seek replacement loans or funding no later than one hundred eighty~~
16 ~~days from the date of the loan.~~

17 (c) ~~The authorization granted to the division in paragraph (a) of~~
18 ~~this subsection (2) to make a grant or loan from moneys in the fund to~~
19 ~~finance foreclosure prevention activities in the state is repealed, effective~~
20 ~~June 30, 2011.~~

21 (3) (a) Any moneys in the fund not expended or encumbered from
22 any appropriation at the end of any fiscal year, including interest earned
23 on the investment or deposit of moneys in the fund, shall remain in the
24 fund and shall not revert to the general fund or any other fund and shall
25 remain available for expenditure by the division in the next fiscal year for
26 the purposes specified in subsection (2) of this section without further
27 appropriation.

1 (b) Notwithstanding any other provision of this section, ~~not more~~
2 ~~than two hundred fifty thousand dollars may be appropriated from the~~
3 ~~general fund pursuant to this section in any one state fiscal year for any~~
4 ~~uses not related to construction grants or loans~~ THE DIVISION, IN ITS
5 DISCRETION, MAY TRANSFER TWENTY PERCENT OF THE BALANCE OF
6 MONEYS IN THE FUND INTO THE HOUSING INVESTMENT TRUST FUND
7 ESTABLISHED IN SECTION 24-32-717 (1) (a), WHICH BALANCE IS
8 CALCULATED AS OF JULY 1 OF THE STATE FISCAL YEAR IN WHICH THE
9 MONEY IS TRANSFERRED. FOR ANY GIVEN STATE FISCAL YEAR, NO MORE
10 THAN THREE PERCENT OF THE MONEYS APPROPRIATED FROM THE FUND
11 MAY BE EXPENDED FOR THE ADMINISTRATIVE COSTS OF THE DIVISION IN
12 ADMINISTERING THE FUND.

13

14 **SECTION 3.** In Colorado Revised Statutes, 39-22-2101, **amend**
15 (5), (7), and (11) as follows:

16 **39-22-2101. Definitions.** As used in this part 21, unless the
17 context otherwise requires:

18 (5) "Credit period" means the period of four SIX taxable years
19 beginning with the taxable year in which a qualified development is
20 placed in service. If a qualified development is comprised of more than
21 one building, the development shall be deemed to be placed in service in
22 the taxable year during which the last building of the qualified
23 development is placed in service.

24 (7) "Federal tax credit" means the federal low-income housing tax
25 credit provided by section 42 of the internal revenue code. ~~but excluding~~
26 ~~the credit referred to in section 42 (h) (4) of the internal revenue code.~~

27 (11) "Qualified taxpayer" means an individual, a person, firm,

1 corporation, or other entity that owns an interest, DIRECT OR INDIRECT, in
2 a qualified development and is subject to the taxes imposed by this article.

3 **SECTION 4.** In Colorado Revised Statutes, 39-22-2102, **amend**
4 (2) (d), (4), (6), (7) introductory portion, and (7) (a) as follows:

5 **39-22-2102. Credit against tax - low-income housing**
6 **developments.** (2) The authority may allocate a credit to an owner of a
7 qualified development by issuing to the owner an allocation certificate.
8 The authority may determine the time at which such allocation certificate
9 is issued. The credit shall be in an amount determined by the authority,
10 subject to the following guidelines:

11 (d) The aggregate sum of credits allocated annually shall not
12 exceed the limits set forth in subsection (7) of this section, EXCEPT FOR A
13 QUALIFIED DEVELOPMENT THAT IS LOCATED IN A COUNTY THAT IS
14 DESIGNATED BY THE QUALIFIED ALLOCATION PLAN AS HAVING BEEN
15 IMPACTED BY A NATURAL DISASTER.

16 (4) No credit shall be allocated pursuant to this part 21 unless the
17 qualified development is the subject of a recorded restrictive covenant
18 requiring the development to be maintained and operated as a qualified
19 development, AND IS IN ACCORDANCE WITH THE ACCESSIBILITY AND
20 ADAPTABILITY REQUIREMENTS OF THE FEDERAL TAX CREDITS AND TITLE
21 VIII OF THE "CIVIL RIGHTS ACT OF 1968", AS AMENDED BY THE "FAIR
22 HOUSING AMENDMENTS ACT OF 1988", for a period of fifteen taxable
23 years, or such longer period as may be agreed to between the authority
24 and the owner, beginning with the first taxable year of the credit period.

