

CHAPTER 154

GOVERNMENT - STATE

HOUSE BILL 26-1313

BY REPRESENTATIVE(S) Boesenecker and Stewart R., Bacon, Brown, Duran, Froelich, Jackson, Joseph, Lindsay, McCormick, Nguyen, Phillips, Rutinel, Rydin, Sirota, Zokaie, McCluskie, English, Hamrick;
also SENATOR(S) Ball and Frizell, Bridges, Catlin, Cutter, Daugherty, Exum, Gonzales J., Kipp, Kirkmeyer, Marchman, Mullica, Pelton R., Roberts, Simpson, Wallace, Coleman.

AN ACT**CONCERNING THE ADJUSTMENT OF REQUIREMENTS FOR GOVERNMENTS TO RECEIVE FUNDING FROM THE STATEWIDE AFFORDABLE HOUSING FUND.**

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

SECTION 1. In Colorado Revised Statutes, 29-32-104, **amend** (5) as follows:

29-32-104. Permissible expenditures - affordable housing programs - report - definitions.

(5) (a) If the Legislative Council Staff's March Economic and Revenue Forecast in any given year projects revenue for the next state fiscal year will fall below the revenue limit imposed under section 20 of article X of the state constitution, the general assembly may reduce the funding allocated to the office required by this section for the next state fiscal year in order to balance the state budget for said state fiscal year.

(b) FOR ANY STATE FISCAL YEAR FOR WHICH THE GENERAL ASSEMBLY REDUCES THE FUNDING ALLOCATED TO THE OFFICE PURSUANT TO THIS SUBSECTION (5), THE ADMINISTRATOR SHALL, IN COORDINATION WITH THE OFFICE, CONDUCT A PUBLIC STAKEHOLDER ENGAGEMENT PROCESS TO INFORM THE PLANNED ALLOCATIONS AND STRATEGIC PRIORITIES OF THAT STATE FISCAL YEAR'S FUNDING ALLOCATED TO THE OFFICE PURSUANT TO THIS SECTION. THE ADMINISTRATOR SHALL PUBLISH ONLINE THE FINAL PLANNED ALLOCATIONS AND STRATEGIC PRIORITIES OF THAT STATE FISCAL YEAR'S FUNDING ALLOCATED TO THE OFFICE PURSUANT TO THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 29-32-102, **add** (5) as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

29-32-102. State affordable housing fund.

(5) (a) DURING THE 2026-27 STATE FISCAL YEAR, THE TREASURER SHALL TRANSFER THE FIRST EIGHTY MILLION DOLLARS THAT THE TREASURER DEPOSITS INTO THE FUND PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION DURING THE 2026-27 STATE FISCAL YEAR TO THE FINANCING FUND.

(b) DURING THE 2027-28 STATE FISCAL YEAR, THE TREASURER SHALL TRANSFER THE FIRST FORTY MILLION DOLLARS THAT THE TREASURER DEPOSITS INTO THE FUND PURSUANT TO SUBSECTION (4)(c) OF THIS SECTION DURING THE 2027-28 STATE FISCAL YEAR TO THE FINANCING FUND.

(c) NOTWITHSTANDING SECTION 29-32-103 (3):

(I) ON JULY 1, 2027, OR AS SOON AS PRACTICABLE THEREAFTER, THE TREASURER SHALL TRANSFER FORTY PERCENT OF THE TOTAL OF THE BALANCE OF THE FUND PLUS THE AMOUNT ALREADY TRANSFERRED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION TO THE SUPPORT FUND AND TRANSFER THE REMAINING BALANCE OF THE FUND TO THE FINANCING FUND; AND

(II) ON JULY 1, 2028, OR AS SOON AS PRACTICABLE THEREAFTER, THE TREASURER SHALL TRANSFER FORTY PERCENT OF THE TOTAL OF THE BALANCE OF THE FUND PLUS THE AMOUNT ALREADY TRANSFERRED PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION TO THE SUPPORT FUND AND TRANSFER THE REMAINING BALANCE OF THE FUND TO THE FINANCING FUND.

SECTION 3. In Colorado Revised Statutes, 29-32-105, **amend** (1)(a), (1)(c) introductory portion, (1)(c)(1), (1)(d), (1)(e), and (3); and **add** (1)(d.5), (4), (5), (6), (7), (8), (9), (10), and (11) as follows:

29-32-105. Affordable housing commitments - local governments - tribal governments - three-year commitment cycle - expedited development approval process - eligibility for assistance from the fund - waivers.

