

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 26-0092.01 Jed Franklin x5484

SENATE BILL 26-001

SENATE SPONSORSHIP

Roberts, Bridges

HOUSE SPONSORSHIP

Boesenecker and Richardson,

Senate Committees
Local Government & Housing

House Committees

A BILL FOR AN ACT

101 **CONCERNING HOUSING, AND, IN CONNECTION THEREWITH,**
102 **AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO**
103 **APPROPRIATE MONEY TO SUPPORT SPECIFIED TYPES OF HOUSING**
104 **AND MAKING THE MIDDLE-INCOME HOUSING TAX CREDIT**
105 **AVAILABLE TO TRANSFEREES WHO DO NOT OWN AN INTEREST IN**
106 **A QUALIFIED DEVELOPMENT.**

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, a board of county commissioners (board) may not

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.

appropriate general fund money from ad valorem taxes for multijurisdictional housing authorities or other housing authorities established in statute (housing authorities). The bill allows a board to use revenue generated by ad valorem taxes that is in the county's general fund or in other specified county funds for housing authorities. In addition, the bill allows a board to use county general fund money from ad valorem taxes or money from other county funds for workforce housing.

Currently, a middle-income housing tax credit (credit) may be transferred from a governmental entity or quasi-governmental entity to a qualified taxpayer. A qualified taxpayer must own an interest in a qualified project to claim the credit. The bill entitles an individual, person, firm, corporation, or other entity subject to income tax and transferred a credit by a governmental entity or quasi-governmental entity to claim the credit without owning an interest in a qualified project.

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

2 **SECTION 1. In Colorado Revised Statutes, 30-35-202, add**

3 **(1)(d) as follows:**

4 **30-35-202. Power to sell public works - sell or lease property.**

5 **(1) The governing body shall have the following additional**
6 **powers:**

7 **(d) NOTWITHSTANDING SUBSECTIONS (1)(a) AND (1)(b) OF THIS**
8 **SECTION, TO SELL AND DISPOSE OF, BY ORDINANCE, ANY PUBLIC BUILDING**
9 **OR REAL PROPERTY OWNED BY A COUNTY THAT IS HELD FOR GOVERNMENT**
10 **PURPOSES, OTHER THAN PARK PURPOSES, IF THE SALE AND DISPOSITION OF**
11 **THE PUBLIC BUILDING OR REAL PROPERTY IS FOR THE PURPOSE OF**
12 **PROVIDING PROPERTY TO BE USED FOR THE DEVELOPMENT OF AFFORDABLE**
13 **HOUSING OR HOUSING IDENTIFIED IN A HOUSING NEEDS ASSESSMENT**
14 **CONDUCTED PURSUANT TO SECTIONS 24-32-3703 OR 24-32-3704. THE**
15 **GOVERNING BODY SHALL DETERMINE THE TERMS AND CONDITIONS OF THE**
16 **SALE AND DISPOSITION AT A REGULAR OR SPECIAL MEETING.**

17 **SECTION 2. In Colorado Revised Statutes, 31-15-713, add**

1 (1)(d) as follows:

2 **31-15-713. Power to sell public works - real property.**

3 (1) The governing body of each municipality has the power:

4 (d) NOTWITHSTANDING SUBSECTIONS (1)(a) AND (1)(b) OF THIS

5 SECTION, TO SELL AND DISPOSE OF, BY ORDINANCE, ANY PUBLIC BUILDING

6 OR REAL PROPERTY OWNED BY A MUNICIPALITY THAT IS HELD FOR

7 GOVERNMENT PURPOSES, OTHER THAN PARK PURPOSES, IF THE SALE AND

8 DISPOSITION OF THE PUBLIC BUILDING OR REAL PROPERTY IS FOR THE

9 PURPOSE OF PROVIDING PROPERTY TO BE USED FOR THE DEVELOPMENT OF

10 AFFORDABLE HOUSING OR HOUSING IDENTIFIED IN A HOUSING NEEDS

11 ASSESSMENT CONDUCTED PURSUANT TO SECTIONS 24-32-3703 OR

12 24-32-3704. THE GOVERNING BODY SHALL DETERMINE THE TERMS AND

13 CONDITIONS OF THE SALE AND DISPOSITION AT A REGULAR OR SPECIAL

14 MEETING.

15 **SECTION 3. In Colorado Revised Statutes, amend 31-15-801 as**

16 follows:

17 **31-15-801. Agreements - ordinance - financing.**

18 In order to provide necessary land, buildings, equipment, and other

19 property for governmental or proprietary purposes, INCLUDING FOR THE

20 DEVELOPMENT OF AFFORDABLE HOUSING OR HOUSING IDENTIFIED IN A

21 HOUSING NEEDS ASSESSMENT CONDUCTED PURSUANT TO SECTIONS

22 24-32-3703 OR 24-32-3704, or for financing of forest health projects, as

23 defined in section 37-95-103 (4.9), any municipality is authorized to enter

24 into long-term rental or leasehold agreements. but in no event shall this

25 be construed as authorizing the use by any municipality of leasehold

26 agreements to finance residential housing. Such agreements may include

27 an option to purchase and acquire title to such leased or rented property

1 within a period not exceeding the useful life of such property and in no
2 case exceeding thirty years. Each such agreement and the terms thereof
3 shall be concluded by an ordinance duly enacted by the municipality. No
4 such ordinance shall take effect before thirty days after its passage and
5 publication. The governing body of any municipality is authorized to
6 provide for the payment of said rentals from a general levy imposed upon
7 both personal and real property included within the boundaries of the
8 municipality; by imposing rates, tolls, and service charges for the use of
9 such property or any part thereof by others; from any other available
10 municipal income; or from any one or more of the said sources. The
11 obligation to pay such rentals shall not constitute an indebtedness of said
12 municipality within the meaning of the constitutional limitations on
13 contracting of indebtedness by municipalities.

14 **SECTION 4. In Colorado Revised Statutes, 29-1-204.5, amend**
15 (7.5)(c); and add (7.5)(d) as follows:

16 **29-1-204.5. Establishment of multijurisdictional housing**
17 **authorities.**

18 (c) The questions proposed to the registered electors under
19 paragraphs (a) and (b) of this subsection PURSUANT TO SUBSECTIONS
20 (7.5)(a) AND (7.5)(b) OF THIS SECTION shall be submitted at a general
21 election, BIENNIAL LOCAL ELECTION, or any election to be held on the first
22 Tuesday in November of an odd-numbered year. The action shall not take
23 effect unless a majority of the registered electors voting thereon at the
24 election vote in favor thereof. The election shall be conducted in
25 substantially the same manner as county elections and the county clerk
26 and recorder of each county in which the election is conducted shall assist
27 the authority in conducting the election. The authority shall pay the costs

1 incurred by each county in conducting such an election. No moneys
2 MONEY of the authority may be used to urge or oppose passage of an
3 election required under this section.

4 (d) THE CONTRACT ESTABLISHING THE AUTHORITY MAY BE
5 CONDITIONED UPON VOTER APPROVAL BY THE INDIVIDUAL CONTRACTING
6 JURISDICTION AS SUCH TERMS MAY BE DEFINED IN THE CONTRACT. THE
7 QUESTION OF ESTABLISHING THE AUTHORITY MAY BE COMBINED WITH A
8 QUESTION ABOUT A TAX, IMPACT FEE, MULTIPLE-FISCAL YEAR DEBT, OR
9 OTHER FINANCIAL OBLIGATION REQUIRED BY SUBSECTIONS (7.5)(a) OR
10 (7.5)(b) OF THIS SECTION.

11 **SECTION 5.** In Colorado Revised Statutes, 30-11-107, **amend**
12 (1)(s) as follows:

13 **30-11-107. Powers of the board.**

14 (1) The board of county commissioners of each county has power
15 at any meeting:

16 (s) To appropriate ~~moneys from sources other than ad valorem~~
17 ~~taxes to~~ MONEY FOR WORKFORCE HOUSING, HOUSING PROGRAMS,
18 multijurisdictional housing authorities, or housing authorities established
19 under part 5 of article 4 of title 29 C.R.S., from the county general fund
20 OR OTHER SPECIFIED FUNDS ESTABLISHED BY THE BOARD;

