

Original Proposal Filed for Review and Comment

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*Be it Enacted by the People of the State of Colorado:*

ELECTIONS  
CO SECRETARY OF STATE

In Colorado Revised Statutes, **add** part 12, to article 4 of title 29 as follows:

**ARTICLE 12  
COMMUNITY ATTAINABLE HOUSING FEE**

**29-4-1201. LEGISLATIVE DECLARATION.** THE PEOPLE OF THE STATE OF COLORADO HEREBY FIND AND DECLARE THAT:

(1) THERE IS AN ACUTE SHORTAGE OF ATTAINABLE HOUSING IN COLORADO THAT MAKES IT DIFFICULT FOR WORKERS SUCH AS NURSES, TEACHERS, FIREFIGHTERS, LAW ENFORCEMENT OFFICERS, AND OTHER WORKERS WHO MAKE TOO MUCH TO QUALIFY FOR GOVERNMENTAL HOUSING SUBSIDIES TO LIVE IN THE COMMUNITIES IN WHICH THEY WORK.

(2) SUCH WORKERS ARE ESSENTIAL TO THE ECONOMIC HEALTH OF LOCAL BUSINESSES AND COMMUNITIES THROUGHOUT THE STATE.

(3) LONG COMMUTES FOR WORKERS ADD TO CONGESTION, USE FOSSIL FUELS AND ADD TO GREENHOUSE GASES BEING EMITTED AND ADVERSELY IMPACT AIR QUALITY.

(4) COLORADO'S LOCAL COMMUNITIES GENERALLY DO NOT HAVE THE RESOURCES TO PROVIDE OR SUBSIDIZE THE PROVISION OF ATTAINABLE HOUSING IN SUFFICIENT QUANTITIES WITHIN THEIR COMMUNITIES.

(5) PROPERTY OWNERS IN A COMMUNITY BENEFIT FROM A WORKFORCE RESIDING IN THE COMMUNITY AND AVAILABLE TO FILL JOBS NEEDED BY LOCAL BUSINESS OWNERS AND SUPPORTED THROUGH THEIR SPENDING IN THE COMMUNITY. THIS BENEFITS ALL PROPERTY OWNERS AS THESE WORKERS CAN THEN MORE EASILY BE AVAILABLE WHEN NEEDED OR ON CALL.

(6) COMMUNITIES WILL BE STRONGER AND MORE RESILIENT WHERE WORKERS CAN LIVE CLOSE TO THEIR JOBS AND BE INVESTED IN THE COMMUNITY.

(7) THE CULTURE, INCLUSIVITY, DIVERSITY OF COMMUNITIES IS MAINTAINED BY PROVIDING OPTIONS FOR VARIETY OF HOUSING TYPES AND PRICE AND RENT LEVELS.

(8) THE ADVERSE IMPACT ON CLIMATE AND THE ENVIRONMENT IS LESSENERED THROUGH A REDUCTION OF IN-COMMUTING BY PROVIDING HOUSING WHICH IS ATTAINABLE FOR WORKERS.

(9) PROPERTY OWNERS BENEFIT FROM A LEVEL OF SERVICE ACHIEVED THROUGH FULLY STAFFED BUSINESSES, SCHOOLS, HOSPITALS, HEALTHCARE PROVIDERS, EMERGENCY SERVICE PROVIDERS, NONPROFITS, AND GOVERNMENT DEPARTMENTS.

(10) IN BARBER V. RITTER, 196 P.3D 238, THE SUPREME COURT SAID, “TO DETERMINE WHETHER A GOVERNMENT MANDATED FINANCIAL IMPOSITION IS A ‘FEE’ OR A ‘TAX,’ THE DISPOSITIVE CRITERIA IS THE PRIMARY OR DOMINANT PURPOSE OF SUCH IMPOSITION AT THE TIME THE ENACTMENT CALLING FOR ITS COLLECTION IS PASSED.”

(11) IN TABOR FOUND. V. COLO. BRIDGE ENTER., 353 P.3D 896, THE COURT OF APPEALS SAID “FIRST, WE REVIEW THE LANGUAGE OF THE ENABLING STATUTE... IF THE LANGUAGE STATES THAT A PRIMARY PURPOSE IS TO RAISE REVENUES FOR GENERAL GOVERNMENTAL SPENDING, IT IS A TAX; BUT IF IT INDICATES THAT THE PRIMARY PURPOSE OF THE CHARGE IS TO FINANCE A PARTICULAR SERVICE, THEN THE CHARGE IS A FEE.”

