

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0548.01 Jed Franklin x5484

HOUSE BILL 23-1255

HOUSE SPONSORSHIP

Lindstedt and Dickson, deGruy Kennedy, Epps, Froelich, Garcia, Jodeh, Lindsay, Mabrey, Michaelson Jenet, Sharbini, Sirota, Woodrow

SENATE SPONSORSHIP

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House Committees

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Local Government & Housing

A BILL FOR AN ACT

101 **CONCERNING PREEMPTION OF LOCAL REGULATIONS LIMITING THE**
102 **NUMBER OF BUILDING PERMITS ISSUED FOR 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, several local governments have laws restricting the growth of residential housing. The bill declares that the state has an interest in encouraging housing growth statewide, preempts any existing local housing growth restriction, and forbids the enactment or enforcement of any future local housing growth restriction, unless the local government has experienced a disaster emergency.

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.

SENATE
Amended 2nd Reading
May 3, 2023

HOUSE
3rd Reading Unamended
April 24, 2023

HOUSE
Amended 2nd Reading
April 21, 2023

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 29-20-104.2 as
3 follows:

4 **29-20-104.2. Anti-growth law - preemption - legislative**
5 **declaration - definitions.** (1) THE GENERAL ASSEMBLY FINDS AND
6 DECLARES THAT:

7 (a) A RELIABLE PUBLIC POLICY ENVIRONMENT THAT SUPPORTS AN
8 ADEQUATE AND AFFORDABLE HOUSING SUPPLY IS A MATTER OF
9 STATEWIDE CONCERN, AND A HEALTHY SUPPLY OF HOUSING UNITS TO
10 MATCH BOTH CURRENT DEMAND AND FUTURE DEMAND DRIVEN BY
11 POPULATION GROWTH IS CRITICAL FOR JOB CREATION, HOUSING STABILITY,
12 AFFORDABILITY, AND THE OVERALL ECONOMIC WELL-BEING OF ALL
13 COLORADANS;

14 (b) THE LACK OF AFFORDABLE HOUSING IN COLORADO IS DIRECTLY
15 ATTRIBUTABLE TO THE SCARCITY OF HOUSING UNITS;

16 (c) ACCORDING TO A STUDY OF HOUSING DEVELOPMENT IN
17 COLORADO, THE STATE HAS OVER ONE HUNDRED SEVENTY-FIVE
18 THOUSAND FEWER HOUSING UNITS THAN NEEDED TO RESTORE ITS
19 HISTORICAL POPULATION-TO-HOUSING RATIO FROM 1986 THROUGH 2008;

20 (d) TO CLOSE THE DEFICIT AND ACCOUNT FOR PROJECTED
21 POPULATION GROWTH, THE STATE WILL NEED TO ADD OVER ONE HUNDRED
22 SIXTY-TWO THOUSAND HOUSING UNITS BY 2027;

23 (e) ANTI-GROWTH LAWS ENACTED BY LOCAL GOVERNMENTS
24 SEVERELY UNDERMINE THE ABILITY TO CONSTRUCT THE ADDITIONAL
25 HOUSING UNITS COLORADANS NEED;

26 (f) ANTI-GROWTH LAWS DO IRREPARABLE ECONOMIC HARM TO

1 WORKING CLASS COLORADANS BY LIMITING THE HOUSING SUPPLY AND
2 DRIVING UP HOUSING PRICES AND RENTS. FURTHERMORE, ANTI-GROWTH
3 LAWS THREATEN THE LIVELIHOOD OF COLORADANS EMPLOYED IN
4 CONSTRUCTION AND OTHER BUILDING TRADES AS WELL AS BUSINESSES
5 ACROSS THE STATE THAT RELY ON THE COMMERCE ASSOCIATED WITH
6 HOME BUILDING.

7 (g) UNIFORMITY IN LAND USE LAWS CONCERNING RESIDENTIAL
8 GROWTH IS NECESSARY FOR EFFICIENT RESIDENTIAL DEVELOPMENT
9 STATEWIDE AND FOR THE ENCOURAGEMENT OF CONSTRUCTION OF NEW
10 HOUSING UNITS;

11 (h) THE ENACTMENT OR ENFORCEMENT OF ANTI-GROWTH LAWS BY
12 SOME LOCAL GOVERNMENTS DECREASES HOUSING DEVELOPMENT IN THESE
13 LOCATIONS AND PUTS PRESSURE ON OTHER LOCAL GOVERNMENTS'
14 RESIDENTIAL HOUSING STOCK, ROADS, UTILITIES, AND OTHER SERVICES;
15 AND

16 (i) IT IS THEREFORE NECESSARY FOR THE GENERAL ASSEMBLY TO
17 PREEMPT AND PROHIBIT THE ENFORCEMENT OF EXISTING ANTI-GROWTH
18 LAWS AND PROHIBIT THE ENACTMENT AND ENFORCEMENT OF NEW
19 ANTI-GROWTH LAWS.

