

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

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

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.

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

18 (2) Upon the approval of the board, the division may make a loan
19 from moneys in the ~~home investment~~ trust fund to ~~any local housing~~
20 ~~authority, public nonprofit corporation, or private nonprofit corporation~~
21 for development or redevelopment costs incurred prior to the completion
22 ~~or occupancy~~ of low- or moderate-income housing or for the
23 rehabilitation of such housing. The interest rate on such loan shall be
24 determined by the board and set forth in the loan agreement signed by the
25 applicant. In conjunction with the making of such loan, the division shall
26 require the borrower to furnish collateral security in such amounts and in
27 such form as the division shall determine to be necessary to assure the

1 payment of such loan and the interest thereon as the same become due.
2 The loan shall be subject to the terms and conditions imposed by the
3 division and shall be repaid within the time and in the manner specified
4 by the division in the loan agreement.

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

8 (3.5) THE DIVISION MAY CHARGE THE BORROWER AN ORIGINATION
9 FEE FOR LOANS MADE FROM THE TRUST FUND. THE FEE MUST BE USED FOR
10 DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF
11 THE TRUST FUND.

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

14 **24-32-721. Colorado affordable housing construction grants**
15 **and loans - housing development grant fund - creation.** (1) There is
16 hereby created in the state treasury the housing development grant fund,
17 which fund shall be administered by the division and is referred to in this
18 section as the "fund". The fund shall consist of moneys appropriated to
19 the Colorado affordable housing construction grants and loan fund by the
20 general assembly, all moneys collected by the division for purposes of
21 this section from federal grants, ~~and other contributions, grants, gifts,~~
22 ~~bequests, and donations received from other governmental entities,~~
23 ~~individuals, private organizations, or foundations and any interest~~
24 ~~earnings on such moneys, which moneys~~ FROM OTHER CONTRIBUTIONS,
25 GIFTS, GRANTS, AND DONATIONS RECEIVED FROM ANY OTHER
26 ORGANIZATION, ENTITY, OR INDIVIDUAL, PUBLIC OR PRIVATE, AND FROM
27 ANY FEES OR INTEREST EARNED ON SUCH MONEYS. The division is hereby

1 authorized and directed to solicit, accept, expend, and disburse ALL
2 MONEYS COLLECTED FOR THE FUND FROM THE SOURCES SPECIFIED IN THIS
3 SUBSECTION (1) for the purpose of making grants or loans AND FOR
4 PROGRAM ADMINISTRATION as provided in this section. All such moneys
5 shall be transmitted to the state treasurer to be credited to the fund. The
6 moneys in the fund are hereby continuously appropriated to the division
7 for the purposes of this section. The moneys in the fund may be expended
8 for the purpose of funding activities initiated during the ~~2008-09~~
9 CURRENT state fiscal year that are to be completed in subsequent state
10 fiscal years.

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

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

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

24 (3) (a) Any moneys in the fund not expended or encumbered from
25 any appropriation at the end of any fiscal year, including interest earned
26 on the investment or deposit of moneys in the fund, shall remain in the
27 fund and shall not revert to the general fund or any other fund and shall

1 remain available for expenditure by the division in the next fiscal year for
2 the purposes specified in subsection (2) of this section without further
3 appropriation.

4 (b) Notwithstanding any other provision of this section, not more
5 than ~~two hundred fifty thousand dollars~~ TWENTY PERCENT OF THE
6 BALANCE OF MONEYS IN THE FUND CALCULATED AS OF JULY 1 OF ANY
7 STATE FISCAL YEAR may be appropriated from the general fund pursuant
8 to this section in any one state fiscal year for any HOUSING-CONNECTED
9 uses not related to construction grants or loans.

10 **SECTION 3.** In Colorado Revised Statutes, 39-22-2101, **add**
11 (10.5) as follows:

12 **39-22-2101. Definitions.** As used in this part 21, unless the
13 context otherwise requires:

14 (10.5) "QUALIFIED RESIDENT" MEANS AN OCCUPANT OF A
15 RESIDENTIAL UNIT IN A QUALIFIED DEVELOPMENT WHOSE HOUSEHOLD
16 INCOME IS NOT MORE THAN THIRTY PERCENT OF THE ADJUSTED MEDIAN
17 INCOME OF THE AREA IN WHICH THE QUALIFIED DEVELOPMENT IS LOCATED
18 BASED UPON THE MOST RECENT DETERMINATION BY THE UNITED STATES
19 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

20 **SECTION 4.** In Colorado Revised Statutes, 39-22-2102, **amend**
21 (2) as follows:

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

1 (a) The credit shall be necessary for the financial feasibility of
2 such development;

3 (b) In no event shall a credit exceed thirty percent of the qualified
4 basis of the qualified development;

5 (c) All allocations shall be made pursuant to the qualified
6 allocation plan; ~~and~~

7 (d) The aggregate sum of credits allocated annually shall not
8 exceed the limits set forth in subsection (7) of this section; AND

9 (e) FOR A CREDIT CLAIMED FOR AN INCOME TAX YEAR
10 COMMENCING ON OR AFTER JANUARY 1, 2013, WHERE THE QUALIFIED
11 DEVELOPMENT CONTAINS ONE HUNDRED OR MORE TOTAL RESIDENTIAL
12 UNITS, AT LEAST TEN PERCENT OF THE RESIDENTIAL UNITS IN THE
13 DEVELOPMENT MUST BE OCCUPIED BY QUALIFIED RESIDENTS. WHERE THE
14 QUALIFIED DEVELOPMENT CONTAINS LESS THAN ONE HUNDRED TOTAL
15 RESIDENTIAL UNITS, NOT LESS THAN FIFTEEN PERCENT OF THE TOTAL
16 NUMBER OF RESIDENTIAL UNITS IN THE DEVELOPMENT MUST BE OCCUPIED
17 BY QUALIFIED RESIDENTS.

18 **SECTION 5. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.