

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 21-0151.01 Bob Lackner x4350

HOUSE BILL 21-1117

HOUSE SPONSORSHIP

Lontine and Gonzales-Gutierrez, Kipp, Weissman, Bacon, Benavidez, Bernett, Bird, Caraveo, Cutter, Duran, Esgar, Exum, Froelich, Herod, Hooton, Jackson, Jodeh, Kennedy, McCluskie, McLachlan, Michaelson Jenet, Ortiz, Roberts, Sirota, Tipper, Titone, Valdez A., Valdez D., Woodrow, Young

SENATE SPONSORSHIP

Gonzales and Rodriguez,

House Committees

Transportation & Local Government

Senate Committees

State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF LOCAL GOVERNMENTS TO PROMOTE THE**
102 **DEVELOPMENT OF NEW AFFORDABLE HOUSING UNITS PURSUANT**
103 **TO THEIR EXISTING AUTHORITY TO REGULATE LAND USE WITHIN**
104 **THEIR TERRITORIAL BOUNDARIES.**

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>.)

The bill clarifies that the existing authority of cities and counties to plan for and regulate the use of land includes the authority to regulate development or redevelopment in order to promote the construction of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
March 22, 2021

HOUSE
Amended 2nd Reading
March 19, 2021

new affordable housing units. The provisions of the state's rent control statute do not apply to any land use regulation that restricts rents on newly constructed or redeveloped housing units as long as the regulation provides a choice of options to the property owner or land developer and creates one or more alternatives to the construction of new affordable housing units on the building site.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) In 2000, in *Town of Telluride, Colorado v. Lot Thirty-Four*
5 *Venture LLC*, 3 P.3d 30 (Colo. 2000), the Colorado supreme court held
6 that a local land use ordinance enacted by the town of Telluride to
7 promote affordable housing in new developments violated a state statute
8 that prohibited counties and municipalities from enacting any ordinance
9 or resolution that would control rent on private residential property or
10 private residential housing units; except that, in that decision, the supreme
11 court made clear that, although the Telluride ordinance constitutes rent
12 control, the general assembly is not prevented from amending the rent
13 control statute to permit local ordinances such as the ordinance at issue
14 in that case.

15 (b) Nothing in this act is intended to affect voluntary agreements
16 to promote affordable housing stock entered into pursuant to section
17 38-12-301 (2), or any land use regulation adopted prior to the effective
18 date of this act that meets the requirements of this act.

19 **SECTION 2.** In Colorado Revised Statutes, 29-20-104, **add**
20 (1)(e.5), (1)(e.7), and (1)(e.9) as follows:

21 **29-20-104. Powers of local governments - definition.**

22 (1) Except as expressly provided in section 29-20-104.5, the power and

1 authority granted by this section does not limit any power or authority
2 presently exercised or previously granted. Each local government within
3 its respective jurisdiction has the authority to plan for and regulate the use
4 of land by:

5 (e.5) REGULATING DEVELOPMENT OR REDEVELOPMENT IN ORDER
6 TO PROMOTE THE CONSTRUCTION OF NEW AFFORDABLE HOUSING UNITS.
7 THE PROVISIONS OF SECTION 38-12-301 SHALL NOT APPLY TO ANY LAND
8 USE REGULATION ADOPTED PURSUANT TO THIS SECTION THAT RESTRICTS
9 RENTS ON NEWLY CONSTRUCTED OR REDEVELOPED HOUSING UNITS AS
10 LONG AS THE REGULATION PROVIDES A CHOICE OF OPTIONS TO THE
11 PROPERTY OWNER OR LAND DEVELOPER AND CREATES ONE OR MORE
12 ALTERNATIVES TO THE CONSTRUCTION OF NEW AFFORDABLE HOUSING
13 UNITS ON THE BUILDING SITE. NOTHING IN THIS SUBSECTION (1)(e.5) IS
14 CONSTRUED TO AUTHORIZE A LOCAL GOVERNMENT TO ADOPT OR ENFORCE
15 ANY ORDINANCE OR REGULATION THAT WOULD HAVE THE EFFECT OF
16 CONTROLLING RENT ON ANY EXISTING PRIVATE RESIDENTIAL HOUSING
17 UNIT IN VIOLATION OF SECTION 38-12-301.

