

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 17-0104.01 Bob Lackner x4350

HOUSE BILL 17-1091

HOUSE SPONSORSHIP

Wilson,

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs and Labor
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF A CREDIT AGAINST THE STATE INCOME**
102 **TAX TO PROMOTE EMPLOYER-ASSISTED HOUSING PROJECTS IN**
103 **RURAL AREAS.**

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>.)

For income tax years commencing on or after January 1, 2017, but prior to January 1, 2021, the bill allows a taxpayer making a donation to an employer-assisted housing project located in a rural area a credit against the taxpayer's state income tax obligations.

The bill defines "donation" to mean cash, securities, or real or

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.

personal property that is donated to a not-for-profit sponsor that is used solely for costs associated with an employer-assisted housing project located within the state.

The bill defines "employer-assisted housing project" to mean down payment assistance, reduced-interest mortgages, mortgage guarantee programs, rental subsidies, or individual development account savings plans that are:

- ! Provided by an employer to employees to assist them in securing affordable housing near the workplace;
- ! Restricted to housing in geographic areas that are near such workplaces;
- ! Restricted to employees in households whose adjusted income is less than 120% of the median income of the geographic area of the household's employer-assisted housing project; and
- ! Restricted to housing that is located in a rural area of the state.

The bill specifies procedures by which a not-for-profit entity that is a sponsor of an employer-assisted housing project (sponsor) applies to either the Colorado housing and finance authority or a municipality or county finance authority for an award of a tax credit allowed under the bill. The bill also specifies procedures governing an agency's review of the application and the process by which the agency, if it approves the application, reserves tax credits for donations to the employer-assisted housing project. The amount of the tax credits reserved must be 50% of the approved amount of the donation or the actual donation, whichever is less.

The bill also specifies procedures by which the donation is documented and achieves proper certification.

For employer-assisted housing projects, the bill allows a sponsor to aggregate a number of donations from multiple employers into a single source of funds for use in assisting eligible employees to secure housing near their workplaces. The tax credits awarded may be divided among the donors of the individual donations as determined by the sponsor.

The bill specifies that the minimum amount of a donation is \$10,000; except that individual donations in an aggregated donation may be less than that amount.

The bill requires each agency that has allocated tax credits to report to the general assembly on a periodic basis on the overall economic activity, usage, and impact to the state from the employer-assisted housing projects for which it has allocated tax credits.

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

1 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-539 as
2 follows:

3 **39-22-539. Credit for the donation of moneys or property to**
4 **the sponsor of an employer-assisted housing project located in a rural**
5 **area - report to general assembly - rules - legislative declaration -**
6 **definitions - repeal.** (1) THE GENERAL ASSEMBLY FINDS, DETERMINES,
7 AND DECLARES THAT:

8 (a) SINCE 2000, THE STATE'S NEED FOR AFFORDABLE HOUSING IN
9 ALL GEOGRAPHIC REGIONS HAS GROWN EXPONENTIALLY. AMONG OTHER
10 EFFECTS, THE IMMENSE DEMAND FOR AFFORDABLE HOUSING IS A HUGE
11 IMPEDIMENT TO ECONOMIC GROWTH AND OPPORTUNITY WITHIN THE STATE
12 AND THE ABILITY OF THE STATE TO PROVIDE A HIGH QUALITY OF LIFE FOR
13 ALL ITS RESIDENTS AND TO DEVELOP, ATTRACT, AND MAINTAIN A HIGH
14 QUALITY WORKFORCE.

15 (b) A SIGNIFICANT SEGMENT OF THE STATE'S POPULATION,
16 INCLUDING MANY OF THE STATE'S TEACHERS, EMERGENCY RESPONDERS,
17 HEALTH CARE PROFESSIONALS, AND SMALL BUSINESS OWNERS AND
18 EMPLOYEES EARN TOO MUCH ON AN ANNUAL BASIS TO QUALIFY FOR MOST
19 FEDERAL AND STATE HOUSING ASSISTANCE BUT DO NOT MAKE ENOUGH IN
20 YEARLY INCOME TO BE ABLE TO AFFORD MARKET RATE HOUSING,
21 PARTICULARLY HOUSING THAT MAY BE IN CLOSE PROXIMITY TO THEIR
22 PLACE OF EMPLOYMENT.

