

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0046.01 Caroline Martin x5902

HOUSE BILL 26-1001

HOUSE SPONSORSHIP

Boesenecker and Mabrey,

SENATE SPONSORSHIP

Exum and Gonzales J.,

House Committees

Transportation, Housing & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROMOTION OF RESIDENTIAL DEVELOPMENTS ON**
102 **QUALIFYING PROPERTIES.**

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>.)

The bill requires a subject jurisdiction, on or after December 31, 2027, to allow a residential development to be constructed on a qualifying property that does not contain an exempt parcel, subject to an administrative approval process. A qualifying property is real property that contains no more than 5 acres of land and is owned by:

- A nonprofit organization with a demonstrated history of

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.

- providing affordable housing;
- A nonprofit organization that provides public transit;
- A nonprofit organization that has entered into an agreement with another nonprofit organization with a demonstrated history of providing affordable housing, provided that the agreement requires the nonprofit organization with a demonstrated history of providing affordable housing to develop a residential development on the property;
- A school district;
- A state college or university;
- A housing authority; or
- A local or regional transit district or a regional transportation authority serving one or more counties.

If a subject jurisdiction requests, as part of an initial development application, that a nonprofit organization with a demonstrated history of providing affordable housing provide documentation that it meets required criteria, the nonprofit organization shall provide the documentation.

A subject jurisdiction shall not:

- Disallow construction of a residential development on a qualifying property on the basis of height if the tallest structure in the residential development is no more than 3 stories or 45 feet tall;
- Disallow construction of a residential development on a qualifying property on the basis of height if the tallest structure in the residential development complies with the height-related standards for the zoning district in which the residential development will be built or any zoning district that is contiguous to the qualifying property on which the residential development will be built;
- Disallow construction of a residential development on a qualifying property based on the number of dwelling units that the residential development will contain, except in accordance with standards listed in the bill; or
- Apply standards to a residential development on a qualifying property that are more restrictive than the standards the subject jurisdiction applies to similar housing constructed within the subject jurisdiction, including standards related to structure setbacks from property lines; lot coverage or open space; on-site parking requirements; numbers of bedrooms in a multifamily residential development; on-site landscaping, screening, and buffering requirements; or minimum dwelling units per acre.

Provided that the uses are allowed conditionally or by right within the zoning district in which a qualifying property is located, a subject

jurisdiction shall allow the following uses in a residential development on a qualifying property:

- Child care; and
- The provision of recreational, social, or educational services provided by community organizations for use by the residents of the residential development and the surrounding community.

The bill requires the owner of a qualifying property to notify the county assessor that a subject jurisdiction has allowed the construction of a residential development on a qualifying property within the county.

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

SECTION 1. Short title. The short title of this act is the "Housing Opportunities Made Easier (HOME) Act".

4 **SECTION 2.** In Colorado Revised Statutes, 29-35-103, **add** (2.5)
5 as follows:

29-35-103. Definitions.

7 (2.5) "AIRPORT INFLUENCE AREA" MEANS AN AREA SURROUNDING
8 AN AIRPORT THAT A LOCAL GOVERNMENT HAS DESIGNATED AS
9 UNSUITABLE FOR RESIDENTIAL DEVELOPMENT BECAUSE:

10 (a) DEVELOPMENT COULD IMPACT AIRPORT OPERATIONS; OR
11 (b) AIRPORT NOISE OR SAFETY HAZARDS COULD AFFECT THE AREA.

12 **SECTION 3.** In Colorado Revised Statutes, **add** part 5 to article
13 35 of title 29 as follows:

PART 5

15 RESIDENTIAL DEVELOPMENT ON

29-35-501. Definitions.

18 AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE
19 REQUIRES:

20 (1) "DWELLING UNIT" HAS THE MEANING SET FORTH IN SECTION

1 29-35-402 (8).

