

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

**SECTION 1.** In Colorado Revised Statutes, **add** article 32 to title 29 as follows:

## **ARTICLE 32**

### **Statewide Affordable Housing Fund**

**29-32-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) “ADMINISTRATOR” MEANS A POLITICAL SUBDIVISION OF THE STATE OF COLORADO ESTABLISHED FOR THE PURPOSES, AMONG OTHERS, OF INCREASING THE SUPPLY OF DECENT, SAFE, AND SANITARY HOUSING FOR LOW- AND MODERATE-INCOME FAMILIES, OR OTHER THIRD PARTY ESTABLISHED FOR SUCH PURPOSES, SELECTED BY THE OFFICE TO ADMINISTER CERTAIN AFFORDABLE HOUSING PROGRAMS CREATED IN SECTION 29-32-104.

(2) “AFFORDABLE HOUSING” MEANS RENTAL HOUSING AFFORDABLE TO A HOUSEHOLD WITH AN ANNUAL INCOME OF AT OR BELOW SIXTY PERCENT OF THE AREA MEDIAN INCOME, AND THAT, COMBINED WITH BASIC UTILITIES, COSTS THE HOUSEHOLD LESS THAN THIRTY PERCENT OF ITS MONTHLY INCOME. “AFFORDABLE HOUSING” ALSO MEANS FOR-SALE HOUSING THAT COULD BE PURCHASED BY A HOUSEHOLD WITH AN ANNUAL INCOME OF AT OR BELOW ONE HUNDRED PERCENT OF THE AREA MEDIAN INCOME, FOR WHICH THE MORTGAGE PAYMENT, COMBINED WITH BASIC UTILITIES, COSTS THE HOUSEHOLD LESS THAN THIRTY PERCENT OF ITS MONTHLY INCOME. TARGETS SET FOR THE LOCAL GOVERNMENTS SET UNDER SECTION 29-32-105 FOR AFFORDABLE HOUSING WILL

BE MEASURED ON A WEIGHTED AVERAGE BASIS OF THE AREA MEDIAN INCOME. IF A LOCAL GOVERNMENT DETERMINES THAT APPLICATION OF THIS DEFINITION OF AFFORDABLE HOUSING WOULD CAUSE IMPLEMENTATION OF THIS ARTICLE IN A MANNER INCONSISTENT WITH HOUSING AND WORKFORCE NEEDS WITHIN THE JURISDICTION, IT MAY PETITION THE DIVISION FOR LEAVE TO USE THE CALCULATION APPLICABLE TO AN ADJACENT JURISDICTION OR THE STATE MEDIAN INCOME THAT BETTER REFLECTS LOCAL NEEDS.

(3) "AREA MEDIAN INCOME" MEANS THE MEDIAN HOUSEHOLD INCOME OF HOUSEHOLDS OF A GIVEN SIZE IN THE MUNICIPALITY, OR METROPOLITAN STATISTICAL AREA ENCOMPASSING A MUNICIPALITY, OR COUNTY IN WHICH THE HOUSING IS LOCATED, AS CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

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

(5) "FUND" MEANS THE STATEWIDE AFFORDABLE HOUSING FUND CREATED IN SECTION 29-32-102 (1).

(6) "LOCAL GOVERNMENT" MEANS A MUNICIPALITY, WHETHER HOME RULE OR STATUTORY; A COUNTY, WHETHER HOME RULE OR STATUTORY; OR A CITY AND COUNTY; OR A LOCAL HOUSING AUTHORITY.