23 (c) THE SHORTAGE OF AFFORDABLE HOUSING THAT IS CLOSE TO
24 EMPLOYEES' PLACES OF EMPLOYMENT IS AN ESPECIALLY ACUTE PROBLEM
25 FOR WORKERS IN MANY OF THE STATE'S RURAL AREAS.

26 (d) BY ENACTING THE TAX CREDIT CREATED IN THIS SECTION, THE
27 GENERAL ASSEMBLY INTENDS TO PROVIDE CERTAIN FINANCIAL INCENTIVES

1 TO ENCOURAGE THE DEVELOPMENT AND GROWTH OF EMPLOYER-ASSISTED
2 HOUSING PROJECTS THAT ARE LOCATED IN RURAL AREAS FOR THE PURPOSE
3 OF EXPANDING THE SUPPLY OF HOUSING IN CLOSE PROXIMITY TO
4 WORKPLACES FOR INDIVIDUALS IN MODERATE INCOME HOUSEHOLDS, AS
5 DEFINED IN THIS SECTION, WHO LIVE AND WORK IN RURAL AREAS OF THE
6 STATE.

7 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (a) "CERTIFICATE" MEANS A DOCUMENT ISSUED BY A SPONSOR IN
10 A FORMAT ACCEPTABLE TO THE DEPARTMENT EVIDENCING A DONATION
11 RECEIVED TO SUPPORT AN EMPLOYER-ASSISTED ELIGIBLE ACTIVITY IN A
12 RURAL AREA.

13 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ANY
14 SUCCESSOR ENTITY.

15 (c) "DIVISION" MEANS THE DIVISION OF HOUSING IN THE
16 DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-704 (1).

17 (d) "DONATION" MEANS CASH, SECURITIES, OR REAL PROPERTY
18 THAT IS DONATED TO A SPONSOR THAT IS USED SOLELY FOR OR
19 ASSOCIATED WITH AN EMPLOYER-ASSISTED ELIGIBLE ACTIVITY.

20 (e) "EMPLOYER-ASSISTED ELIGIBLE ACTIVITY" MEANS AN ACTIVITY
21 THAT:

22 (I) CREATES OR PRESERVES AFFORDABLE HOUSING FOR ONE OR
23 MORE MODERATE INCOME HOUSEHOLDS NEAR THEIR PLACE OF
24 EMPLOYMENT IN A RURAL AREA;

25 (II) ASSISTS ONE OR MORE MODERATE INCOME HOUSEHOLDS IN
26 OBTAINING SAFE AND AFFORDABLE HOUSING NEAR THEIR PLACE OF
27 EMPLOYMENT IN A RURAL AREA; OR

5 (f) "MODERATE INCOME HOUSEHOLD" MEANS A HOUSEHOLD
6 WHOSE ADJUSTED INCOME IS LESS THAN ONE HUNDRED TWENTY PERCENT
7 OF THE MEDIAN INCOME WITHIN THE GEOGRAPHIC AREA OF THE LOCATION
8 OF THE EMPLOYER-ASSISTED ELIGIBLE ACTIVITY, ADJUSTED FOR FAMILY
9 SIZE, AS SUCH ADJUSTED INCOME AND MEDIAN INCOME FOR THE
10 GEOGRAPHIC AREA ARE DETERMINED FROM TIME TO TIME BY THE UNITED
11 STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR
12 PURPOSE OF SECTION 8 OF THE "UNITED STATES HOUSING ACT OF 1937",
13 42 U.S.C. SEC. 1437.

14 (g) "RURAL AREA" MEANS A COUNTY THAT IS LOCATED IN A
15 NONMETROPOLITAN AREA OF THE STATE THAT EITHER HAS NO
16 MUNICIPALITY WITH FIFTY THOUSAND OR MORE PERMANENT RESIDENTS
17 WITHIN ITS TERRITORIAL BOUNDARIES, BASED UPON THE MOST RECENT
18 POPULATION ESTIMATES PUBLISHED BY THE UNITED STATES CENSUS
19 BUREAU, OR THAT SATISFIES ALTERNATE CRITERIA FOR THE DESIGNATION
20 OF A RURAL AREA AS MAY BE PROMULGATED BY THE FEDERAL OFFICE OF
21 MANAGEMENT AND BUDGET.