(1) (a) Not later than November 1, 2023, the governing body of each local government, other than local housing authorities, ~~or tribal government~~ desiring to receive funding under this article or desiring to make affordable housing projects within its territorial boundaries eligible for funding under this article shall make and file with the division a commitment specifying how, by December 31, 2026, the combined number of newly constructed affordable housing units and existing units converted to affordable housing, within its territorial boundaries shall be increased by three percent each year over the baseline number of affordable housing units within its territorial boundaries, determined as provided in subsection (1)(c) of this section.

(c) FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2024, the baseline number of affordable housing units within the territorial boundaries of a local ~~government or tribal~~ government, as referenced in this subsection (1), shall be determined by the local ~~government or tribal~~ government by reference to:

(I) The 2017-2021 American Community Survey ~~5-year~~ FIVE-YEAR estimates

published by the United States census bureau; ~~The baseline number shall reset for 2027, based on the 2020-2024 American Community Survey 5-year estimates, expected to be published in the spring of 2026 and every third year thereafter with the publication of the corresponding American Community Survey 5-year estimates;~~
or

(d) By November 1, 2026 and by November 1st of each subsequent year ~~in which the baseline resets~~ PRECEDING THE FIRST YEAR OF A THREE-YEAR CYCLE, the governing body of each local government, other than local housing authorities, ~~or tribal government~~ desiring to receive funding under this ~~article~~ ARTICLE 32 or desiring to make affordable housing projects within its territorial boundaries eligible for funding under this ~~article~~ ARTICLE 32 shall make and file with the division a commitment specifying how, by December 31 of the third year thereafter, the combined number of newly constructed affordable housing units, ~~and existing units converted to affordable housing,~~ AND UNITS WITH AFFORDABILITY RESTRICTIONS THAT EXTEND BEYOND THE THREE-YEAR CYCLE AND FOR AT LEAST FIFTEEN YEARS within its territorial boundaries shall be increased by ~~three percent each year over the baseline number of affordable housing units within its territorial boundaries determined as provided in subsection (1)(c) of this section~~ THE TARGET INCREASE NUMBER. THE TARGET INCREASE NUMBER EQUALS THE AVERAGE ANNUAL NUMBER OF PERMITS FOR NEW HOUSING UNITS OR FUNCTIONAL EQUIVALENTS OF PERMITS FOR NEW HOUSING UNITS THAT HAVE BEEN ISSUED OVER THE PAST THREE YEARS WITHIN THE JURISDICTION OF THE LOCAL GOVERNMENT, MULTIPLIED BY THE NUMBER OF YEARS OF THE UPCOMING THREE-YEAR CYCLE TO WHICH A LOCAL GOVERNMENT IS COMMITTING, MULTIPLIED BY:

(I) TEN ONE-HUNDREDTHS IF THE AVERAGE ANNUAL JOB GROWTH RATE OVER THE PAST THREE YEARS, AS RECORDED BY THE STATE DEMOGRAPHY OFFICE FOR THE COUNTY IN WHICH THE LOCAL GOVERNMENT IS LOCATED, IS SIGNIFICANTLY LOWER THAN THE STATEWIDE MEDIAN ANNUAL JOB GROWTH RATE OVER THE PAST THREE YEARS, AS DETERMINED BY THE DIVISION;

(II) FIFTEEN ONE-HUNDREDTHS IF THE AVERAGE ANNUAL JOB GROWTH RATE OVER THE PAST THREE YEARS, AS RECORDED BY THE STATE DEMOGRAPHY OFFICE FOR THE COUNTY IN WHICH THE LOCAL GOVERNMENT IS LOCATED, IS CLOSE TO THE STATEWIDE MEDIAN ANNUAL JOB GROWTH RATE OVER THE PAST THREE YEARS, AS DETERMINED BY THE DIVISION; OR

(III) TWENTY ONE-HUNDREDTHS IF THE AVERAGE ANNUAL JOB GROWTH RATE OVER THE PAST THREE YEARS, AS RECORDED BY THE STATE DEMOGRAPHY OFFICE FOR THE COUNTY IN WHICH THE LOCAL GOVERNMENT IS LOCATED, IS SIGNIFICANTLY HIGHER THAN THE STATEWIDE MEDIAN ANNUAL JOB GROWTH RATE OVER THE PAST THREE YEARS, AS DETERMINED BY THE DIVISION.