20 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
21 REQUIRES:

22 (a) "ANTI-GROWTH LAW" MEANS A LAND USE LAW THAT
23 EXPLICITLY LIMITS EITHER THE GROWTH OF THE POPULATION IN THE
24 GOVERNMENTAL ENTITY'S JURISDICTION OR THE NUMBER OF
25 DEVELOPMENT PERMITS OR BUILDING PERMIT APPLICATIONS FOR
26 RESIDENTIAL DEVELOPMENT OR THE RESIDENTIAL COMPONENT OF ANY
27 MIXED USE DEVELOPMENT SUBMITTED TO, REVIEWED BY, APPROVED BY,

1 OR ISSUED BY A GOVERNMENTAL ENTITY FOR ANY CALENDAR OR FISCAL
2 YEAR. AS USED IN THIS SUBSECTION (2)(a), "LAND USE LAW" MEANS ANY
3 STATUTE, RESOLUTION, ORDINANCE, CODE, RULE, REGULATION, PLAN,
4 POLICY, PROCEDURE, STANDARD, INITIATIVE, GUIDELINE, REQUIREMENT,
5 OR LAW THAT REGULATES THE USE OR DIVISION OF PROPERTY OR ANY
6 INTEREST IN PROPERTY.

7 (b) "GOVERNMENTAL ENTITY" MEANS:

8 (I) A STATUTORY OR HOME RULE COUNTY, A CITY AND COUNTY, OR
9 A MUNICIPALITY; AND

10 (II) ANY SPECIAL DISTRICT OR AGENCY, AUTHORITY, POLITICAL
11 SUBDIVISION, OR INSTRUMENTALITY OF A COUNTY, OR OF A CITY AND
12 COUNTY, OR OF A MUNICIPALITY.

13

14 (c) "PROPERTY" MEANS REAL PROPERTY LOCATED WITHIN THE
15 STATE THAT IS NOT PUBLICLY OWNED.

16 (3) NOTWITHSTANDING ANY PROVISION OF SECTION 29-20-104 TO
17 THE CONTRARY, A GOVERNMENTAL ENTITY SHALL NOT ENACT OR ENFORCE
18 AN ANTI-GROWTH LAW AFFECTING PROPERTY.

19 (4) (a) NOTWITHSTANDING ANY PROVISION OF SECTION 29-20-104
20 OR SUBSECTION (3) OF THIS SECTION TO THE CONTRARY, A
21 GOVERNMENTAL ENTITY MAY ENACT AND ENFORCE A TEMPORARY,
22 NONRENEWABLE ANTI-GROWTH LAW:

23 (I) FOLLOWING A DISASTER EMERGENCY DECLARED BY THE
24 GOVERNOR OR LOCAL GOVERNMENT THAT OCCURRED IN THE JURISDICTION
25 OF THE GOVERNMENTAL ENTITY;

26 (II) FOR THE PURPOSE OF DEVELOPING OR AMENDING LAND USE
27 PLANS OR LAND USE LAWS COVERING RESIDENTIAL DEVELOPMENT OR THE

1 RESIDENTIAL COMPONENT OF A MIXED-USE DEVELOPMENT; OR

2 (III) TO PROVIDE FOR THE EXTENSION OR ACQUISITION OF PUBLIC
3 INFRASTRUCTURE, PUBLIC SERVICES, OR WATER RESOURCES.

4 (b) A TEMPORARY, NONRENEWABLE ANTI-GROWTH LAW
5 AFFECTING PROPERTY ALLOWED BY SUBSECTION (4)(a) OF THIS SECTION
6 MAY BE EFFECTIVE FOR NO MORE THAN TWENTY-FOUR MONTHS IN ANY
7 FIVE-YEAR PERIOD.

8 (5) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4)(b) OF
9 THIS SECTION, NOTHING IN THIS SECTION REQUIRES A GOVERNMENTAL
10 ENTITY TO APPROVE A PERMIT APPLICATION OR PRECLUDES A
11 GOVERNMENTAL ENTITY FROM REGULATING THE USE OF LAND,
12 DEVELOPING LAND USE PLANS, ENACTING AFFORDABILITY REQUIREMENTS
13 THAT REGULATE OR RESTRICT MARKET RATE DEVELOPMENT OR
14 REDEVELOPMENT IN ORDER TO ENFORCE AFFORDABILITY REQUIREMENTS,
15 REGULATING THE RENTAL OF ANY PROPERTY OR PORTION OF A PROPERTY
16 THAT IS AVAILABLE FOR LODGING FOR LESS THAN THIRTY DAYS, OR
17 DENYING A PERMIT FOR ANY REASON, INCLUDING EXTENDING OR
18 ACQUIRING INFRASTRUCTURE, WATER RESOURCES, OR SERVICES.

19 (b) SUBSECTION (4)(a) OF THIS SECTION DOES NOT APPLY TO A
20 HOTEL UNIT PORTION OF A STRUCTURE THAT IS USED BY A BUSINESS
21 ESTABLISHMENT TO PROVIDE COMMERCIAL LODGING TO THE GENERAL
22 PUBLIC FOR PREDOMINANTLY OVERNIGHT OR WEEKLY STAYS, THAT IS
23 CLASSIFIED AS A HOTEL OR MOTEL FOR PURPOSES OF PROPERTY TAXATION,
24 THAT IS NOT A UNIT, AS DEFINED IN SECTION 38-33.3-103 (30), IN A
25 CONDOMINIUM, AND THAT IS ZONED OR PERMITTED BY A GOVERNMENTAL
26 ENTITY FOR USE AS A HOTEL.

27 **SECTION 2.** In Colorado Revised Statutes, 29-20-104, **amend**

1 (1) introductory portion as follows:

2 **29-20-104. Powers of local governments - definition.**

3 (1) Except as expressly provided in ~~section 29-20-104.5~~ SECTION
4 29-20-104.2 OR 29-20-104.5, the power and authority granted by this
5 section does not limit any power or authority presently exercised or
6 previously granted. EXCEPT AS PROVIDED IN SECTION 29-20-104.2, each
7 local government within its respective jurisdiction has the authority to
8 plan for and regulate the use of land by:

9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2024 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.