2 (2) "EXEMPT PARCEL" MEANS:

3 (a) A PARCEL THAT IS:

4 (I) NOT SERVED BY A DOMESTIC WATER AND SEWAGE TREATMENT
5 SYSTEM, AS DEFINED IN SECTION 24-65.1-104 (5);

6 (II) SERVED BY A WELL THAT IS NOT CONNECTED TO A WATER
7 DISTRIBUTION SYSTEM, AS DEFINED IN SECTION 25-9-102 (6); OR

8 (III) SERVED BY A SEPTIC TANK, AS DEFINED IN SECTION
9 25-10-103 (18);

10 (b) A PARCEL WHERE RESIDENTIAL USE IS PREVENTED OR LIMITED
11 BY STATE REGULATION, FEDERAL REGULATION, OR DEED RESTRICTION
12 PURSUANT TO:

13 (I) FEDERAL AVIATION ADMINISTRATION RESTRICTIONS PURSUANT
14 TO 14 CFR 77 OR 49 U.S.C. CHAPTER 471;

15 (II) AN ENVIRONMENTAL COVENANT PURSUANT TO SECTIONS
16 25-15-318 TO 25-15-323; OR

17 (III) FLAMMABLE GAS OVERLAY ZONING DISTRICT RESTRICTIONS;

18 (c) A PARCEL THAT IS SUBJECT TO A CONSERVATION EASEMENT;

19 (d) A PARCEL THAT IS LOCATED WITHIN AN AIRPORT INFLUENCE
20 AREA; OR

21 (e) A HISTORIC PROPERTY THAT IS LOCATED OUTSIDE OF A
22 HISTORIC DISTRICT.

23 (3) "HISTORIC DISTRICT" HAS THE MEANING SET FORTH IN SECTION
24 29-35-402 (10).

25 (4) "HISTORIC PROPERTY" HAS THE MEANING SET FORTH IN
26 SECTION 29-35-402 (11).

27 (5) "NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY

1 OF PROVIDING AFFORDABLE HOUSING" MEANS A NONPROFIT
2 ORGANIZATION THAT, WITHIN THE LAST FIVE YEARS, HAS:

3 (a) DEVELOPED PROJECTS WHICH HAVE RECEIVED FEDERAL
4 LOW-INCOME HOUSING TAX CREDITS OR STATE AFFORDABLE HOUSING
5 CREDITS;

6 (b) BEEN AWARDED FUNDING THROUGH THE FEDERAL "HOME
7 INVESTMENT PARTNERSHIPS PROGRAM", 24 CFR 92.1, ET SEQ.;

8 (c) BEEN AWARDED FUNDING TO SUPPORT THE CREATION,
9 PRESERVATION, OR REHABILITATION OF AFFORDABLE HOUSING FROM THE
10 COLORADO DEPARTMENT OF LOCAL AFFAIRS; THE COLORADO HOUSING
11 AND FINANCE AUTHORITY; THE COLORADO OFFICE OF ECONOMIC
12 DEVELOPMENT AND INTERNATIONAL TRADE; OR A LOCAL GOVERNMENT;

13 (d) OWNED PROPERTY THAT IS EXEMPT FROM PROPERTY TAXATION
14 PURSUANT TO SECTION 39-3-113.5;

15 (e) BEEN CERTIFIED AS A COMMUNITY HOUSING DEVELOPMENT
16 ORGANIZATION PURSUANT TO 24 CFR 92.2 AND, TOGETHER WITH THE
17 COLORADO DIVISION OF HOUSING OR A LOCAL GOVERNMENT, IS A PARTY
18 TO A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION OPERATING
19 AGREEMENT;

20 (f) BEEN APPROVED BY THE COLORADO DIVISION OF HOUSING AS
21 AN "APPROVED NONPROFIT ORGANIZATION" PURSUANT TO SECTION
22 39-22-548 AND ENGAGED IN THE DEVELOPMENT OR OPERATIONAL SERVICE
23 OF SUPPORTIVE HOUSING PURSUANT TO SECTION 39-22-548 (2)(h); OR

24 (g) OWNED PROPERTY FOR WHICH THE ORGANIZATION RECEIVED
25 A CERTIFICATE OF OCCUPANCY FOR LONG-TERM AFFORDABLE HOUSING,
26 AND CAN PRODUCE THAT CERTIFICATE OF OCCUPANCY, A RESTRICTED USE
27 COVENANT, OR A SIMILAR RECORDED AGREEMENT THAT ENSURES

