

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0509.01 Bob Lackner x4350

HOUSE BILL 19-1075

HOUSE SPONSORSHIP

Wilson,

SENATE SPONSORSHIP

(None),

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF A CREDIT AGAINST THE STATE INCOME
102 TAX AS A PILOT PROGRAM TO PROMOTE EMPLOYER-ASSISTED
103 HOUSING PROJECTS IN RURAL AREAS.

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>.)

As a pilot program to promote employer-assisted housing projects in rural areas, for income tax years commencing on or after January 1, 2019, but prior to January 1, 2023, the bill creates a state income tax credit for a donation a taxpayer makes to a sponsor that is used solely for the costs associated with employer-assisted affordable housing in a rural

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.

area. The bill defines "sponsor" to mean the Colorado housing and finance authority, a housing authority operated by a county or municipality, a nonprofit corporation that has been designated as a community development corporation under the federal tax code, or an international, nongovernmental, not-for-profit organization whose mission is concentrated on constructing affordable housing.

The amount of the credit allowed by the bill is 20% of the approved donation amount; except that the aggregate amount of the credit awarded to any one taxpayer is limited to \$400 in any one income tax year.

The bill contains additional requirements pertaining to the manner in which the taxpayer submits information to receive the tax credit. The bill also requires periodic reporting of information on the use of the tax credit.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-542 as
3 follows:

4 **39-22-542. Pilot program - credit for the donation of money or**
5 **property to the sponsor of an employer-assisted housing project**
6 **located in a rural area - report to general assembly - rules - legislative**
7 **declaration - definitions - repeal.** (1) THE GENERAL ASSEMBLY FINDS,
8 DETERMINES, AND DECLARES THAT:

9 (a) SINCE 2000, THE STATE'S NEED FOR AFFORDABLE HOUSING IN
10 ALL GEOGRAPHIC REGIONS HAS GROWN EXPONENTIALLY. AMONG OTHER
11 EFFECTS, THE IMMENSE DEMAND FOR AFFORDABLE HOUSING IS A HUGE
12 IMPEDIMENT TO ECONOMIC GROWTH AND OPPORTUNITY WITHIN THE STATE
13 AND THE ABILITY OF THE STATE TO PROVIDE A HIGH-QUALITY LIFE FOR ALL
14 ITS RESIDENTS AND TO DEVELOP, ATTRACT, AND MAINTAIN A
15 HIGH-QUALITY WORKFORCE.

16 (b) A SIGNIFICANT SEGMENT OF THE STATE'S POPULATION,
17 INCLUDING MANY OF THE STATE'S TEACHERS, EMERGENCY RESPONDERS,

1 HEALTH CARE PROFESSIONALS, AND SMALL BUSINESS OWNERS AND
2 EMPLOYEES, EARN TOO MUCH ON AN ANNUAL BASIS TO QUALIFY FOR MOST
3 FEDERAL AND STATE HOUSING ASSISTANCE BUT DO NOT MAKE ENOUGH IN
4 YEARLY INCOME TO AFFORD MARKET RATE HOUSING, PARTICULARLY
5 HOUSING THAT MAY BE IN CLOSE PROXIMITY TO THEIR PLACE OF
6 EMPLOYMENT.

7 (c) THE SHORTAGE OF AFFORDABLE HOUSING THAT IS CLOSE TO
8 EMPLOYEES' PLACES OF EMPLOYMENT IS AN ESPECIALLY ACUTE PROBLEM
9 FOR WORKERS IN MANY OF THE STATE'S RURAL AREAS.

10 (d) BY ENACTING THE TAX CREDIT CREATED IN THIS SECTION, THE
11 GENERAL ASSEMBLY INTENDS TO PROVIDE CERTAIN FINANCIAL INCENTIVES
12 TO ENCOURAGE THE DEVELOPMENT AND GROWTH OF EMPLOYER-ASSISTED
13 HOUSING PROJECTS THAT ARE LOCATED IN RURAL AREAS FOR THE PURPOSE
14 OF EXPANDING THE SUPPLY OF HOUSING IN CLOSE PROXIMITY TO
15 WORKPLACES FOR INDIVIDUALS IN MODERATE-INCOME HOUSEHOLDS WHO
16 LIVE AND WORK IN RURAL AREAS OF THE STATE. THIS ACT IS CREATED AS
17 A PILOT PROGRAM TO ENABLE INTERESTED PARTIES TO STUDY THE STATE'S
18 EXPERIENCE WITH THE PROGRAM AFTER THE LAST OF THE INCOME TAX
19 YEARS FOR WHICH IT TAKES EFFECT TO SEE WHETHER IT PROMOTES THE
20 LEGISLATIVE PURPOSE OF EMPLOYER-ASSISTED HOUSING PROJECTS IN
21 RURAL AREAS.