(d.5) FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2027, AND FOR EACH THREE-YEAR CYCLE THEREAFTER, THE DIVISION SHALL ESTABLISH THRESHOLDS FOR JOB GROWTH RATES THAT THE DIVISION CONSIDERS TO BE SIGNIFICANTLY LOWER THAN, CLOSE TO, OR SIGNIFICANTLY HIGHER THAN THE STATEWIDE MEDIAN ANNUAL JOB GROWTH RATE OVER THE PAST THREE YEARS, TO BE USED PURSUANT TO SUBSECTION (1)(d) OF THIS SECTION TO DETERMINE THE TARGET INCREASE NUMBER. IN ESTABLISHING THE THRESHOLDS FOR JOB GROWTH

RATES, THE DIVISION SHALL DEFINE EACH THRESHOLD AS A SPECIFIC NUMERICAL RANGE BASED ON THE STATEWIDE MEDIAN ANNUAL JOB GROWTH RATE FOR THE PAST THREE YEARS.

(e) In drafting and enacting commitments under this subsection (1) local governments ~~and tribal governments~~ should prioritize high-density housing, mixed-income housing, and projects consistent with the goal of environmental sustainability, when appropriate, and should prioritize affordable housing in communities in which low concentrations of affordable housing exist.

(3) (a) Beginning in 2027, to be eligible under this ~~article~~ ARTICLE 32 for direct funding, or for affordable housing projects within a local government's ~~or tribal government's~~ territorial boundaries to be eligible for funding, local governments, other than local housing authorities, ~~or tribal governments,~~ must SHALL:

(I) Satisfy both the requirements of subsection (1) of this section to commit to and achieve ~~annual~~ increases in the number of affordable housing units within their territorial boundaries, and the requirements of subsection (2) of this section to implement a system to expedite the development approval process for affordable housing projects; OR

(II) SATISFY THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION TO COMMIT TO INCREASES IN THE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN THEIR TERRITORIAL BOUNDARIES, SATISFY THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION TO IMPLEMENT A SYSTEM TO EXPEDITE THE DEVELOPMENT APPROVAL PROCESS FOR AFFORDABLE HOUSING PROJECTS, AND HAVE RECEIVED APPROVAL FROM THE DIVISION OF A GOOD FAITH EFFORT WAIVER SUBMITTED IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION.

(b) (I) If a local ~~government or tribal~~ government makes and files with the division the commitment required by subsection (1) of this section by November 1, 2023, it shall be deemed to have satisfied the requirements of subsection (1) of this section through December 31, 2026.

(II) If a local ~~government or tribal~~ government makes and files with the division the commitment required by subsection (1) of this section by November 1, 2026, or by November 1st of a subsequent year ~~in which the baseline resets~~, PRECEDING THE FIRST YEAR OF A THREE-YEAR CYCLE, and it met its commitment to increase affordable housing made under subsection (1) of this section for the previous three-year cycle OR RECEIVED A WAIVER PURSUANT TO THIS SECTION, it ~~shall be deemed to have~~ HAS satisfied the requirements of subsection (1) of this section through the end of the current three-year cycle.

(III) If a local government, other than a local housing authority, ~~or tribal government~~ fails to make and file with the division the commitment required by subsection (1) of this section by November 1, 2023, or by November 1st of a subsequent year ~~in which the baseline resets~~, PRECEDING THE FIRST YEAR OF A THREE-YEAR CYCLE, ~~it shall be~~ THE LOCAL GOVERNMENT IS ineligible to receive financial assistance from the division or administrator during the following calendar year.

(IV) If a local ~~government or tribal~~ government fails to meet its commitment to increase affordable housing made and filed pursuant to subsection (1) of this section for any three-year cycle AND DOES NOT RECEIVE A WAIVER PURSUANT TO THIS SECTION, it ~~shall be~~ IS ineligible to receive financial assistance from the division or administrator during the first calendar year of the next three-year cycle.

(V) An ineligible local ~~government or tribal~~ government may apply for a subsequent year with a new commitment under subsection (1) of this section for the balance of the then-current three-year cycle.