1 AFFORDABILITY.

2 (6) "QUALIFYING PRIVATE PROPERTY" MEANS REAL PROPERTY
3 THAT CONTAINS NO MORE THAN FIVE ACRES OF LAND AND IS OWNED BY:

4 (a) A NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY
5 OF PROVIDING AFFORDABLE HOUSING;

6 (b) A NONPROFIT ORGANIZATION THAT PROVIDES PUBLIC TRANSIT;

7 OR

8 (c) A NONPROFIT ORGANIZATION THAT HAS ENTERED INTO AN
9 AGREEMENT WITH ANOTHER NONPROFIT ORGANIZATION WITH A
10 DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING, PROVIDED
11 THAT THE AGREEMENT REQUIRES THE NONPROFIT ORGANIZATION WITH A
12 DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING, OR ITS
13 SUCCESSOR ORGANIZATION, TO DEVELOP A RESIDENTIAL DEVELOPMENT ON
14 THE PROPERTY.

15 (7) "QUALIFYING PROPERTY" MEANS A QUALIFYING PRIVATE
16 PROPERTY OR A QUALIFYING PUBLIC PROPERTY.

17 (8) "QUALIFYING PUBLIC PROPERTY" MEANS REAL PROPERTY THAT
18 CONTAINS NO MORE THAN FIVE ACRES OF LAND AND IS OWNED BY:

19 (a) A SCHOOL DISTRICT, AS DEFINED IN SECTION 22-30-103;

20 (b) A STATE COLLEGE OR UNIVERSITY, AS DEFINED IN SECTION
21 23-2-102;

22 (c) A HOUSING AUTHORITY CREATED PURSUANT TO SECTION
23 29-1-204.5, 29-4-204, 29-4-402, OR 29-4-503; OR

24 (d) A LOCAL OR REGIONAL TRANSIT DISTRICT OR A REGIONAL
25 TRANSPORTATION AUTHORITY SERVING ONE OR MORE COUNTIES.

26 (9) "RESIDENTIAL DEVELOPMENT" MEANS A DEVELOPMENT:

27 (a) WITH ONE OR MORE STRUCTURES THAT CONTAIN PERMANENT

1 DWELLING UNITS;

2 (b) THAT DOES NOT CONTAIN ANY TEMPORARY HOUSING OR
3 SHELTER SPACE; AND

4 (c) THAT HAS A PRIMARY PURPOSE OF RESIDENTIAL USE.

5 (10) "SIMILAR HOUSING" MEANS HOUSING THAT IS SIMILAR IN
6 FORM AND NUMBER OF DWELLING UNITS.

7 (11) "SUBJECT JURISDICTION" MEANS A LOCAL GOVERNMENT THAT
8 HAD A POPULATION GREATER THAN TWO THOUSAND PEOPLE AS OF THE
9 LAST UNITED STATES CENSUS.

10 **29-35-502. Residential developments on qualifying properties.**

11 (1) **Residential developments on qualifying properties.** ON OR
12 AFTER DECEMBER 31, 2027, SUBJECT TO AN ADMINISTRATIVE APPROVAL
13 PROCESS AND IN ACCORDANCE WITH THIS PART 5, A SUBJECT JURISDICTION
14 SHALL ALLOW A RESIDENTIAL DEVELOPMENT TO BE CONSTRUCTED ON A
15 QUALIFYING PROPERTY IF THE QUALIFYING PROPERTY DOES NOT CONTAIN
16 AN EXEMPT PARCEL.

17 (2) **Verification of nonprofit status.** A SUBJECT JURISDICTION
18 MAY REQUEST, AS PART OF AN INITIAL DEVELOPMENT APPLICATION, THAT
19 A NONPROFIT ORGANIZATION WITH A DEMONSTRATED HISTORY OF
20 PROVIDING AFFORDABLE HOUSING PROVIDE DOCUMENTATION THAT IT
21 MEETS ANY ONE OF THE CRITERIA LISTED IN SECTION 29-35-501 (5). THE
22 NONPROFIT ORGANIZATION SHALL PROVIDE THE REQUESTED
23 DOCUMENTATION BUT IS NOT REQUIRED TO PROVIDE DOCUMENTATION OF
24 MORE THAN ONE OF THE CRITERIA LISTED IN SECTION 29-35-501 (5) TO BE
25 VERIFIED BY THE SUBJECT JURISDICTION.