(7) "OFFICE" MEANS THE OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

**29-32-102. State affordable housing fund.** (1) THE STATE AFFORDABLE HOUSING FUND IS HEREBY CREATED IN THE STATE TREASURY. COMMENCING ON JANUARY 1, 2023, ALL STATE REVENUE COLLECTED PURSUANT TO ARTICLE 22 ON ONE-TENTH OF ONE PERCENT OF FEDERAL TAXABLE INCOME, AS MODIFIED BY STATE LAW, OF EVERY INDIVIDUAL, ESTATE, TRUST, AND CORPORATION, AS DEFINED IN LAW, MUST BE DEPOSITED INTO THE FUND. THE REVENUE DEPOSITED INTO THE FUND BY THIS SUBSECTION (1) IS NOT SUBJECT TO THE LIMITATION ON FISCAL YEAR SPENDING SPECIFIED IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(2) THE FUND CONSISTS OF MONEY DEPOSITED INTO THE FUND UNDER SUBSECTION (1) OF THIS SECTION; ANY MONEY APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY; AND ANY GIFTS, GRANTS, OR DONATIONS FROM ANY PUBLIC OR PRIVATE SOURCES, INCLUDING GOVERNMENTAL ENTITIES, THAT THE DIVISION AND THE OFFICE ARE HEREBY AUTHORIZED TO SEEK AND ACCEPT.

(3) EXCEPT AS OTHERWISE REQUIRED BY THIS SUBSECTION (3), ALL MONEY NOT EXPENDED OR ENCUMBERED, AND ALL INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEY IN THE FUND, REMAINS IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

**29-32-103. Transfers of money - permitted uses of the fund - continuous appropriation.** (1) ON JULY 1, 2023, OR AS SOON AS PRACTICABLE THEREAFTER, AND ON JULY 1 OF EACH STATE FISCAL YEAR THEREAFTER, THE STATE TREASURER SHALL TRANSFER FORTY PERCENT OF THE BALANCE OF THE FUND TO THE DIVISION AND SIXTY

PERCENT OF THE BALANCE OF THE FUND TO THE OFFICE. THE DIVISION SHALL USE THE MONEY TRANSFERRED PURSUANT TO THIS SUBSECTION (1) ONLY FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(4). THE OFFICE SHALL USE THE MONEY TRANSFERRED PURSUANT TO THIS SUBSECTION (1) ONLY FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(1).

(2) COMMENCING WITH THE TRANSFER BY THE STATE TREASURER OF MONEY FROM THE FUND TO THE DIVISION ON OR ABOUT JULY 1, 2023, IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, ALL MONEY IN THE FUND THAT IS TO BE TRANSFERRED TO THE DIVISION PURSUANT TO SAID SUBSECTION (1) IS CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE PURPOSES SPECIFIED IN SUBSECTION (3) OF THIS SECTION AS APPLICABLE TO THE DIVISION. THE APPROPRIATIONS, TRANSFERS, AND EXPENDITURES REQUIRED BY THIS SECTION ARE NOT SUBJECT TO THE LIMITATION ON FISCAL YEAR SPENDING SPECIFIED IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER SPENDING LIMITATION PROVIDED BY LAW.

**29-32-104. Permissible expenditures – affordable housing programs.** (1) THE OFFICE SHALL CONTRACT WITH THE ADMINISTRATOR. THE OFFICE MAY SELECT AN ADMINISTRATOR WITHOUT A COMPETITIVE PROCUREMENT PROCESS BUT SHALL ANNOUNCE THE CONTRACT OPENING PUBLICLY AND SELECT THE ADMINISTRATOR IN A MEETING THAT IS OPEN TO THE PUBLIC, NO LESS THAN SEVENTY-TWO HOURS AFTER NOTICE OF SUCH MEETING IS PUBLICLY AVAILABLE. THE ADMINISTRATOR SELECTED BY

THE OFFICE SHALL EXPEND THE MONEY TRANSFERRED TO THE OFFICE IN SECTION 29-32-103 TO SUPPORT THE FOLLOWING PROGRAMS ONLY:

(a) A LAND BANKING PROGRAM TO BE ADMINISTERED BY THE ADMINISTRATOR. THE PROGRAM SHALL PROVIDE GRANTS TO LOCAL GOVERNMENTS AND LOANS TO NON-PROFIT ORGANIZATIONS WITH A DEMONSTRATED HISTORY OF PROVIDING AFFORDABLE HOUSING TO ACQUIRE AND PRESERVE LAND FOR THE DEVELOPMENT OF AFFORDABLE HOUSING. MIXED USE DEVELOPMENT IS AN ALLOWABLE USE OF LAND PURCHASED UNDER THIS PROGRAM IF THE PREDOMINATE USE OF THE LAND IS AFFORDABLE HOUSING. LOANS MADE BY THE PROGRAM WILL BE FORGIVEN IF LAND ACQUIRED WITH THE ASSISTANCE OF THE PROGRAM IS PROPERLY ZONED WITH ACTIVE PLAN FOR THE DEVELOPMENT OF AFFORDABLE HOUSING WITHIN 5 YEARS OF DATE THE LOAN IS MADE AND IF THE DEVELOPMENT IS PERMITTED AND FUNDED WITHIN 10 YEARS. THE LENDER AND BORROWER MAY ESTABLISH ADDITIONAL TERMS IF NEEDED. IF LAND ACQUIRED WITH THE ASSISTANCE OF THE PROGRAM IS NOT DEVELOPED WITHIN THE TIMELINE ABOVE, THE LOAN MUST BE REPAYED, WITH INTEREST, AS SOON AS PRACTICAL, BUT NOT MORE THAN SIX MONTHS AFTER EXPIRATION OF SAID TIMELINE. LAND ACQUIRED WITH THE ASSISTANCE OF THE PROGRAM THAT IS NOT DEVELOPED WITHIN THE TIMELINE ABOVE MAY BE USED BY THE OWNER FOR ANY PURPOSE UPON PAYMENT OF THE LOAN WITH INTEREST OR, IN EXCHANGE FOR A WAIVER OF INTEREST, CONVEYED TO AN STATE AGENCY OR OTHER ENTITY FOR THE DEVELOPMENT OF AFFORDABLE HOUSING WITH THE APPROVAL OF THE ADMINISTRATOR. A MINIMUM OF 15% AND A MAXIMUM OF 25% OF MONIES

TRANSFERRED TO THE OFFICE FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE ADMINISTRATOR MAY UTILIZE UP TO TWO PERCENT OF THE FUNDS IT RECEIVES FROM THE OFFICE FOR THE PROGRAM ANNUALLY TO PAY FOR THE COSTS OF ADMINISTERING THE PROGRAM.

(b) AN AFFORDABLE HOUSING EQUITY PROGRAM TO BE ADMINISTERED BY THE ADMINISTRATOR. THE PROGRAM WILL MAKE EQUITY INVESTMENTS IN LOW- AND MIDDLE-INCOME MULTI-FAMILY RENTAL DEVELOPMENTS. THE PROGRAM WILL ALSO MAKE EQUITY INVESTMENTS IN AFFORDABLE HOUSING PROJECTS INTENDED TO PRESERVE EXISTING AFFORDABLE MULTI-FAMILY RENTAL UNITS. THE WEIGHTED AVERAGE OF RENTS FOR PROJECTS FUNDED BY THE PROGRAM MUST BE AND REMAIN PERMANENTLY AFFORDABLE SUCH THAT A PARTICIPATING HOUSEHOLD SHALL NOT BE REQUIRED TO SPEND MORE THAN 30% OF HOUSEHOLD INCOME ON RENT AND BASIC UTILITIES FOR HOUSEHOLDS THAT ARE AT OR BELOW 90% OF THE OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE TERRITORY OR JURISDICTION OF LOCAL GOVERNMENT IN WHICH THE HOUSING IS LOCATED, AS CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. THE PROGRAM SHALL INCLUDE A TENANT EQUITY VEHICLE, MEANING RESIDENTS IN PROJECTS FUNDED BY THE PROGRAM FOR AT LEAST ONE YEAR WILL BE ENTITLED TO FUNDING FROM THE PROGRAM FOR A DOWN-PAYMENT ON HOUSING OR RELATED PURPOSES. EQUITY INVESTMENTS MADE BY THE PROGRAM SHALL BE MADE WITH THE EXPECTATION OF RETURNS THAT ARE BELOW THE PREVAILING MARKET RETURNS. RETURNS ON PROGRAM