22 (h) "SPONSOR" MEANS:

23 (I) THE COLORADO HOUSING AND FINANCE AUTHORITY CREATED
24 IN SECTION 29-4-704 (1):

25 (II) ANY HOUSING AUTHORITY OPERATED BY ANY MUNICIPALITY
26 OR COUNTY IN THE STATE:

27 (III) A NONPROFIT ORGANIZATION THAT IS DESIGNATED AS A

1 COMMUNITY DEVELOPMENT CORPORATION UNDER TITLE VII OF THE
2 FEDERAL "ECONOMIC OPPORTUNITY ACT OF 1964", 42 U.S.C. SEC. 2701
3 ET. SEQ.; OR

4 (IV) AN INTERNATIONAL, NONGOVERNMENTAL, NOT FOR PROFIT
5 ORGANIZATION WHOSE MISSION IS CONCENTRATED ON CONSTRUCTING
6 AFFORDABLE HOUSING.

7 (i) "TAXPAYER" MEANS A PERSON MAKING A DONATION WHO FILES
8 AN INCOME TAX RETURN UNDER THIS ARTICLE 22.

9 (3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
10 JANUARY 1, 2018, BUT PRIOR TO JANUARY 1, 2022, THERE SHALL BE
11 ALLOWED FOR ANY TAXPAYER A CREDIT AGAINST THE INCOME TAXES
12 IMPOSED BY THIS ARTICLE 22 FOR A DONATION THE TAXPAYER MAKES TO
13 A SPONSOR THAT IS USED SOLELY FOR THE COSTS ASSOCIATED WITH AN
14 EMPLOYER-ASSISTED ELIGIBLE ACTIVITY IN A RURAL AREA.

15 (b) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION IS
16 EQUAL TO FIFTY PERCENT OF THE APPROVED AMOUNT OF THE DONATION
17 AS DOCUMENTED IN A FORM AND MANNER ACCEPTABLE TO THE
18 DEPARTMENT.

19 (4) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
20 SECTION EXCEEDS THE AMOUNT OF THE INCOME TAX OTHERWISE DUE ON
21 THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE
22 CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN
23 OFFSET AGAINST INCOME TAXES IN SUCH INCOME TAX YEAR IS NOT
24 ALLOWED AS A REFUND BUT MAY BE CARRIED FORWARD AND APPLIED
25 AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME
26 TAX YEARS, BUT MUST FIRST BE APPLIED AGAINST THE INCOME TAX DUE
27 FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.

1 (5) (a) A TAXPAYER CLAIMING THE CREDIT ALLOWED BY THIS
2 SECTION SHALL SUBMIT, MAINTAIN, AND RECORD ANY INFORMATION THAT
3 THE DEPARTMENT MAY REQUIRE BY RULE REGARDING THE TAXPAYER'S
4 DONATION TO THE SPONSOR, INCLUDING THE CERTIFICATE RECEIVED
5 EVIDENCING THE DONATION. THE CERTIFICATE MUST STATE THE
6 EFFECTIVE DATE OF THE DONATION. A TAXPAYER SHALL ELECTRONICALLY
7 FILE WITH THE DEPARTMENT THE CERTIFICATE THE TAXPAYER RECEIVES
8 FROM THE SPONSOR. THE DIVISION IS RESPONSIBLE FOR VERIFYING THE
9 INFORMATION STATED ON THE TAX CERTIFICATES SUBMITTED BY A
10 TAXPAYER CLAIMING A CREDIT ALLOWED BY THIS SECTION. THE DIVISION
11 MAY IMPOSE A CHARGE ON THE TAXPAYER THAT REFLECTS THE DIVISION'S
12 ACTUAL COSTS IN PROCESSING THE INFORMATION SUBMITTED BY THE
13 TAXPAYER IN ORDER TO CLAIM A TAX CREDIT ALLOWED BY THIS SECTION.