21 **SECTION 6.** In Colorado Revised Statutes, 39-22-5404, **amend**
22 (1)(b) and (1)(c) as follows:

23 **39-22-5404. Qualified development owned by governmental**
24 **or quasi-governmental entity.**

25 (1) Notwithstanding any other provision of this part 54:

26 (b) (I) A governmental or quasi-governmental entity may transfer
27 credits allocated to it by the authority to ~~any qualified taxpayer~~ AN

1 INDIVIDUAL, PERSON, FIRM, CORPORATION, OR OTHER ENTITY SUBJECT TO
2 THE TAXES IMPOSED BY THIS ARTICLE 22.

3 (II) Such a governmental or quasi-governmental entity shall invest
4 in the qualified development any compensation received in connection
5 with a transfer of credits to a ~~qualified taxpayer~~ TRANSFEREE.

6 (III) A ~~qualified taxpayer~~ TRANSFEREE to which a credit is
7 transferred pursuant to this subsection (1)(b) is entitled to claim the credit
8 in the same manner and subject to the same conditions and allocation
9 rights as an owner of a qualified development to which the authority has
10 allocated a credit.

11 (c) (I) A credit allocated to a governmental or quasi-governmental
12 entity ~~or a transferee thereof~~ is subject to recapture pursuant to section
13 39-22-5405.

14 (II) If a credit transferred ~~to a qualified taxpayer~~ by a
15 governmental or quasi-governmental entity is recaptured pursuant to
16 section 39-22-5405, ~~the governmental or quasi-governmental entity shall~~
17 ~~notify the department of the identity of the qualified taxpayer to which it~~
18 ~~transferred a credit~~ THE TRANSFEREE MUST INCREASE THE TRANSFEREE'S
19 STATE INCOME TAX LIABILITY PURSUANT TO SECTION 39-22-5405 IN THE
20 SAME MANNER AND TO THE SAME EXTENT AS A PARTNER, SHAREHOLDER,
21 MEMBER, OR OTHER QUALIFIED TAXPAYER OF AN OWNER ALLOCATED A
22 CREDIT PURSUANT TO SECTION 39-22-5403 (6).

23 **SECTION 7. In Colorado Revised Statutes, 39-26-708, add**
24 **(1)(a)(III) and (2)(a)(III) as follows:**

25 **39-26-708. Construction and building materials - legislative**
26 **declaration - definition.**

27 **(1) There shall be exempt from taxation under part 1 of this article**

1 26 all sales of construction and building materials to contractors and
2 subcontractors for use in the building, erection, alteration, or repair of
3 structures, highways, roads, streets, and other public works owned and
4 used by:

5 (a) (III) AS USED IN THIS SUBSECTION (1)(a), "GOVERNMENTAL
6 CAPACITIES" INCLUDES THE BUILDING, ERECTION, ALTERATION, OR REPAIR
7 OF STRUCTURES FOR WORKFORCE HOUSING PROJECTS UNDERTAKEN BY
8 COUNTIES:

9 (2) There shall be exempt from taxation under part 2 of this article
10 26 the storage, use, or consumption by a contractor or subcontractor of
11 construction and building materials for use in the building, erection,
12 alteration, or repair of structures, highways, roads, streets, and other
13 public works owned and used by:

14 (a) (III) AS USED IN THIS SUBSECTION (2)(a), "GOVERNMENTAL
15 CAPACITIES" INCLUDES THE BUILDING, ERECTION, ALTERATION, OR REPAIR
16 OF STRUCTURES FOR WORKFORCE HOUSING PROJECTS UNDERTAKEN BY
17 COUNTIES:

18 **SECTION 8. Act subject to petition - effective date.** Section
19 39-22-5404, Colorado Revised Statutes, as amended in section 2 of this
20 act, takes effect January 1, 2027, and the remainder of this act takes effect
21 at 12:01 a.m. on the day following the expiration of the ninety-day period
22 after final adjournment of the general assembly; except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in
27 November 2026 and, in such case, will take effect on the date of the

1 official declaration of the vote thereon by the governor; except that
2 section 39-22-5404, Colorado Revised Statutes, as amended in section 2
3 of this act, takes effect January 1, 2027, or on the date of the official
4 declaration of the vote thereon by the governor, whichever is later.