(12) IN TABOR FOUND. V. COLO. BRIDGE ENTER., 353 P.3D 896, THE COURT OF APPEALS ALSO SAID “ESSENTIALLY, AS LONG AS A CHARGE IS REASONABLY RELATED TO THE OVERALL COST OF PROVIDING THE SERVICE AND IS IMPOSED ON THOSE WHO ARE REASONABLY LIKELY TO BENEFIT FROM OR USE THE SERVICE, THE CHARGE IS A FEE AND NOT A TAX...NOR DOES THE FEE NEED TO BE VOLUNTARY IN ORDER TO QUALIFY AS A FEE RATHER THAN A TAX.”

(13) THE PRIMARY PURPOSE OF IMPOSING A COMMUNITY ATTAINABLE HOUSING FEE UPON THE TRANSFER OF REAL PROPERTY IS TO FINANCE ATTAINABLE HOUSING IN COLORADO COMMUNITIES AND IS SET AT AN AMOUNT THAT REFLECTS THE BENEFIT ENJOYED BY THE OWNERS OF REAL PROPERTY AS DESCRIBED IN THIS PART 12.

(14) IT IS INCUMBENT UPON THE STATE TO ADDRESS THIS SITUATION IN AN EQUITABLE AND RESPONSIBLE MANNER AND WITH CONSIDERATION OF THE IMPACTS OF ATTAINABLE HOUSING DEFICITS IN COLORADO COMMUNITIES.

**29-4-1202. DEFINITIONS.** AS USED IN THIS PART 12, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) “ATTAINABLE HOUSING” MEANS HOUSING THAT IS ATTAINABLE BY A HOUSEHOLD THAT MAKES BETWEEN EIGHTY PERCENT AND ONE HUNDRED AND TWENTY PERCENT OF THE AREA MEDIAN INCOME AND IS PRICED SO THAT THE HOUSEHOLD NEED NOT SPEND MORE THAN THIRTY PERCENT OF ITS INCOME ON HOUSING COSTS.

(b) “DEED” MEANS ANY DOCUMENT, INSTRUMENT, OR WRITING OTHER THAN A WILL, LEASE, OR EASEMENT, REGARDLESS OF WHERE MADE, EXECUTED, OR DELIVERED, BY WHICH ANY REAL PROPERTY IN COLORADO, OR ANY

INTEREST IN SUCH PROPERTY, IS CONVEYED, VESTED, GRANTED, BARGAINED, SOLD, TRANSFERRED, OR ASSIGNED.

(d) "DIVISION" MEANS THE DIVISION OF HOUSING WITHIN THE DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-704 (1), COLORADO REVISED STATUTES.

(e) "FEE" MEANS THE COMMUNITY ATTAINABLE HOUSING FEE IMPOSED IN SECTION 29-4-1203(1), COLORADO REVISED STATUTES.

(f) "FUND" MEANS THE COLORADO ATTAINABLE HOUSING FUND CREATED IN SECTION 29-4-1203(1), COLORADO REVISED STATUTES, OR ANY SUCCESSOR SECTION.

(g) "VALUE" MEANS THE AMOUNT OF THE FULL ACTUAL CONSIDERATION PAID OR TO BE PAID FOR THE REAL PROPERTY, INCLUDING THE AMOUNT OF ANY LIENS ON THE PROPERTY CREATED OR IMPOSED AS A RESULT OF THE CONVEYANCE, MINUS TWO HUNDRED THOUSAND DOLLARS.

**29-4-1203. COMMUNITY ATTAINABLE HOUSING FEE.** (1) (a) ON AND AFTER JANUARY 1, 2024, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A COMMUNITY ATTAINABLE HOUSING FEE IS HEREBY IMPOSED UPON THE RECORDING OF EACH DEED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION AT THE RATE OF ONE-TENTH OF ONE PERCENT OF THE VALUE OF THE REAL PROPERTY AS SPECIFIED IN THE DEED. THE FEE IMPOSED MUST BE COMPUTED TO THE NEAREST WHOLE DOLLAR.

(b) THE FEE IMPOSED BY THIS SECTION SHALL NOT BE IMPOSED ON A CONVEYANCE FROM ONE SPOUSE OR OTHER MARITAL PARTNER TO ANOTHER OR IN THE CASE OF A CORRECTION DEED. THE GENERAL ASSEMBLY MAY ENACT OTHER EXEMPTIONS IN ACCORDANCE WITH SUBSECTION (8) OF SECTION 29-4-1203, COLORADO REVISED STATUTES.

(c) THE RECORDING OF A DEED SUBJECTS THE TRANSFER EVIDENCED BY SUCH DEED TO THE FEE IMPOSED BY THIS SECTION UNLESS THE TRANSFER IS SPECIFICALLY EXEMPT FROM SUCH FEE AS PROVIDED BY LAW.

(d) THERE IS HEREBY CREATED IN THE STATE TREASURY THE COLORADO ATTAINABLE HOUSING FUND.