26 (3) **Subject jurisdiction administrative practices.** NOTHING IN
27 THIS SECTION PREVENTS A SUBJECT JURISDICTION FROM:

5 (b) APPLYING AND ENFORCING A LOCALLY ADOPTED LIFE SAFETY
6 CODE, INCLUDING A BUILDING, FIRE, UTILITY, OR STORMWATER CODE;

7 (c) APPLYING AND ENFORCING REGULATIONS RELATED TO HUMAN
8 AND ENVIRONMENTAL HEALTH AND SAFETY, INCLUDING OIL AND GAS
9 SETBACKS, FLOODPLAIN REGULATIONS, AND AIRPORT INFLUENCE AREAS;

10 (d) ADOPTING GENERALLY APPLICABLE REQUIREMENTS FOR THE
11 PAYMENT OF IMPACT FEES OR OTHER SIMILAR DEVELOPMENT CHARGES IN
12 ACCORDANCE WITH SECTION 29-20-104.5, OR THE MITIGATION OF IMPACTS
13 IN ACCORDANCE WITH PART 2 OF ARTICLE 20 OF THIS TITLE 29;

14 (e) REQUIRING A STATEMENT BY A WATER OR WASTEWATER
15 SERVICE PROVIDER REGARDING THE PROVIDER'S CAPACITY TO SERVICE THE
16 PROPERTY AS A CONDITION OF ALLOWING A RESIDENTIAL DEVELOPMENT;

17 (f) APPLYING AND ENFORCING INCLUSIONARY ZONING
18 ORDINANCES, DEED RESTRICTIONS, COMMUNITY BENEFIT AGREEMENTS,
19 DEVELOPMENT AGREEMENTS, OR OTHER AFFORDABLE HOUSING POLICIES
20 OR STANDARDS;

21 (g) APPLYING STANDARDS TO ALLOW A RESIDENTIAL
22 DEVELOPMENT TO BE CONSTRUCTED ON A QUALIFYING PROPERTY WHEN
23 SUCH RESIDENTIAL DEVELOPMENT COULD BE DISALLOWED BASED ON THE
24 STANDARDS DESCRIBED IN SECTION 29-35-503 (1), OR OTHERWISE
25 OFFERING AFFORDABLE HOUSING INCENTIVES TO DEVELOPERS;

26 (h) ENACTING OR APPLYING A LOCAL LAW CONCERNING A
27 SHORT-TERM RENTAL, AS THAT TERM IS DEFINED IN SECTION 29-35-402

1 (19), OF A DWELLING UNIT ON A QUALIFYING PROPERTY;

2 (i) EXERCISING THE SUBJECT JURISDICTION'S RIGHT OF FIRST
3 REFUSAL IN ACCORDANCE WITH SECTION 29-4-1202; OR

4 (j) APPLYING THE DESIGN STANDARDS AND PROCEDURES OF A
5 HISTORIC DISTRICT TO A QUALIFYING PROPERTY THAT IS LOCATED IN A
6 HISTORIC DISTRICT, INCLUDING A STANDARD OR PROCEDURE RELATED TO
7 DEMOLITION.

8 **29-35-503. Qualifying property requirements for a subject
9 jurisdiction - allowable uses.**

10 (1) A SUBJECT JURISDICTION SHALL NOT:

11 (a) DISALLOW CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT
12 ON A QUALIFYING PROPERTY ON THE BASIS OF HEIGHT IF THE TALLEST
13 STRUCTURE IN THE RESIDENTIAL DEVELOPMENT IS NO MORE THAN THREE
14 STORIES OR FORTY-FIVE FEET TALL;