22 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

24 (a) "CERTIFICATE" MEANS A DOCUMENT ISSUED BY A SPONSOR IN
25 A FORMAT ACCEPTABLE TO THE DEPARTMENT EVIDENCING A DONATION
26 RECEIVED TO SUPPORT AN EMPLOYER-ASSISTED ELIGIBLE ACTIVITY IN A
27 RURAL AREA.

1 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ANY
2 SUCCESSOR ENTITY.

3 (c) "DIVISION" MEANS THE DIVISION OF HOUSING IN THE
4 DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-704 (1).

5 (d) "DONATION" MEANS CASH, SECURITIES, OR REAL PROPERTY
6 THAT IS DONATED TO A SPONSOR THAT IS USED SOLELY FOR OR
7 ASSOCIATED WITH AN EMPLOYER-ASSISTED ELIGIBLE ACTIVITY.

8 (e) "EMPLOYER-ASSISTED ELIGIBLE ACTIVITY" MEANS AN ACTIVITY
9 THAT:

10 (I) CREATES OR PRESERVES AFFORDABLE HOUSING FOR ONE OR
11 MORE MODERATE-INCOME HOUSEHOLDS NEAR THEIR PLACE OF
12 EMPLOYMENT IN A RURAL AREA;

13 (II) ASSISTS ONE OR MORE MODERATE-INCOME HOUSEHOLDS IN
14 OBTAINING SAFE AND AFFORDABLE HOUSING NEAR THEIR PLACE OF
15 EMPLOYMENT IN A RURAL AREA; OR

16 (III) BUILDS THE CAPACITY OF A SPONSOR THAT IS AN ELIGIBLE
17 NONPROFIT ORGANIZATION AND THAT IS LOCATED IN A RURAL COUNTY TO
18 PROVIDE HOUSING OPPORTUNITIES FOR ONE OR MORE MODERATE-INCOME
19 HOUSEHOLDS LIVING IN A RURAL AREA.

20 (f) "MODERATE-INCOME HOUSEHOLD" MEANS A HOUSEHOLD
21 WHOSE ADJUSTED INCOME IS LESS THAN ONE HUNDRED TWENTY PERCENT
22 OF THE MEDIAN INCOME WITHIN THE GEOGRAPHIC AREA OF THE LOCATION
23 OF THE EMPLOYER-ASSISTED ELIGIBLE ACTIVITY, ADJUSTED FOR FAMILY
24 SIZE, AS SUCH ADJUSTED INCOME AND MEDIAN INCOME FOR THE
25 GEOGRAPHIC AREA ARE DETERMINED FROM TIME TO TIME BY THE UNITED
26 STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE
27 PURPOSE OF SECTION 8 OF THE "UNITED STATES HOUSING ACT OF 1937",

1 42 U.S.C. SEC. 1437f, AS AMENDED.

2 (g) "RURAL AREA" MEANS A COUNTY THAT IS LOCATED IN A
3 NONMETROPOLITAN AREA OF THE STATE THAT EITHER HAS NO
4 MUNICIPALITY WITH FIFTY THOUSAND OR MORE PERMANENT RESIDENTS
5 WITHIN ITS TERRITORIAL BOUNDARIES, BASED UPON THE MOST RECENT
6 POPULATION ESTIMATES PUBLISHED BY THE UNITED STATES CENSUS
7 BUREAU, OR THAT SATISFIES ALTERNATE CRITERIA FOR THE DESIGNATION
8 OF A RURAL AREA AS MAY BE PROMULGATED BY THE FEDERAL OFFICE OF
9 MANAGEMENT AND BUDGET.