INVESTMENTS UP TO THE AMOUNT OF THE PROGRAM'S INITIAL INVESTMENT SHALL BE RETAINED IN THE PROGRAM AND REINVESTED. RETURNS ON PROGRAM INVESTMENTS GREATER THAN THE PROGRAM'S INITIAL INVESTMENT SHALL BE RETAINED IN THE PROGRAM TO FUND THE TENANT EQUITY VEHICLE. IN SELECTING INVESTMENTS UNDER THIS PROGRAM, THE ADMINISTRATOR WILL PRIORITIZE HIGH-DENSITY HOUSING, MIXED-INCOME HOUSING, AND PROJECTS CONSISTENT WITH THE GOAL OF ENVIRONMENTAL SUSTAINABILITY. A MINIMUM OF 40% OF MONIES AND A MAXIMUM OF 70% OF MONIES TRANSFERRED TO THE OFFICE FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE ADMINISTRATOR MAY UTILIZE UP TO TWO PERCENT OF THE FUNDS IT RECEIVES FROM THE OFFICE FOR THE PROGRAM ANNUALLY TO PAY FOR THE COSTS OF ADMINISTERING THE PROGRAM.

(c) A CONCESSIONARY DEBT PROGRAM TO BE ADMINISTERED BY THE ADMINISTRATOR. THE PROGRAM WILL: (i) PROVIDE DEBT FINANCING OF LOW- AND MIDDLE-INCOME MULTI-FAMILY RENTAL DEVELOPMENTS, (ii) PROVIDE DEBT FINANCING OF EXISTING AFFORDABLE HOUSING PROJECTS FOR THE PURPOSE OF PRESERVING EXISTING AFFORDABLE MULTI-FAMILY RENTAL UNITS, (iii) PROVIDE GAP FINANCING IN THE FORM OF SUBORDINATE DEBT AND PRE-DEVELOPMENT LOANS FOR PROJECTS THAT QUALIFY FOR FEDERAL LOW INCOME HOUSING TAX CREDITS, AND (iv) PROVIDE DEBT FINANCING FOR MODULAR AND FACTORY BUILD HOUSING MANUFACTURERS. THE WEIGHTED AVERAGE OF RENTS FOR PROJECTS FUNDED BY THE PROGRAM MUST BE AND REMAIN PERMANENTLY AFFORDABLE (MEANING THAT A HOUSEHOLD SHALL NOT BE REQUIRED TO SPEND MORE

THAN 30% OF HOUSEHOLD INCOME ON RENT AND BASIC UTILITIES) FOR HOUSEHOLDS THAT ARE AT OR BELOW 60% OF THE OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE TERRITORY OR JURISDICTION OF LOCAL GOVERNMENT IN WHICH THE HOUSING IS LOCATED, AS CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (THE AFFORDABILITY THRESHOLD), EXCEPT THAT WHERE THE PROGRAM IS A SECONDARY SOURCE OF FUNDING, THE AFFORDABILITY THRESHOLD REQUIRED BY THE PRIMARY FUNDING SOURCE, IF ANY, MAY BE OPERATIVE. DEBT FINANCING AND LOANS MADE BY THE PROGRAM SHALL BE MADE BELOW MARKET INTEREST RATES. RETURNS ON PROGRAM INVESTMENTS UP TO THE AMOUNT OF THE PROGRAM'S INITIAL INVESTMENT SHALL BE RETAINED IN THE PROGRAM AND REINVESTED. RETURNS ON PROGRAM INVESTMENTS GREATER THAN THE PROGRAM'S INITIAL INVESTMENT SHALL BE RETAINED IN THE PROGRAM TO FUND THE TENANT EQUITY VEHICLE OF THE AFFORDABLE HOUSING EQUITY PROGRAM CREATED IN SUBSECTION (1)(b) OF THIS SECTION. A MINIMUM OF 15% OF MONIES AND A MAXIMUM OF 35% OF MONIES TRANSFERRED TO THE OFFICE FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE ADMINISTRATOR MAY UTILIZE UP TO TWO PERCENT OF THE FUNDS IT RECEIVES FROM THE OFFICE FOR THE PROGRAM ANNUALLY TO PAY FOR THE COSTS OF ADMINISTERING THE PROGRAM.