(2)(a) AT THE TIME ANY DEED EVIDENCING A TRANSFER OF TITLE SUBJECT TO THE FEE IMPOSED UNDER THIS SECTION IS OFFERED FOR RECORDING, THE COUNTY CLERK AND RECORDER SHALL ASCERTAIN AND COMPUTE THE AMOUNT OF THE FEE DUE AND SHALL COLLECT THE SAME FROM THE PURCHASER OF THE REAL PROPERTY AS A PREREQUISITE TO ACCEPTANCE OF THE DEED FOR RECORDING.

(b) THE AMOUNT OF THE FEE IS COMPUTED ON THE BASIS OF THE VALUE OF THE TRANSFERRED PROPERTY AS SPECIFIED IN THE DEED.

(3) THE COUNTY CLERK AND RECORDER SHALL COLLECT THE AMOUNT OF THE FEE THAT IS DUE. THE COUNTY CLERK AND RECORDER SHALL RETAIN FIVE PERCENT OF THE AMOUNT COLLECTED AS HIS OR HER FEE FOR COLLECTION AND SHALL REMIT THE BALANCE ON A MONTHLY BASIS TO THE STATE TREASURER WHO SHALL DEPOSIT SAID MONEY INTO THE FUND.

(4) IN NO EVENT SHALL THE MONEY IN THE FUND BE USED TO RAISE REVENUES FOR GENERAL GOVERNMENTAL SPENDING. ALL MONEY ON DEPOSIT IN THE FUND MUST BE EXPENDED ON NEW OR EXISTING PROGRAMS THAT SUPPORT:

(a) THE CONSTRUCTION, MAINTENANCE, REHABILITATION, OR REPAIR OF ATTAINABLE HOUSING IN THE STATE FOR RENTAL PURPOSES OR HOME OWNERSHIP; OR

(b) THE PROVISION OF FINANCIAL ASSISTANCE, INCLUDING WITHOUT LIMITATION GRANTS OR LOANS, TO NATURAL PERSONS, NONPROFIT ENTITIES, AND POLITICAL SUBDIVISIONS IN THE STATE TO ENABLE PERSONS TO FINANCE THE PURCHASE, REFINANCING, REHABILITATION, OR REPAIR OF ATTAINABLE HOUSING.

(5) ANY NEW OR EXISTING PROGRAMS SUPPORTED BY THE COMMUNITY ATTAINABLE HOUSING FEE LEVIED UNDER THIS SECTION ARE TO BE ADMINISTERED BY THE DIVISION. THE DIVISION HAS SOLE ADMINISTRATIVE DISCRETION TO DETERMINE HOW BEST TO EXPEND THE MONEY IN THE FUND COLLECTED AND MAY ADOPT REGULATIONS TO IMPLEMENT THIS PART 12.

(6)(a) ANY MONEY IN THE FUND NOT EXPENDED AT THE END OF ANY FISCAL YEAR MUST REMAIN IN THE FUND AND SHALL NOT BE TRANSFERRED TO OR REVERT TO THE GENERAL FUND AT THE END OF ANY SUCH FISCAL YEAR. ANY INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEY IN THE FUND MUST REMAIN IN THE FUND AND SHALL NOT BE CREDITED TO THE GENERAL FUND.

(b) MONEY HELD IN THE FUND SHALL NOT BE TRANSFERRED TO ANY OF THE OTHER FUNDS ADMINISTERED BY THE DIVISION.

(c) THE DIVISION MAY MAKE MONEY IN OTHER FUNDS THAT IT ADMINISTERS AVAILABLE TO THE FUND.

(7) THE APPROVAL OF THIS PART 12 BY THE REGISTERED ELECTORS OF THE STATE VOTING ON THE BALLOT ISSUE AT THE GENERAL ELECTION HELD IN NOVEMBER 2023 CONSTITUTES A VOTER-APPROVED REVENUE CHANGE TO ALLOW THE RETENTION AND EXPENDITURE OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING.

(8) THE GENERAL ASSEMBLY MAY, BY DULY ENACTED LEGISLATION, MODIFY ANY OF THE PROVISIONS OF THIS PART 12 AS CIRCUMSTANCES WARRANT, AND PARTICULARLY AS NECESSARY TO FACILITATE THE MORE EFFECTIVE ADMINISTRATION OF THIS PART 12.

**29-4-1206. EFFECTIVE DATE.** THIS PART 12 SHALL BE EFFECTIVE JANUARY 1, 2024; EXCEPT THAT DISBURSEMENTS FROM THE COLORADO ATTAINABLE HOUSING FUND SHALL COMMENCE NO LATER THAN JULY 1, 2024.