(VI) A developer, whether for-profit or nonprofit, or a local ~~government or tribal~~ government developing an affordable housing project within the territorial boundaries of a local ~~government or tribal~~ government that fails to meet the requirements of subsection (1) or (2) of this section ~~shall be~~ AND THAT HAS NOT RECEIVED A WAIVER PURSUANT TO THIS SECTION IS ineligible to receive financial assistance from the division or administrator. Notwithstanding this restriction, a project within the territorial boundaries of an eligible municipality ~~shall be~~ IS eligible for funding even if the county in which the project is located is ineligible.

(VII) Ineligible local ~~governments and tribal~~ governments and developers of projects in ineligible local ~~government and tribal~~ government jurisdictions ~~shall~~ ARE not ~~be~~ required to pay back to the division or the administrator money paid to them under this ~~article~~ ARTICLE 32 prior to ineligibility.

(d) (I) The division ~~shall be~~ IS responsible for determining compliance with this section. For the purpose of calculating whether a local ~~government or tribal~~ government has met the requirements of subsection (1) of this section:

(A) A new residential housing unit is ~~to be~~ counted at the time it is permitted rather than the time it is constructed;

(B) An existing housing unit newly qualifying as affordable housing is ~~to be~~ counted at the time it is permitted and fully funded rather than at the time the conversion is completed; ~~For the purpose of calculating whether a local government or tribal government has met the requirements of subsection (1) of this section;~~

(C) In addition to affordable housing growth achieved through the programs in this ~~article~~ ARTICLE 32, any new ~~deed restricted~~ affordable housing WITH A FORMAL AFFORDABILITY RESTRICTION THAT IS newly constructed, ~~or~~ NEWLY converted to affordable HOUSING, OR THAT HAS AN AFFORDABILITY MECHANISM THAT EXTENDS BEYOND THE THREE-YEAR CYCLE AND FOR AT LEAST FIFTEEN YEARS within a local ~~government's or tribal~~ government's territorial boundaries ~~shall be~~ IS counted toward the local ~~government's or tribal~~ government's growth requirement; ~~For the purpose of calculating whether a local government or tribal government has met the requirements of subsection (1) of this section;~~

(D) All units funded through the programs created in section 29-32-104 (1)(b), (1)(c)(I), (1)(c)(II), and (1)(c)(III) are counted ~~towards~~ TOWARD the local ~~government's or tribal~~ government's growth requirement; AND

(E) EACH HOUSING UNIT THAT IS DEVELOPED AS PART OF A LARGER

DEVELOPMENT PROJECT THAT IS SUBJECT TO A DEED RESTRICTION OF AT LEAST FIFTEEN YEARS AND IN WHICH THE AVERAGE RENTAL PRICE OF ALL UNITS IN THE PROJECT IS AFFORDABLE TO A HOUSEHOLD WITH AN ANNUAL INCOME OF AT OR BELOW SIXTY PERCENT OF THE AREA MEDIAN INCOME COUNTS AS ONE AFFORDABLE HOUSING UNIT.

(II) (A) Regional collaboration and partnership is encouraged.

(B) IF LOCAL GOVERNMENTS HAVE NOT ENTERED INTO A WRITTEN AGREEMENT THAT DESCRIBES OTHERWISE, FOR THE PURPOSE OF CALCULATING WHETHER A LOCAL GOVERNMENT HAS MET THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2027, AND FOR EACH THREE-YEAR CYCLE THEREAFTER, A LOCAL GOVERNMENT MAY COUNT AN AFFORDABLE HOUSING UNIT THAT WAS NEWLY CONSTRUCTED OR NEWLY CONVERTED TO AFFORDABLE HOUSING, WITH MONEY PROVIDED BY MULTIPLE LOCAL GOVERNMENTS AS A PERCENTAGE OF ONE UNIT THAT IS PROPORTIONAL TO THE PERCENTAGE OF TOTAL LOCAL GOVERNMENT FUNDING THAT THE LOCAL GOVERNMENT PROVIDED.

(C) Local governments and tribal governments may enter into written agreements with other local governments and tribal governments that allow each jurisdiction to receive partial credit towards TOWARD the local government's or tribal government's growth requirement for the purpose of calculating whether a local government or tribal government has met the requirements of subsection (1) of this section. THESE WRITTEN AGREEMENTS ARE NOT SUBJECT TO THE FORMULA DESCRIBED IN SUBSECTION (3)(d)(II)(B) OF THIS SECTION.

(D) EXCEPT FOR ANY CREDITS AWARDED PURSUANT TO SUBSECTION (9) OR (10) OF THIS SECTION THAT ARE IN EXCESS OF THE TOTAL AMOUNT OF UNITS PRODUCED, the sum of the total units credited to the local governments and tribal governments shall MUST not exceed the total number of units produced through the collaboration.