10 (h) "SPONSOR" MEANS:

11 (I) THE COLORADO HOUSING AND FINANCE AUTHORITY CREATED
12 IN SECTION 29-4-704 (1);

13 (II) ANY HOUSING AUTHORITY OPERATED BY ANY MUNICIPALITY
14 OR COUNTY IN THE STATE;

15 (III) A NONPROFIT ORGANIZATION THAT IS DESIGNATED AS A
16 COMMUNITY DEVELOPMENT CORPORATION UNDER TITLE VII OF THE
17 FEDERAL "ECONOMIC OPPORTUNITY ACT OF 1964", 42 U.S.C. SEC. 2701
18 ET SEQ., AS AMENDED; OR

19 (IV) AN INTERNATIONAL, NONGOVERNMENTAL, NOT-FOR-PROFIT
20 ORGANIZATION WHOSE MISSION IS CONCENTRATED ON CONSTRUCTING
21 AFFORDABLE HOUSING.

22 (i) "TAXPAYER" MEANS A PERSON MAKING A DONATION WHO FILES
23 AN INCOME TAX RETURN UNDER THIS ARTICLE 22.

24 (3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
25 JANUARY 1, 2019, BUT PRIOR TO JANUARY 1, 2023, THERE SHALL BE
26 ALLOWED FOR ANY TAXPAYER A CREDIT AGAINST THE INCOME TAXES
27 IMPOSED BY THIS ARTICLE 22 FOR A DONATION THE TAXPAYER MAKES TO

1 A SPONSOR THAT IS USED SOLELY FOR THE COSTS ASSOCIATED WITH AN
2 EMPLOYER-ASSISTED ELIGIBLE ACTIVITY IN A RURAL AREA.

3 (b) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION IS
4 TWENTY PERCENT OF THE APPROVED AMOUNT OF THE DONATION AS
5 DOCUMENTED IN A FORM AND MANNER ACCEPTABLE TO THE DEPARTMENT;
6 EXCEPT THAT THE AGGREGATE AMOUNT OF THE CREDIT AWARDED TO ANY
7 ONE TAXPAYER UNDER THIS SECTION SHALL NOT EXCEED FOUR HUNDRED
8 DOLLARS IN ANY ONE INCOME TAX YEAR.

9 (4) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
10 SECTION EXCEEDS THE AMOUNT OF THE INCOME TAX OTHERWISE DUE ON
11 THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE
12 CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN
13 OFFSET AGAINST INCOME TAXES IN SUCH INCOME TAX YEAR IS NOT
14 ALLOWED AS A REFUND BUT MAY BE CARRIED FORWARD AND APPLIED
15 AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME
16 TAX YEARS, BUT MUST FIRST BE APPLIED AGAINST THE INCOME TAX DUE
17 FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.

18 (5) (a) A TAXPAYER CLAIMING THE CREDIT ALLOWED BY THIS
19 SECTION SHALL SUBMIT, MAINTAIN, AND RECORD ANY INFORMATION THAT
20 THE DEPARTMENT MAY REQUIRE BY RULE REGARDING THE TAXPAYER'S
21 DONATION TO THE SPONSOR, INCLUDING THE CERTIFICATE RECEIVED
22 EVIDENCING THE DONATION. THE CERTIFICATE MUST STATE THE
23 EFFECTIVE DATE OF THE DONATION. A TAXPAYER SHALL ELECTRONICALLY
24 FILE WITH THE DEPARTMENT THE CERTIFICATE THE TAXPAYER RECEIVES
25 FROM THE SPONSOR. THE DIVISION IS RESPONSIBLE FOR VERIFYING THE
26 INFORMATION STATED ON THE TAX CERTIFICATES SUBMITTED BY A
27 TAXPAYER CLAIMING A CREDIT ALLOWED BY THIS SECTION. THE DIVISION

1 MAY IMPOSE A CHARGE ON THE TAXPAYER THAT REFLECTS THE DIVISION'S
2 ACTUAL COSTS IN PROCESSING THE INFORMATION SUBMITTED BY THE
3 TAXPAYER IN ORDER TO CLAIM A TAX CREDIT ALLOWED BY THIS SECTION.