14 (b) THE SPONSOR RECEIVING THE DONATION SHALL SUBMIT AND
15 MAINTAIN SUCH RECORDS AS REQUIRED BY THE DEPARTMENT TO ENSURE
16 THAT AFFORDABLE HOUSING OPPORTUNITIES ARE BEING PROVIDED BY THIS
17 SECTION.

18 (6) EACH SPONSOR THAT HAS ISSUED CERTIFICATES EVIDENCING
19 DONATIONS IN A CALENDAR YEAR UNDER THIS SECTION IN THE
20 CUMULATIVE AMOUNT OF TEN THOUSAND DOLLARS OR MORE SHALL
21 REPORT TO THE GENERAL ASSEMBLY BY MARCH 1, 2019, AND BY MARCH
22 1 OF EACH YEAR THEREAFTER, THROUGH AND INCLUDING MARCH 1, 2022,
23 ON THE OVERALL ECONOMIC ACTIVITY, USAGE, AND IMPACT TO THE STATE
24 FROM THE EMPLOYER-ASSISTED ELIGIBLE ACTIVITY FOR WHICH IT HAS
25 CERTIFIED A DONATION ELIGIBLE FOR A TAX CREDIT UNDER THIS SECTION.

26 (7) THE DEPARTMENT MAY RECAPTURE TAX CREDITS PROVIDED TO
27 A TAXPAYER IF THE SPONSOR CERTIFYING THE DONATION IS UNABLE TO

1 DOCUMENT OR VALIDATE COMPLETION OF THE EMPLOYER-ASSISTED
2 ELIGIBLE ACTIVITIES WITHIN FIVE YEARS OF THE EFFECTIVE DATE OF THE
3 DONATION BEING CERTIFIED.

4 (8) THE DEPARTMENT AND THE DIVISION SHALL PROMULGATE, IN
5 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, ANY RULES NECESSARY TO
6 FACILITATE THE EFFECTIVE IMPLEMENTATION OF THIS SECTION. THE
7 DEPARTMENT AND THE DIVISION MAY EACH DEVELOP POLICIES AND
8 PROCEDURES NECESSARY TO FACILITATE THE EFFECTIVE IMPLEMENTATION
9 OF THIS SECTION.

10 (9) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
11 TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION FOR A
12 DONATION FOR WHICH THE TAXPAYER IS CLAIMING ANY OTHER STATE TAX
13 CREDIT OR DEDUCTION.

14 (10) NOT LATER THAN DECEMBER 1 OF EACH YEAR IN WHICH THE
15 DIVISION OF HOUSING VERIFIES A TAX CREDIT IN ACCORDANCE WITH
16 SUBSECTION (5)(a) OF THIS SECTION, THE DIVISION SHALL PROVIDE THE
17 DEPARTMENT WITH AN ELECTRONIC REPORT ON THE TAXPAYERS WHO
18 HAVE RECEIVED A CREDIT ALLOWED BY THIS SECTION FOR THE CALENDAR
19 YEAR THAT CONFORMS TO THE INCOME TAX YEAR FOR WHICH THE CREDIT
20 IS ALLOWED. THE REPORT MUST INCLUDE THE FOLLOWING INFORMATION:

21 (a) THE NAME OF THE TAXPAYER;
22 (b) THE LAST FOUR DIGITS OF THE TAXPAYER'S SOCIAL SECURITY
23 NUMBER OR FEDERAL EMPLOYEE IDENTIFICATION NUMBER;
24 (c) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION THAT
25 IS ALLOCATED TO THE TAXPAYER; AND
26 (d) ANY ASSOCIATED NAMES OF TAXPAYERS AND SOCIAL SECURITY
27 NUMBERS OR FEDERAL EMPLOYEE IDENTIFICATION NUMBERS OF A CREDIT

1 ALLOWED BY THIS SECTION THAT IS ALLOCATED THROUGH A
2 PASS-THROUGH ENTITY.

3 (11) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2031.

4 [REDACTED]

5 **SECTION 2. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part will not take effect
12 unless approved by the people at the general election to be held in
13 November 2018 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.