(4) IF A LOCAL GOVERNMENT, OTHER THAN A LOCAL HOUSING AUTHORITY, DESIRES TO RECEIVE FUNDING UNDER THIS ARTICLE 32 OR DESIRES TO MAKE AFFORDABLE HOUSING PROJECTS WITHIN ITS TERRITORIAL BOUNDARIES ELIGIBLE FOR FUNDING UNDER THIS ARTICLE 32, AND IS UNABLE TO ACHIEVE, FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2024, THE ANNUAL INCREASES IN THE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN ITS TERRITORIAL BOUNDARIES SET FORTH IN SUBSECTION (1) OF THIS SECTION, THE LOCAL GOVERNMENT MAY FILE A GOOD FAITH EFFORT WAIVER WITH THE DIVISION. THE LOCAL GOVERNMENT IS ELIGIBLE TO FILE A GOOD FAITH EFFORT WAIVER AND BE APPROVED BY THE DIVISION IF THE LOCAL GOVERNMENT COMPLIES WITH SUBSECTION (5) OF THIS SECTION AND:

(a) HAS RECEIVED APPROVAL FROM THE DIVISION THAT THE LOCAL GOVERNMENT HAS COMPLIED WITH SUBSECTION (2) OF THIS SECTION;

(b) HAS RECEIVED TECHNICAL GUIDANCE FROM THE DIVISION'S PROPOSITION 123 COMMUNITY SUPPORT TEAM; AND

(c) (I) HAS ACHIEVED AT LEAST SIXTY-FIVE PERCENT OF THE ANNUAL INCREASES IN THE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN ITS TERRITORIAL

BOUNDARIES AS REQUIRED BY SUBSECTION (1) OF THIS SECTION FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2024;

(II) IS ABLE TO SATISFY THE REQUIREMENT OF SUBSECTION (1) OF THIS SECTION TO ACHIEVE ANNUAL INCREASES IN THE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN ITS TERRITORIAL BOUNDARIES FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2024 IF THE REQUIREMENT HAD BEEN BASED ON THE TARGET INCREASE NUMBER SPECIFIED IN SUBSECTION (1)(d) OF THIS SECTION; OR

(III) HAS, WITHIN THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2024, PROVIDED MONEY TO FUND THE DEVELOPMENT OF AFFORDABLE HOUSING UNITS THAT COUNTED TOWARD ANOTHER LOCAL GOVERNMENT'S ANNUAL INCREASE REQUIRED BY SUBSECTION (1) OF THIS SECTION AND WOULD HAVE BEEN ABLE TO ACHIEVE AT LEAST SIXTY-FIVE PERCENT OF THE ANNUAL INCREASE REQUIRED BY SUBSECTION (1) OF THIS SECTION IF THE LOCAL GOVERNMENT HAD BEEN ABLE TO COUNT THE AFFORDABLE HOUSING UNITS TO WHICH IT PROVIDED MONEY IN PROPORTION TO THE PERCENTAGE OF TOTAL LOCAL GOVERNMENT FUNDING PROVIDED.

(5) TO BE ELIGIBLE TO FILE A GOOD FAITH EFFORT WAIVER AND BE APPROVED BY THE DIVISION, IN ADDITION TO MEETING THE REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION, THE LOCAL GOVERNMENT SHALL:

(a) SUBMIT A NARRATIVE DESCRIPTION OF ITS ACHIEVEMENTS IN ADVANCING AFFORDABLE HOUSING DEVELOPMENTS WITHIN THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2024;

(b) SUBMIT DOCUMENTATION OF ITS ADOPTION OF LOCAL LAND USE, ZONING, OR REGULATORY REFORMS THAT INCREASE THE FEASIBILITY OF DEVELOPING AFFORDABLE HOUSING;

(c) SUBMIT DOCUMENTATION OF ADDITIONAL LOCAL COMMITMENTS TO FUND AFFORDABLE HOUSING OR ESTABLISHED METHODS FOR REDUCING THE COST OF DEVELOPING AFFORDABLE HOUSING;

(d) IMPLEMENT PROCESS OR CAPACITY IMPROVEMENTS THAT REDUCE BARRIERS TO DEVELOPING AFFORDABLE HOUSING, SUCH AS A HOUSING ACTION PLAN; OR

(e) PARTICIPATE IN REGIONAL COLLABORATION TO DEVELOP MORE AFFORDABLE HOUSING THROUGH A FORMAL REGIONAL AGREEMENT.

