

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0434.01 Bob Lackner x4350

HOUSE BILL 17-1309

HOUSE SPONSORSHIP

Jackson and Winter, Covarrubias, Coleman, Salazar

SENATE SPONSORSHIP

Coram and Guzman,

House Committees

Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE DOCUMENTARY FEE IMPOSED BY**
102 **COUNTIES FOR THE PURPOSE OF FINANCING A STATEWIDE**
103 **AFFORDABLE HOUSING INVESTMENT FUND.**

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>.)

Currently, when the total consideration paid by the purchaser in a real property transaction exceeds \$500, the county clerk and recorder collects a one cent documentary fee for each \$100 of such consideration for the recording of real estate deeds or other instruments in writing.

Section 1 of the bill raises the fee to 2 cents commencing January

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.

1, 2018.

Section 2 specifies that 50% of the moneys generated from the imposition of the total fee must be deposited with the county treasurer at least once each month and credited by him or her in the manner prescribed by law and the remaining 50% of the moneys generated from the imposition of the fee must be transmitted by the county treasurer to the Colorado housing and finance authority (authority) at least once each month to be credited to the statewide affordable housing investment fund (fund).

Section 3 creates the fund in the authority. The bill specifies the source of moneys to be deposited into the fund and that the authority is to administer the fund.

All moneys in the fund must be expended for the purpose of supporting new or existing programs that:

- ! Facilitate the construction or rehabilitation of housing containing residential units designated as affordable housing; and
- ! Provide financial assistance to any nonprofit entity and political subdivision that makes loans to households to enable the financing, purchase, or rehabilitation of residential units.

The bill defines "affordable housing" to mean housing that is designed to be affordable for households with an income that is:

- ! Up to 80% of the area median income for rental occupancy; and
- ! Up to 110% of the area median income for home ownership.

This section of the bill also specifies the intent of the general assembly that, of the moneys made available to the authority to support the programs supported by the bill, the authority shall direct that a portion of such moneys be expended on programs in counties with a total population of 175,000 or fewer residents.

New or existing programs supported by the fund are to be administered by the authority. The authority may determine how best to allocate and expend the portion of moneys deposited into the fund that support the programs that it administers under the bill.

Section 3 also requires the authority to submit a report, no later than November 1, 2021, and no later than November 1 of the last year of each 3-year period thereafter, specifying the use of the fund during the prior 3-year period. The report is to be sent to the governor and to the senate and house finance committees. The report must include information on all moneys allocated to, and expended from, the fund.

1 **SECTION 1.** In Colorado Revised Statutes, 39-13-102, **amend**
2 (2)(b) as follows:

3 **39-13-102. Documentary fee imposed - amount - to whom**
4 **payable.** (2) The amount of documentary fee payable in each case shall
5 be as follows:

6 (b) When the total consideration paid by the purchaser, inclusive
7 of the amount of any lien or encumbrance against the real property
8 granted or conveyed and all charges and expenses required to be paid for
9 the making of such grant or conveyance exceeds five hundred dollars, the
10 documentary fee payable shall be computed at the rate of ~~one cent~~ TWO
11 CENTS for each one hundred dollars, or major fraction thereof, of such
12 consideration.

13 **SECTION 2.** In Colorado Revised Statutes, **amend** 39-13-108 as
14 follows:

15 **39-13-108. Disposition of fees.** (1) PRIOR TO JANUARY 1, 2018,
16 all documentary fees collected by the county clerk and recorder ~~shall~~
17 MUST be deposited with the treasurer at least once each month and
18 credited by him OR HER in the manner prescribed by law.

19 (2) COMMENCING JANUARY 1, 2018, OF THE DOCUMENTARY FEES
20 COLLECTED IN ACCORDANCE WITH SECTION 39-13-102 (2)(b), FIFTY
21 PERCENT OF THE MONEYS GENERATED FROM THE IMPOSITION OF THE FEE
22 MUST BE DEPOSITED WITH THE COUNTY TREASURER AT LEAST ONCE EACH
23 MONTH AND CREDITED BY HIM OR HER IN THE MANNER PRESCRIBED BY
24 LAW AND THE REMAINING FIFTY PERCENT OF THE MONEYS GENERATED
25 FROM THE IMPOSITION OF THE FEE MUST BE TRANSMITTED BY THE COUNTY
26 TREASURER TO THE COLORADO HOUSING AND FINANCE AUTHORITY
27 CREATED IN SECTION 24-4-704 (1) AT LEAST ONCE EACH MONTH TO BE

1 CREDITED TO THE STATEWIDE AFFORDABLE HOUSING INVESTMENT FUND
2 CREATED IN SECTION 29-4-736 (1).

3 **SECTION 3.** In Colorado Revised Statutes, **add** 29-4-736 as
4 follows:

5 **29-4-736. Statewide affordable housing investment fund -**
6 **creation - uses of moneys - legislative intent - definitions.** (1) AS USED
7 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 (a) "AFFORDABLE HOUSING" MEANS HOUSING THAT IS DESIGNED
9 TO BE AFFORDABLE FOR HOUSEHOLDS WITH AN INCOME THAT IS:

10 (I) UP TO EIGHTY PERCENT OF THE AREA MEDIAN INCOME FOR
11 RENTAL OCCUPANCY; AND

12 (II) UP TO ONE HUNDRED TEN PERCENT OF THE AREA MEDIAN
13 INCOME FOR HOME OWNERSHIP.