(2) ALL PROJECTS FUNDED IN WHOLE OR IN PART BY ONE OF THE PROGRAMS CREATED UNDER THIS SUBSECTION (1) SHALL REMAIN AFFORDABLE HOUSING IN PERPETUITY.



(3) IN SELECTING INVESTMENTS TO BE MADE BY THE PROGRAMS OF SUBSECTION (1) OF THIS SECTION, THE ADMINISTRATOR SHALL PRIORITIZE PROJECTS THAT ACHIEVE HIGH-DENSITY HOUSING, MIXED-INCOME HOUSING, AND PROJECTS CONSISTENT WITH THE GOAL OF ENVIRONMENTAL SUSTAINABILITY, AS APPROPRIATE.

(4) THE DIVISION SHALL EXPEND THE MONEY TRANSFERRED TO THE DIVISION IN SECTION 29-32-103 TO SUPPORT THE FOLLOWING PROGRAMS ONLY:

(a) AN AFFORDABLE HOME OWNERSHIP PROGRAM ADMINISTERED BY THE DIVISION OR ONE OR MORE CONTRACTORS OF THE DIVISION. THE PROGRAM WILL OFFER HOME OWNERSHIP DOWN-PAYMENT ASSISTANCE TO FIRST-TIME HOMEBUYERS, AND SHALL INCENTIVIZE ASSISTANCE, TO THE EXTENT PRACTICABLE, TO FIRST-GENERATION HOMEBUYERS. THE ASSISTANCE SHALL BE PROVIDED TO HOUSEHOLDS WITH INCOME LESS THAN OR EQUAL TO 120% OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE TERRITORY OR JURISDICTION OF LOCAL GOVERNMENT IN WHICH THE HOUSING IS LOCATED, AS CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. THE PROGRAM WILL ALSO MAKE GRANTS OR LOANS TO NON-PROFITS AND COMMUNITY LAND TRUSTS TO SUPPORT AFFORDABLE HOME OWNERSHIP AND MOBILE HOME PARK BUYBACK PROGRAMS TO PRESERVE AFFORDABILITY. SAID GRANTS AND LOANS SHALL BE USED TO SUPPORT AFFORDABLE HOME OWNERSHIP FOR HOUSEHOLDS WITH INCOME LESS THAN OR EQUAL TO 100% OF THE AREA MEDIAN INCOME OF HOUSEHOLDS OF THAT SIZE IN THE TERRITORY OR JURISDICTION OF LOCAL GOVERNMENT IN WHICH THE HOUSEHOLDS ARE LOCATED, AS

CALCULATED AND PUBLISHED FOR A GIVEN YEAR BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. UP TO 50% OF MONIES TRANSFERRED TO THE DIVISION FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE DIVISION MAY UTILIZE UP TO 5% OF THE FUNDS IT RECEIVES FROM THE FUND FOR THE PROGRAM ANNUALLY TO PAY FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE PROGRAM.

(b) A PROGRAM SERVING PERSONS EXPERIENCING HOMELESSNESS TO BE ADMINISTERED BY THE DIVISION. THE PROGRAM WILL PROVIDE RENTAL ASSISTANCE, BOTH TIME-LIMITED AND NON-TIME-LIMITED VOUCHERS, AND EVICTION DEFENSE ASSISTANCE, INCLUDING LEGAL, FINANCIAL, AND CASE MANAGEMENT, TO PERSONS EXPERIENCING HOMELESSNESS OR AT RISK OF EXPERIENCING HOMELESSNESS. THE PROGRAM WILL ALSO MAKE GRANTS OR LOANS TO NON-PROFIT ORGANIZATIONS, LOCAL GOVERNMENTS OR PRIVATE ENTITIES TO SUPPORT THE DEVELOPMENT AND PRESERVATION OF SUPPORTIVE HOUSING FOR PERSONS EXPERIENCING HOMELESSNESS, AND OTHER HOMELESSNESS RELATED ACTIVITIES THE DIVISION DETERMINES CONTRIBUTE TO THE RESOLUTION OF OR PREVENTION OF HOMELESSNESS INCLUDING PAY FOR PERFORMANCE HOUSING PROGRAMS. UP TO 45% OF MONIES TRANSFERRED TO THE DIVISION FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE DIVISION MAY UTILIZE UP TO 5% OF THE FUNDS IT RECEIVES FROM THE FUND FOR THE PROGRAM ANNUALLY TO PAY FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE PROGRAM.