(6) A LOCAL GOVERNMENT SEEKING A GOOD FAITH EFFORT WAIVER FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2024 SHALL, ON OR AFTER JUNE 15, 2026 BUT BEFORE NOVEMBER 1, 2026, SUBMIT TO THE DIVISION DOCUMENTATION OF COMPLIANCE WITH SUBSECTIONS (4) AND (5) OF THIS SECTION. THE DIVISION SHALL DETERMINE, IN ITS DISCRETION, WHETHER TO GRANT A GOOD FAITH EFFORT WAIVER TO A LOCAL GOVERNMENT.

(7) IF A LOCAL GOVERNMENT, OTHER THAN A LOCAL HOUSING AUTHORITY, DESIRES TO RECEIVE FUNDING UNDER THIS ARTICLE 32 OR DESIRES TO MAKE AFFORDABLE HOUSING PROJECTS WITHIN ITS TERRITORIAL BOUNDARIES ELIGIBLE FOR

FUNDING UNDER THIS ARTICLE 32, BUT IS UNABLE TO ACHIEVE, FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2027, THE ANNUAL INCREASES IN THE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN ITS TERRITORIAL BOUNDARIES SET FORTH IN SUBSECTION (1) OF THIS SECTION, THE LOCAL GOVERNMENT MAY FILE AN ADJUSTMENT WAIVER WITH THE DIVISION. TO BE ELIGIBLE TO FILE AN ADJUSTMENT WAIVER FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2027, AND BE APPROVED BY THE DIVISION, THE LOCAL GOVERNMENT SHALL:

(a) RECEIVE APPROVAL FROM THE DIVISION THAT THE LOCAL GOVERNMENT HAS COMPLIED WITH SUBSECTION (2) OF THIS SECTION;

(b) SUBMIT TO THE DIVISION A DETAILED NARRATIVE EXPLAINING WHY THE ANNUAL INCREASE IN THE NUMBER OF AFFORDABLE HOUSING UNITS IS UNATTAINABLE WITHIN ITS TERRITORIAL BOUNDARIES FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2027. THE DETAILED NARRATIVE MUST BE SUPPORTED BY RELIABLE AND VERIFIABLE DATA, SUCH AS:

(I) A LOCAL HOUSING NEEDS ASSESSMENT COMPLETED NO EARLIER THAN THREE YEARS BEFORE SUBMITTAL;

(II) AN INVENTORY OF DEED-RESTRICTED UNITS RECORDED WITH THE LOCAL GOVERNMENT OR COUNTY CLERK FOR THE COUNTY IN WHICH THE LOCAL GOVERNMENT IS LOCATED;

(III) A COMPREHENSIVE PLAN OR AREA PLAN GROWTH PROJECTIONS DEMONSTRATING THAT THE ANNUAL INCREASE REQUIREMENT IN THE NUMBER OF AFFORDABLE HOUSING UNITS EXCEEDS THE TOTAL PROJECTED GROWTH OF THE JURISDICTION BY A SIGNIFICANT MARGIN;

(IV) UTILITY OR SERVICE PROVIDER DOCUMENTATION;

(V) INFRASTRUCTURE CAPACITY LIMITATIONS; OR

(VI) ENVIRONMENTAL OR GEOGRAPHIC CONSTRAINT MAPS;

(c) PROPOSE A REVISED ANNUAL INCREASE IN THE NUMBER OF AFFORDABLE HOUSING UNITS BASED ON THE VERIFIABLE DATA SUBMITTED PURSUANT TO SUBSECTION (7)(b) OF THIS SECTION THAT IS NOT LESS THAN ONE UNIT PER YEAR; AND

(d) FILE DOCUMENTATION WITH THE DIVISION DEMONSTRATING THAT THE LOCAL GOVERNMENT'S COMMITMENT FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2027, REPRESENTED A SIGNIFICANT INCREASE ABOVE ITS COMMITMENT FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2027.

(8) IN ADDITION TO THE CRITERIA LISTED IN SUBSECTION (7) OF THIS SECTION, WHEN DECIDING WHETHER TO GRANT AN ADJUSTMENT WAIVER, THE DIVISION SHALL ALSO CONSIDER WHETHER AND THE EXTENT TO WHICH A LOCAL GOVERNMENT EXCEEDED THE ANNUAL INCREASE IN THE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN ITS TERRITORIAL BOUNDARIES SET FORTH IN SUBSECTION (1) OF THIS SECTION FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2024.