25 (6) The allocated credit amount may be taken against the taxes
26 imposed by this article for each taxable year of the credit period. Any
27 amount of credit that exceeds the tax due for a taxable year may be

1 carried forward as a tax credit against subsequent years' income tax
2 liability up to ~~tax year 2012~~ ELEVEN TAX YEARS FOLLOWING THE TAX
3 YEAR IN WHICH THE ALLOCATION WAS MADE and ~~shall~~ MUST be applied
4 first to the earliest years possible. Any amount of the credit that is not
5 used shall not be refunded to the taxpayer.

6 (7) During each calendar year of the two-year period beginning
7 ~~January 1, 2001~~ JANUARY 1, 2015, and ending ~~December 31, 2002~~
8 DECEMBER 31, 2016, the authority may allocate a credit, the full amount
9 of which may be claimed against the taxes imposed by this article for
10 each taxable year of the ~~four-year~~ SIX-YEAR credit period. The aggregate
11 amount of all credits allocated by the authority in each calendar year of
12 the two-year period beginning ~~January 1, 2001~~ JANUARY 1, 2015, and
13 ending ~~December 31, 2002~~ DECEMBER 31, 2016, shall not exceed the
14 amount of:

15 (a) Five million dollars for credits allocated pursuant to subsection
16 (1) of this section and section 39-22-2105 combined, EXCEPT FOR AN
17 ALLOCATION MADE TO A QUALIFIED DEVELOPMENT THAT IS LOCATED IN A
18 COUNTY THAT IS DESIGNATED BY THE QUALIFIED ALLOCATION PLAN AS
19 HAVING BEEN IMPACTED BY A NATURAL DISASTER.

20 **SECTION 5.** In Colorado Revised Statutes, **add** 39-22-2108 as
21 follows:

22 **39-22-2108. Report to the general assembly.** (1) FOR EACH
23 ALLOCATION YEAR, THE AUTHORITY SHALL, BY DECEMBER 31 OF THAT
24 YEAR, PROVIDE A WRITTEN REPORT TO THE GENERAL ASSEMBLY AND
25 SHALL FURTHER MAKE THE REPORT AVAILABLE TO THE PUBLIC. WITH
26 RESPECT TO ALLOCATED STATE LOW-INCOME HOUSING TAX CREDITS
27 UNDER SECTION 39-22-2102, THE REPORT MUST:

1 (a) SPECIFY THE NUMBER OF QUALIFIED DEVELOPMENTS THAT
2 HAVE BEEN ALLOCATED SUCH TAX CREDITS DURING THE ALLOCATION
3 YEAR AND THE TOTAL NUMBER OF UNITS SUPPORTED BY EACH
4 DEVELOPMENT;

5 (b) DESCRIBE EACH QUALIFIED DEVELOPMENT THAT HAS BEEN
6 ALLOCATED SUCH CREDITS INCLUDING, WITHOUT LIMITATION, THE
7 GEOGRAPHIC LOCATION OF THE DEVELOPMENT, THE HOUSEHOLD TYPE AND
8 ANY SPECIFIC DEMOGRAPHIC INFORMATION AVAILABLE ABOUT RESIDENTS
9 INTENDED TO BE SERVED BY THE DEVELOPMENT, THE INCOME LEVELS
10 INTENDED TO BE SERVED BY THE DEVELOPMENT, AND THE RENTS OR
11 SET-ASIDES AUTHORIZED FOR EACH DEVELOPMENT; AND

12 (c) PROVIDE HOUSING MARKET AND DEMOGRAPHIC INFORMATION
13 THAT DEMONSTRATES HOW THE QUALIFIED DEVELOPMENTS SUPPORTED BY
14 THE TAX CREDITS ARE ADDRESSING THE NEED FOR AFFORDABLE HOUSING
15 WITHIN THE COMMUNITIES THEY ARE INTENDED TO SERVE AS WELL AS
16 INFORMATION ABOUT ANY REMAINING DISPARITIES IN THE AFFORDABILITY
17 OF HOUSING WITHIN THOSE COMMUNITIES.

18 ==
19 **SECTION 6. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.