(c) A LOCAL PLANNING CAPACITY DEVELOPMENT PROGRAM ADMINISTERED BY THE DIVISION. THE PROGRAM WILL PROVIDE GRANTS TO LOCAL GOVERNMENTS TO INCREASE THE CAPACITY OF LOCAL GOVERNMENT PLANNING DEPARTMENTS RESPONSIBLE FOR PROCESSING LAND USE, PERMITTING AND ZONING APPLICATIONS FOR HOUSING PROJECTS. UP TO 5% OF MONIES TRANSFERRED TO THE DIVISION FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE DIVISION MAY UTILIZE UP TO 5% OF THE FUNDS IT RECEIVES FROM THE FUND FOR THE PROGRAM ANNUALLY TO PAY FOR THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE PROGRAM.

(5) THE APPROPRIATIONS, TRANSFERS, AND EXPENDITURES REQUIRED BY THIS SECTION ARE NOT SUBJECT TO THE LIMITATION ON FISCAL YEAR SPENDING SPECIFIED IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR ANY OTHER SPENDING LIMITATION PROVIDED BY LAW.

(6) IF THE LEGISLATIVE COUNCIL STAFF 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 TEMPORARILY REDUCE THE FUNDING ALLOCATED TO THE OFFICE REQUIRED BY THIS SECTION FOR A MAXIMUM OF ONE-YEAR IN ORDER TO BALANCE THE STATE BUDGET FOR THE NEXT STATE FISCAL YEAR

**29-32-105. Local government affordable housing commitments – three-year commitment cycle - expedited development approval process - eligibility for assistance from the fund.** (1) BEGINNING IN 2027, TO BE ELIGIBLE UNDER THIS ARTICLE

FOR DIRECT FUNDING, OR FOR AFFORDABLE HOUSING PROJECTS WITHIN A LOCAL GOVERNMENT'S TERRITORIAL BOUNDARIES TO BE ELIGIBLE FOR FUNDING, LOCAL GOVERNMENTS MUST SATISFY BOTH THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION TO COMMIT AND ACHIEVE ANNUAL INCREASES IN THE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN THEIR TERRITORIAL BOUNDARIES, AND THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION TO IMPLEMENT A SYSTEM TO EXPEDITE THE DEVELOPMENT APPROVAL PROCESS FOR AFFORDABLE HOUSING PROJECTS.

(2)(a) NOT LATER THAN NOVEMBER 1, 2023, THE GOVERNING BODY OF EACH LOCAL GOVERNMENT 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 WILL BE INCREASED BY THREE PERCENT EACH YEAR OVER THE BASELINE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN ITS TERRITORIAL BOUNDARIES, DETERMINED AS PROVIDED IN SUBSECTION (2)(C) OF THIS SECTION.

(b) IN THE CASE OF A COUNTY, THE REQUIREMENTS OF THIS SUBSECTION ONLY APPLY TO THE UNINCORPORATED AREAS OF THE COUNTY.

(C)THE BASELINE NUMBER OF AFFORDABLE HOUSING UNITS WITHIN THE TERRITORIAL BOUNDARIES OF A LOCAL GOVERNMENT, AS REFERENCED IN THIS SUBSECTION (2), SHALL BE DETERMINED BY THE LOCAL GOVERNMENT BY REFERENCE TO:

(I) REFERENCE TO THE 2017-2021 AMERICAN COMMUNITY SURVEY 5-YEAR ESTIMATES PUBLISHED BY THE UNITED STATES CENSUS BUREAU. THE BASELINE NUMBER WILL 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

(II) THE MOST RECENTLY AVAILABLE COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES ESTIMATES PUBLISHED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; OR

(III) A WEB-BASED SYSTEM CREATED, MAINTAINED, AND UPDATED BY THE DIVISION WITH THE ESTIMATES SPECIFIED IN SUBSECTION (C) (I) OF THIS SECTION, OR IF THE DIVISION FINDS THAT THE ESTIMATES SPECIFIED IN SAID SUBSECTION (C) (I) WOULD BE DELETERIOUS TO THE EFFICACIOUS IMPLEMENTATION OF THIS SECTION, AN ALTERNATIVE SOURCE OF ESTIMATES THAT THE DIVISION FINDS TO BE APPROPRIATE.