14 (b) "AREA MEDIAN INCOME" MEANS INCOME THAT IS DETERMINED
15 IN ACCORDANCE WITH GUIDELINES OR OTHER STANDARDS PROMULGATED
16 BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
17 DEVELOPMENT.

18 (c) "RESIDENTIAL UNITS" MEANS SINGLE-FAMILY RESIDENCES AND
19 MULTI-FAMILY UNITS.

20 (2) THERE IS HEREBY CREATED IN THE AUTHORITY THE STATEWIDE
21 AFFORDABLE HOUSING INVESTMENT FUND, REFERRED TO IN THIS SECTION
22 AS THE "FUND", WHICH FUND IS TO BE ADMINISTERED BY THE AUTHORITY.
23 THE AUTHORITY SHALL DEPOSIT INTO THE FUND:

24 (a) ALL MONEYS TRANSMITTED TO IT BY THE COUNTY TREASURERS
25 PURSUANT TO SECTION 39-13-108 (2);

26 (b) ANY MONEYS MADE AVAILABLE BY THE STATE FOR THE
27 PURPOSES OF THE FUND; AND

1 (c) ANY MONEYS THAT ARE MADE AVAILABLE BY OR TO THE
2 AUTHORITY FROM ANY OTHER SOURCES FOR THE PURPOSE OF THE FUND.

3 (3) ALL MONEYS IN THE FUND MUST BE EXPENDED FOR THE
4 PURPOSE OF SUPPORTING NEW OR EXISTING PROGRAMS THAT:

5 (a) FACILITATE THE CONSTRUCTION OR REHABILITATION OF
6 HOUSING CONTAINING RESIDENTIAL UNITS DESIGNATED AS AFFORDABLE
7 HOUSING; AND

8 (b) PROVIDE FINANCIAL ASSISTANCE TO ANY NONPROFIT ENTITY
9 AND POLITICAL SUBDIVISION THAT MAKES LOANS TO HOUSEHOLDS TO
10 ENABLE THE FINANCING, PURCHASE, OR REHABILITATION OF RESIDENTIAL
11 UNITS.

12 (4) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, OF THE
13 MONEYS MADE AVAILABLE TO THE AUTHORITY TO SUPPORT THE
14 PROGRAMS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, THE AUTHORITY
15 SHALL DIRECT THAT A PORTION OF SUCH MONEYS BE EXPENDED ON
16 PROGRAMS IN COUNTIES WITH A TOTAL POPULATION OF ONE HUNDRED
17 SEVENTY-FIVE THOUSAND OR FEWER RESIDENTS.

18 (5) NEW OR EXISTING PROGRAMS SUPPORTED BY THE FUND THAT
19 ARE DESCRIBED IN SUBSECTION (2) OF THIS SECTION ARE TO BE
20 ADMINISTERED BY THE AUTHORITY. THE AUTHORITY MAY DETERMINE
21 HOW BEST TO ALLOCATE AND EXPEND THE PORTION OF MONEYS DEPOSITED
22 INTO THE FUND THAT SUPPORT THE PROGRAMS THAT IT ADMINISTERS
23 PURSUANT TO SUBSECTION (4) OF THIS SECTION.

24 (6) ANY MONEYS IN THE FUND NOT EXPENDED AT THE END OF ANY
25 FISCAL YEAR MUST REMAIN IN THE FUND AND WILL NOT BE TRANSFERRED
26 TO OR REVERT TO THE GENERAL FUND AT THE END OF ANY SUCH FISCAL
27 YEAR. ANY INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF

1 MONEYS IN THE FUND MUST REMAIN IN THE FUND AND SHALL NOT BE
2 CREDITED TO THE GENERAL FUND.

3 (7) MONEYS HELD IN THE FUND SHALL NOT BE TRANSFERRED TO
4 ANY OF THE OTHER FUNDS CREATED IN THE AUTHORITY PURSUANT TO THIS
5 PART 7.

6 (8) NO LATER THAN NOVEMBER 1, 2021, AND NO LATER THAN
7 NOVEMBER 1 OF THE LAST YEAR IN EACH THREE-YEAR PERIOD
8 THEREAFTER, THE AUTHORITY SHALL SUBMIT A REPORT SPECIFYING THE
9 USE OF THE FUND DURING THE PRIOR THREE-YEAR PERIOD TO THE
10 GOVERNOR AND TO THE FINANCE COMMITTEES OF THE SENATE AND HOUSE
11 OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES. THE REPORT
12 MUST INCLUDE INFORMATION ON ALL MONEYS ALLOCATED TO, AND
13 EXPENDED FROM, THE FUND. THE REPORT SHALL ALSO INCLUDE
14 ALLOCATIONS THE AUTHORITY HAS MADE IN ACCORDANCE WITH
15 SUBSECTION (4) OF THIS SECTION.

16 **SECTION 4. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2018 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.