

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0093.01 Bob Lackner x4350

HOUSE BILL 14-1017

HOUSE SPONSORSHIP

Duran,

SENATE SPONSORSHIP

Ulibarri,

House Committees

Local Government

Finance

Senate Committees

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.

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) Upon the approval of the board, the division may make a loan
23 from moneys in the ~~home investment~~ trust fund to ~~any local housing~~
24 ~~authority, public nonprofit corporation, or private nonprofit corporation~~
25 for development or redevelopment costs incurred prior to the completion
26 ~~or occupancy~~ of low- or moderate-income housing or for the
27 rehabilitation of such housing. The interest rate on such loan shall be

1 determined by the board and set forth in the loan agreement signed by the
2 applicant. In conjunction with the making of such loan, the division shall
3 require the borrower to furnish collateral security in such amounts and in
4 such form as the division shall determine to be necessary to assure the
5 payment of such loan and the interest thereon as the same become due.
6 The loan shall be subject to the terms and conditions imposed by the
7 division and shall be repaid within the time and in the manner specified
8 by the division in the loan agreement.

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

12 (3.5) THE DIVISION MAY CHARGE THE BORROWER AN ORIGINATION
13 FEE FOR LOANS MADE FROM THE TRUST FUND. THE FEE MUST BE USED FOR
14 DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF
15 THE TRUST FUND.

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

18 **24-32-721. Colorado affordable housing construction grants**
19 **and loans - housing development grant fund - creation.** (1) There is
20 hereby created in the state treasury the housing development grant fund,
21 which fund shall be administered by the division and is referred to in this
22 section as the "fund". The fund shall consist of moneys appropriated to
23 the Colorado affordable housing construction grants and loan fund by the
24 general assembly, all moneys collected by the division for purposes of
25 this section from federal grants, ~~and other contributions, grants, gifts,~~
26 ~~bequests, and donations received from other governmental entities,~~
27 ~~individuals, private organizations, or foundations and any interest~~

1 ~~earnings on such moneys, which moneys~~ FROM OTHER CONTRIBUTIONS,
2 GIFTS, GRANTS, AND DONATIONS RECEIVED FROM ANY OTHER
3 ORGANIZATION, ENTITY, OR INDIVIDUAL, PUBLIC OR PRIVATE, AND FROM
4 ANY FEES OR INTEREST EARNED ON SUCH MONEYS. The division is hereby
5 authorized and directed to solicit, accept, expend, and disburse ALL
6 MONEYS COLLECTED FOR THE FUND FROM THE SOURCES SPECIFIED IN THIS
7 SUBSECTION (1) for the purpose of making grants or loans AND FOR
8 PROGRAM ADMINISTRATION as provided in this section. All such moneys
9 shall be transmitted to the state treasurer to be credited to the fund. The
10 moneys in the fund are hereby continuously appropriated to the division
11 for the purposes of this section. The moneys in the fund may be expended
12 for the purpose of funding activities initiated during the ~~2008-09~~
13 CURRENT state fiscal year that are to be completed in subsequent state
14 fiscal years.

15 (2) (a) Upon the approval of the board, the division may make a
16 grant or loan from moneys in the fund to improve, preserve, or expand the
17 supply of affordable housing ~~and to finance foreclosure prevention~~
18 ~~activities~~ in Colorado as well as to fund the acquisition of housing and
19 economic data necessary to advise the board on local housing conditions.

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

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

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

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

20
21 **SECTION 3.** In Colorado Revised Statutes, 39-22-2102, **amend**
22 (6) and (7) introductory portion as follows:

23 **39-22-2102. Credit against tax - low-income housing**
24 **developments.** (6) The allocated credit amount may be taken against the
25 taxes imposed by this article for each taxable year of the credit period.
26 Any amount of credit that exceeds the tax due for a taxable year may be
27 carried forward as a tax credit against subsequent years' income tax

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

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

13 **SECTION 4. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.