(d) BY NOVEMBER 1, 2026 AND BY NOVEMBER 1ST OF EACH SUBSEQUENT YEAR IN WHICH THE BASELINE RESETS, THE GOVERNING BODY OF EACH LOCAL GOVERNMENT 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, WITHIN ITS TERRITORIAL BOUNDARIES WILL BE INCREASED BY THREE PERCENT EACH YEAR OVER THE BASELINE NUMBER OF AFFORDABLE HOUSING

UNITS WITHIN ITS TERRITORIAL BOUNDARIES DETERMINED AS PROVIDED IN SUBSECTION (2)(C) OF THIS SECTION.

(e) IN DRAFTING AND ENACTING COMMITMENTS UNDER THIS SUBSECTION (2) LOCAL 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) IN ORDER TO RECEIVE FINANCIAL ASSISTANCE UNDER THIS ARTICLE, OR FOR AFFORDABLE HOUSING PROJECTS WITHIN A LOCAL GOVERNMENT’S TERRITORIAL BOUNDARIES TO BE ELIGIBLE FOR FUNDING, A LOCAL GOVERNMENT MUST ESTABLISH PROCESSES TO ENABLE IT TO PROVIDE A FINAL DECISION ON ANY APPLICATION FOR A SPECIAL PERMIT, VARIANCE, OR OTHER DEVELOPMENT PERMIT, EXCLUDING SUBDIVISIONS, OF A DEVELOPMENT PROJECT FOR WHICH FIFTY PERCENT OR MORE OF THE RESIDENTIAL UNITS IN THE DEVELOPMENT CONSTITUTE AFFORDABLE HOUSING NOT MORE THAN NINETY CALENDAR DAYS AFTER SUBMISSION OF A COMPLETE APPLICATION, REFERRED TO HEREIN AS A “FAST-TRACK APPROVAL PROCESS.”

(b) A LOCAL GOVERNMENT’S FAST-TRACK APPROVAL PROCESS MAY INCLUDE AN OPTION TO EXTEND THE REVIEW PERIOD FOR AN ADDITIONAL NINETY DAYS AT THE REQUEST OF A DEVELOPER, FOR COMPLIANCE WITH STATE LAW OR COURT ORDER, OR FOR A REVIEW PERIOD REQUIRED BY ANOTHER LOCAL GOVERNMENT OR AGENCY, WITHIN THE

LOCAL GOVERNMENT OR OUTSIDE, FOR ANY COMPONENT OF THE APPLICATION REQUIRING THAT GOVERNMENT'S OR AGENCY'S APPROVAL.

(c) A LOCAL GOVERNMENT'S FAST-TRACK APPROVAL PROCESS MAY INCLUDE EXTENSIONS TO ALLOW FOR THE SUBMISSION OF ADDITIONAL INFORMATION OR REVISIONS TO AN APPLICATION IN RESPONSE TO REQUESTS FROM THE LOCAL GOVERNMENT. SUCH EXTENSIONS SHALL NOT EXCEED THE AMOUNT OF TIME FROM THE REQUEST TO THE SUBMISSION OF THE APPLICANT'S RESPONSE PLUS THIRTY DAYS. APPLICANTS SHALL PROVIDE SUCH ADDITIONAL INFORMATION OR RESPONSES PROMPTLY AND SHALL, WHENEVER PRACTICABLE, PROVIDE A RESPONSE WITHIN FIVE BUSINESS DAYS.

(d) NOTHING IN THIS SUBSECTION SHALL BE INTERPRETED AS REQUIRING AN AFFORDABLE HOUSING DEVELOPER TO UTILIZE A FAST-TRACK APPROVAL PROCESS.