4 (b) THE SPONSOR RECEIVING THE DONATION SHALL SUBMIT AND
5 MAINTAIN SUCH RECORDS AS REQUIRED BY THE DEPARTMENT TO ENSURE
6 THAT AFFORDABLE HOUSING OPPORTUNITIES ARE BEING PROVIDED BY THIS
7 SECTION.

8 (6) EACH SPONSOR THAT HAS ISSUED CERTIFICATES EVIDENCING
9 DONATIONS IN A CALENDAR YEAR UNDER THIS SECTION IN THE
10 CUMULATIVE AMOUNT OF TEN THOUSAND DOLLARS OR MORE SHALL
11 REPORT TO THE GENERAL ASSEMBLY BY MARCH 1, 2020, AND BY MARCH
12 1 OF EACH YEAR THEREAFTER, THROUGH AND INCLUDING MARCH 1, 2023,
13 ON THE OVERALL ECONOMIC ACTIVITY, USAGE, AND IMPACT TO THE STATE
14 FROM THE EMPLOYER-ASSISTED ELIGIBLE ACTIVITY FOR WHICH IT HAS
15 CERTIFIED A DONATION ELIGIBLE FOR A TAX CREDIT UNDER THIS SECTION.

16 (7) THE DEPARTMENT MAY RECAPTURE TAX CREDITS PROVIDED TO
17 A TAXPAYER IF THE SPONSOR CERTIFYING THE DONATION IS UNABLE TO
18 DOCUMENT OR VALIDATE COMPLETION OF THE EMPLOYER-ASSISTED
19 ELIGIBLE ACTIVITIES WITHIN FIVE YEARS OF THE EFFECTIVE DATE OF THE
20 DONATION BEING CERTIFIED.

21 (8) THE DEPARTMENT AND THE DIVISION SHALL PROMULGATE, IN
22 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, ANY RULES NECESSARY TO
23 FACILITATE THE EFFECTIVE IMPLEMENTATION OF THIS SECTION. THE
24 DEPARTMENT AND THE DIVISION MAY EACH DEVELOP POLICIES AND
25 PROCEDURES NECESSARY TO FACILITATE THE EFFECTIVE IMPLEMENTATION
26 OF THIS SECTION.

27 (9) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A

1 TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION FOR A
2 DONATION FOR WHICH THE TAXPAYER IS CLAIMING ANY OTHER STATE TAX
3 CREDIT OR DEDUCTION.

4 (10) NOT LATER THAN DECEMBER 1 OF EACH YEAR IN WHICH THE
5 DIVISION VERIFIES A TAX CREDIT IN ACCORDANCE WITH SUBSECTION (5)(a)
6 OF THIS SECTION, THE DIVISION SHALL PROVIDE THE DEPARTMENT WITH AN
7 ELECTRONIC REPORT ON THE TAXPAYERS WHO HAVE RECEIVED A CREDIT
8 ALLOWED BY THIS SECTION FOR THE CALENDAR YEAR THAT CONFORMS TO
9 THE INCOME TAX YEAR FOR WHICH THE CREDIT IS ALLOWED. THE REPORT
10 MUST INCLUDE THE FOLLOWING INFORMATION:

- 11 (a) THE NAME OF THE TAXPAYER;
- 12 (b) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR FEDERAL
13 EMPLOYEE IDENTIFICATION NUMBER;
- 14 (c) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION THAT
15 IS ALLOCATED TO THE TAXPAYER; AND
- 16 (d) IF THE TAXPAYER IS A PASS-THROUGH ENTITY, THE NAMES OF
17 ANY OTHER MEMBERS OF OR PARTNERS IN SUCH ENTITY, THE LAST SEVEN
18 DIGITS OF THE SOCIAL SECURITY NUMBERS OR FEDERAL IDENTIFICATION
19 NUMBERS OF SUCH MEMBERS OR PARTNERS, AND THE PERCENTAGE OF
20 OWNERSHIP INTEREST HELD IN THE ENTITY BY SUCH MEMBERS OR
21 PARTNERS.

22 (11) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2033.

23 **SECTION 2. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2020 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.