(9) FOR THE PURPOSES OF DETERMINING WHETHER A LOCAL GOVERNMENT, OTHER THAN A LOCAL HOUSING AUTHORITY, HAS ACHIEVED THE ANNUAL INCREASES IN THE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN ITS TERRITORIAL BOUNDARIES SET FORTH IN SUBSECTION (1) OF THIS SECTION FOR THE THREE-YEAR CYCLE BEGINNING ON JANUARY 1, 2027, AND FOR EACH THREE-YEAR CYCLE THEREAFTER, AN AFFORDABLE HOUSING UNIT THAT SATISFIES THE FOLLOWING CRITERIA COUNTS FOR ONE AFFORDABLE HOUSING UNIT PLUS THE FOLLOWING CORRESPONDING ADDITIONAL UNIT AMOUNT:

(a) AN AFFORDABLE HOUSING UNIT THAT IS DEVELOPED ON LAND DONATED BY THE LOCAL GOVERNMENT QUALIFIES FOR AN ADDITIONAL ONE-TENTH OF A UNIT. THE ONE-TENTH OF A UNIT QUALIFIES FOR THE LOCAL GOVERNMENT THAT DONATED THE LAND.

(b) AN AFFORDABLE HOUSING UNIT THAT IS DEVELOPED WITH MONEY PROVIDED BY MULTIPLE LOCAL GOVERNMENTS QUALIFIES FOR AN ADDITIONAL ONE-TENTH OF A UNIT FOR EACH LOCAL GOVERNMENT THAT PROVIDED MONEY;

(c) AN AFFORDABLE HOUSING UNIT THAT IS DEVELOPED TO BE FOR-SALE HOUSING IN ACCORDANCE WITH SECTION 29-32-101 (2) OR THAT IS DEVELOPED AND SOLD IN CONNECTION WITH THE PROGRAM DESCRIBED IN SECTION 29-32-104 (3)(a) QUALIFIES FOR AN ADDITIONAL TWO-TENTHS OF A UNIT; AND

(d) AN AFFORDABLE HOUSING UNIT THAT IS RESTRICTED TO BE RENTED OR SOLD TO A HOUSEHOLD WITH AN ANNUAL INCOME OF AT OR BELOW FORTY PERCENT OF THE AREA MEDIAN INCOME, INCLUDING A SUPPORTIVE HOUSING UNIT AS DEFINED IN SECTION 24-32-3701 (17), QUALIFIES FOR AN ADDITIONAL TWO-TENTHS OF A UNIT.

(10) IF AFFORDABLE HOUSING THAT COUNTS TOWARD A COMMITMENT MADE BY A LOCAL GOVERNMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION IS DEVELOPED AND QUALIFIES FOR A PROPERTY TAX EXEMPTION, THEREBY REDUCING PROPERTY TAX REVENUE TO THE COUNTY IN WHICH THE AFFORDABLE HOUSING IS LOCATED, AND THE COUNTY DID NOT PROVIDE ANY MONEY TO DEVELOP THE AFFORDABLE HOUSING, THE DIVISION MAY, IN ITS DISCRETION, ALLOW EACH SUCH AFFORDABLE HOUSING UNIT TO COUNT AS UP TO ONE AND FIFTEEN-HUNDREDTHS AFFORDABLE HOUSING UNITS FOR THE COUNTY AT THE TIME OF VERTICAL CONSTRUCTION.

(11) BEGINNING IN 2027, TO BE ELIGIBLE UNDER THIS ARTICLE 32 FOR DIRECT FUNDING, OR FOR AFFORDABLE HOUSING PROJECTS WITHIN A TRIBAL GOVERNMENT'S TERRITORIAL BOUNDARIES TO BE ELIGIBLE UNDER THIS ARTICLE 32 FOR FUNDING, TRIBAL GOVERNMENTS SHALL SATISFY THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION TO IMPLEMENT A SYSTEM TO EXPEDITE THE DEVELOPMENT APPROVAL PROCESS FOR AFFORDABLE HOUSING PROJECTS AND SHALL SUBMIT EVIDENCE OF SUCH SATISFACTION TO THE DIVISION.

SECTION 4. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace,

health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: May 26, 2026