(e) BEGINNING IN 2027, A LOCAL GOVERNMENT MAY ONLY RECEIVE FINANCIAL ASSISTANCE UNDER THIS ARTICLE IF THE LOCAL GOVERNMENT HAS MET ITS GOAL FOR AFFORDABLE HOUSING GROWTH FOR THE PRIOR THREE-YEAR PERIOD. THE DIVISION SHALL BE RESPONSIBLE FOR DETERMINING COMPLIANCE WITH THIS SECTION. FOR THE PURPOSE OF CALCULATING WHETHER A LOCAL GOVERNMENT HAS MET THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION, A NEW RESIDENTIAL HOUSING UNIT IS TO BE COUNTED AT THE TIME IT IS PERMITTED RATHER THAN THE TIME IT IS CONSTRUCTED. 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 HAS MET THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION, IN ADDITION TO AFFORDABLE HOUSING GROWTH ACHIEVED THROUGH THE PROGRAMS IN THIS ARTICLE, ANY NEW DEED RESTRICTED AFFORDABLE HOUSING, NEWLY CONSTRUCTED OR CONVERTED TO AFFORDABLE, WITHIN A LOCAL GOVERNMENT'S TERRITORIAL BOUNDARIES SHALL BE COUNTED TOWARD THE LOCAL GOVERNMENT'S GROWTH REQUIREMENT. AFFORDABLE HOUSING GROWTH IN ANOTHER JURISDICTION RESULTING DIRECTLY FROM A LOCAL GOVERNMENT'S FUNDING OF SUCH AFFORDABLE HOUSING IN COOPERATION WITH ANOTHER LOCAL GOVERNMENT WILL BE ATTRIBUTED TO A LOCAL GOVERNMENT IN PROPORTION TO THE FUNDING PROVIDED BY THE LOCAL GOVERNMENT TO SUCH HOUSING.

(4) IF A LOCAL GOVERNMENT FAILS TO MEET THE REQUIREMENTS OF SUBSECTION (2) OR (3) OF THIS SECTION BY THE END OF ANY THREE-YEAR CYCLE, IT WILL BE INELIGIBLE TO RECEIVE FINANCIAL ASSISTANCE FROM THE DIVISION OR ADMINISTRATOR IN THE FOLLOWING CALENDAR YEAR. A DEVELOPER, WHETHER FOR-PROFIT OR NONPROFIT DEVELOPING AN AFFORDABLE HOUSING PROJECT IN A LOCAL GOVERNMENT THAT FAILS TO MEET THE REQUIREMENTS OF SUBSECTION (2) OR (3) OF THIS SECTION BY THE END OF ANY THREE-YEAR CYCLE WILL ALSO BE INELIGIBLE TO RECEIVE FINANCIAL ASSISTANCE FROM THE DIVISION OR ADMINISTRATION. AN INELIGIBLE LOCAL GOVERNMENT MAY REAPPLY IN A SUBSEQUENT YEAR WITH A NEW COMMITMENT UNDER SUBSECTION (2) OF THIS SECTION FOR THE BALANCE OF THE THEN-CURRENT THREE-YEAR



CYCLE AND EVIDENCE THAT IT IS IN COMPLIANCE WITH SUBSECTION (3) OF THIS SECTION. INELIGIBLE LOCAL GOVERNMENTS AND DEVELOPERS OF PROJECTS IN INELIGIBLE LOCAL GOVERNMENT JURISDICTIONS SHALL NOT BE REQUIRED TO PAY BACK TO THE DIVISION OR THE ADMINISTRATOR MONEY PAID TO THEM UNDER THIS ARTICLE PRIOR TO INELIGIBILITY.

**29-32-106. Maintenance of effort.** FOR ANY STATE FISCAL YEAR IN WHICH MONEY IS APPROPRIATED FROM THE FUND IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE, ANY SUCH MONEY APPROPRIATED MUST SUPPLEMENT AND SHALL NOT SUPPLANT THE LEVEL OF GENERAL FUND APPROPRIATIONS FOR AFFORDABLE HOUSING PROGRAMS AS OF THE EFFECTIVE DATE OF THIS ARTICLE.