18 (e.7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
19 A LOCAL GOVERNMENT SHALL NOT EXERCISE THE AUTHORITY GRANTED BY
20 SUBSECTION (1)(e.5) OF THIS SECTION UNLESS THE LOCAL GOVERNMENT
21 DEMONSTRATES, AT THE TIME IT ENACTS A LAND USE REGULATION FOR
22 THE PURPOSE OF EXERCISING SUCH AUTHORITY, IT HAS TAKEN ONE OR
23 MORE OF THE FOLLOWING ACTIONS TO INCREASE THE OVERALL NUMBER
24 AND DENSITY OF HOUSING UNITS WITHIN ITS JURISDICTIONAL BOUNDARIES
25 OR TO PROMOTE OR CREATE INCENTIVES TO THE CONSTRUCTION OF
26 AFFORDABLE HOUSING UNITS:

27 (I) ADOPT CHANGES TO ITS ZONING AND LAND USE POLICIES THAT

1 ARE INTENDED TO INCREASE THE OVERALL DENSITY AND AVAILABILITY OF
2 HOUSING, INCLUDING BUT NOT LIMITED TO:

3 (A) CHANGING ITS ZONING REGULATIONS TO INCREASE THE
4 NUMBER OF HOUSING UNITS ALLOWED ON A PARTICULAR SITE;

5 (B) PROMOTING MIXED-USE ZONING THAT PERMITS HOUSING UNITS
6 TO BE INCORPORATED IN A WIDER RANGE OF DEVELOPMENTS;

7 (C) PERMITTING MORE THAN ONE DWELLING UNIT PER LOT IN
8 TRADITIONAL SINGLE-FAMILY LOTS;

9 (D) INCREASING THE PERMITTED HOUSEHOLD SIZE IN SINGLE
10 FAMILY HOMES;

11 (E) PROMOTING DENSER HOUSING DEVELOPMENT NEAR TRANSIT
12 STATIONS AND PLACES OF EMPLOYMENT;

13 (F) GRANTING REDUCED PARKING REQUIREMENTS TO RESIDENTIAL
14 OR MIXED-USE DEVELOPMENTS THAT INCLUDE HOUSING NEAR TRANSIT
15 STATIONS OR AFFORDABLE HOUSING DEVELOPMENTS;

16 (G) GRANTING DENSITY BONUSES TO DEVELOPMENT PROJECTS
17 THAT INCORPORATE AFFORDABLE HOUSING UNITS; OR

18 (H) ADOPTING POLICIES TO PROMOTE THE DIVERSITY OF THE
19 HOUSING STOCK WITHIN THE LOCAL COMMUNITY INCLUDING A MIX OF
20 BOTH FOR-SALE AND RENTAL HOUSING OPPORTUNITIES;

21 (II) MATERIALLY REDUCE OR ELIMINATE UTILITY CHARGES,
22 REGULATORY FEES, OR TAXES IMPOSED BY THE LOCAL GOVERNMENT
23 APPLICABLE TO AFFORDABLE HOUSING UNITS;

24 (III) GRANT AFFORDABLE HOUSING DEVELOPMENTS MATERIAL
25 REGULATORY RELIEF FROM ANY TYPE OF ZONING OR OTHER LAND
26 DEVELOPMENT REGULATIONS THAT WOULD ORDINARILY RESTRICT THE
27 DENSITY OF NEW DEVELOPMENT OR REDEVELOPMENT;

1 (IV) ADOPT POLICIES TO MATERIALLY MAKE SURPLUS PROPERTY
2 OWNED BY THE LOCAL GOVERNMENT AVAILABLE FOR THE DEVELOPMENT
3 OF HOUSING; OR

4 (V) ADOPT ANY OTHER REGULATORY MEASURE THAT IS
5 EXPRESSLY DESIGNED AND INTENDED TO INCREASE THE SUPPLY OF
6 HOUSING WITHIN THE LOCAL GOVERNMENT'S JURISDICTIONAL
7 BOUNDARIES.

8 (e.9) THE DEPARTMENT OF LOCAL GOVERNMENT SHALL OFFER
9 GUIDANCE TO ASSIST LOCAL GOVERNMENTS IN CONNECTION WITH THE
10 IMPLEMENTATION OF THIS SECTION.

11 **SECTION 3. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly; except
14 that, if a referendum petition is filed pursuant to section 1 (3) of article V
15 of the state constitution against this act or an item, section, or part of this
16 act within the ninety-day period after final adjournment of the general
17 assembly, then the act, item, section, or part will not take effect unless
18 approved by the people at the general election to be held in November
19 2020 and, in such case, will take effect on the date of the official
20 declaration of the vote thereon by the governor.