15 (b) DISALLOW CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT
16 ON A QUALIFYING PROPERTY ON THE BASIS OF HEIGHT IF THE TALLEST
17 STRUCTURE IN THE RESIDENTIAL DEVELOPMENT COMPLIES WITH THE
18 HEIGHT REQUIREMENTS:

19 (I) OF THE ZONING DISTRICT IN WHICH THE RESIDENTIAL
20 DEVELOPMENT WILL BE BUILT; OR

21 (II) THAT APPLY TO ANY PARCEL ZONED FOR RESIDENTIAL USE
22 THAT IS CONTIGUOUS TO THE QUALIFYING PROPERTY ON WHICH THE
23 RESIDENTIAL DEVELOPMENT WILL BE BUILT;

24 (c) DISALLOW CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT
25 ON A QUALIFYING PROPERTY BASED ON THE NUMBER OF DWELLING UNITS
26 THE RESIDENTIAL DEVELOPMENT WILL CONTAIN, EXCEPT IN ACCORDANCE
27 WITH ONE OF THE STANDARDS LISTED IN SUBSECTION (1)(d) OF THIS

1 SECTION; OR

2 (d) APPLY STANDARDS TO A RESIDENTIAL DEVELOPMENT ON A
3 QUALIFYING PROPERTY THAT ARE MORE RESTRICTIVE THAN THE
4 STANDARDS THAT THE SUBJECT JURISDICTION APPLIES TO SIMILAR
5 HOUSING CONSTRUCTED WITHIN THE SUBJECT JURISDICTION, INCLUDING
6 STANDARDS RELATED TO:

7 (I) STRUCTURE SETBACKS FROM PROPERTY LINES;
8 (II) LOT COVERAGE OR OPEN SPACE;
9 (III) ON-SITE PARKING REQUIREMENTS;
10 (IV) NUMBERS OF BEDROOMS IN A MULTIFAMILY RESIDENTIAL
11 DEVELOPMENT;
12 (V) ON-SITE LANDSCAPING, SCREENING, AND BUFFERING
13 REQUIREMENTS;

14 (VI) MINIMUM DWELLING UNITS PER ACRE; OR
15 (VII) SETBACKS FROM OIL AND GAS FACILITIES AND OPERATIONS.

16 (2) PROVIDED THAT THE USES ARE ALLOWED CONDITIONALLY OR
17 BY RIGHT WITHIN THE ZONING DISTRICT IN WHICH A QUALIFYING PROPERTY
18 IS LOCATED, A SUBJECT JURISDICTION SHALL ALLOW THE FOLLOWING USES
19 IN A RESIDENTIAL DEVELOPMENT ON A QUALIFYING PROPERTY:

20 (a) CHILD CARE; AND
21 (b) THE PROVISION OF RECREATIONAL, SOCIAL, OR EDUCATIONAL
22 SERVICES PROVIDED BY COMMUNITY ORGANIZATIONS FOR USE BY THE
23 RESIDENTS OF THE RESIDENTIAL DEVELOPMENT AND THE SURROUNDING
24 COMMUNITY.

25 **29-35-504. Notification to county assessor.**

26 WITHIN TWO WEEKS OF A SUBJECT JURISDICTION ALLOWING THE
27 CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT ON A QUALIFYING

1 PROPERTY PURSUANT TO SECTION 29-35-502 (1), THE OWNER OF THE
2 QUALIFYING PROPERTY SHALL PROVIDE NOTICE OF THE ALLOWANCE OF
3 THE CONSTRUCTION OF THE RESIDENTIAL DEVELOPMENT TO THE COUNTY
4 ASSESSOR IN THE COUNTY IN WHICH THE QUALIFYING PROPERTY IS
5 LOCATED. THE NOTICE MUST INCLUDE THE PROPERTY ADDRESS, THE
6 ASSESSOR'S PARCEL IDENTIFICATION NUMBER FOR THE PROPERTY, AND THE
7 DATE ON WHICH THE RESIDENTIAL DEVELOPMENT WAS ALLOWED BY THE
8 SUBJECT JURISDICTION.

9 **SECTION 4. Safety clause.** The general assembly finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety or for appropriations for
12 the support and maintenance of the departments of the state and state
13 institutions.