

*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 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 COSTS THE HOUSEHOLD LESS THAN THIRTY PERCENT OF ITS MONTHLY INCOME. TARGETS SET FOR THE LOCAL GOVERNMENTS UNDER SECTION 29-32-105 FOR AFFORDABLE HOUSING SHALL BE BASED ON THE AVERAGE 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) "SUPPORT FUND" MEANS THE AFFORDABLE HOUSING SUPPORT FUND CREATED IN SECTION 29-32-103(1).

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

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

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

(9) "FINANCING FUND" MEANS THE AFFORDABLE HOUSING FINANCING FUND CREATED IN SECTION 29-32-103(2).

**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 REVENUES COLLECTED FROM AN EXISTING TAX OF ONE-TENTH OF ONE PERCENT ON FEDERAL TAXABLE INCOME, AS MODIFIED BY LAW, OF EVERY INDIVIDUAL, ESTATE, TRUST, AND CORPORATION, AS DEFINED IN LAW, AS CALCULATED PURSUANT TO SUBSECTION (4) OF THIS SECTION, SHALL BE DEPOSITED IN THE FUND BY THE STATE TREASURER. THE REVENUE DEPOSITED INTO THE FUND PURSUANT TO THIS SUBSECTION (1) SHALL NOT BE SUBJECT TO THE LIMITATION ON FISCAL YEAR SPENDING SPECIFIED IN SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(2) THE FUND SHALL CONSIST 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) ALL MONEY NOT EXPENDED OR ENCUMBERED, AND ALL INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEY IN THE FUND, SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

(4)(a) THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, SHALL CALCULATE THE AMOUNT OF REVENUES TO BE DEPOSITED IN THE FUND FOR THE PERIOD COMMENCING JANUARY 1, 2023 AND ENDING JUNE 30, 2023, AND FOR EACH STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2023. THE LEGISLATIVE COUNCIL AND THE OFFICE OF STATE PLANNING AND BUDGETING SHALL RELY UPON THE QUARTERLY STATE REVENUE ESTIMATES

ISSUED BY THE LEGISLATIVE COUNCIL IN CALCULATING SUCH AMOUNTS AND SHALL UPDATE ITS CALCULATIONS NOT LATER THAN FIVE DAYS FOLLOWING THE ISSUANCE OF EACH QUARTERLY STATE REVENUE ESTIMATE.

(b) TO ENSURE THAT ALL FUND REVENUES ARE TRANSFERRED TO THE FUND AND THAT OTHER STATE REVENUES ARE NOT ERRONEOUSLY TRANSFERRED TO THE FUND:

(I) NO LATER THAN TWO DAYS AFTER CALCULATING OR RECALCULATING THE AMOUNT OF FUND REVENUES FOR THE PERIOD COMMENCING JANUARY 1, 2023 AND ENDING JUNE 30, 2023, AND FOR ANY FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2023, THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, SHALL CERTIFY TO THE DEPARTMENT OF REVENUE THE AMOUNT OF FUND REVENUES THAT THE DEPARTMENT SHALL TRANSFER TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND ON THE FIRST DAY OF EACH OF THE THREE SUCCEEDING CALENDAR MONTHS AS REQUIRED BY PARAGRAPH (c) OF THIS SUBSECTION (4);

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), NO LATER THAN MAY 25 OF 2023 AND OF ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2023, THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, MAY CERTIFY TO THE DEPARTMENT OF REVENUE AN ADJUSTED AMOUNT FOR ANY TRANSFER TO BE MADE ON THE FIRST BUSINESS DAY OF THE IMMEDIATELY SUCCEEDING JUNE; AND

(III) SUBJECT TO REVIEW BY THE STATE AUDITOR, THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, MAY CORRECT ANY ERROR IN THE TOTAL AMOUNT OF STATE AFFORDABLE HOUSING REVENUES TRANSFERRED DURING ANY STATE

FISCAL YEAR BY ADJUSTING THE AMOUNT OF ANY TRANSFER TO BE MADE DURING THE NEXT STATE FISCAL YEAR.

(c) ON THE FIRST BUSINESS DAY OF EACH CALENDAR MONTH THAT COMMENCES AFTER JANUARY 5, 2023, THE DEPARTMENT OF REVENUE SHALL TRANSFER TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND REVENUES IN AN AMOUNT CERTIFIED TO THE DEPARTMENT BY THE LEGISLATIVE COUNCIL, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4).

**29-32-103. Transfers of money - permitted uses of the fund - continuous appropriation.** (1) THE AFFORDABLE HOUSING SUPPORT FUND IS HEREBY CREATED IN THE STATE TREASURY. THE SUPPORT FUND SHALL CONSIST OF MONEY DEPOSITED INTO IT UNDER SUBSECTION (3) OF THIS SECTION. THE DIVISION SHALL ADMINISTER THE SUPPORT FUND AND EXPEND THE MONEYS IN THE SUPPORT FUND ONLY FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(3). ALL MONEY NOT EXPENDED OR ENCUMBERED, AND ALL INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEY IN THE SUPPORT FUND, SHALL REMAIN IN THE SUPPORT FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR. ALL MONEY TRANSFERRED TO THE SUPPORT FUND PURSUANT TO SUBSECTION (3) OF THIS SECTION IS CONTINUOUSLY APPROPRIATED TO THE DIVISION FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(3).

(2) THE AFFORDABLE HOUSING FINANCING FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FINANCING FUND SHALL CONSIST OF MONEY DEPOSITED INTO IT UNDER SUBSECTION (3) OF THIS SECTION. THE OFFICE SHALL ADMINISTER THE FINANCING FUND AND EXPEND THE

MONEYS IN THE FINANCING FUND ONLY FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(1).

ALL MONEY NOT EXPENDED OR ENCUMBERED, AND ALL INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEY IN THE FINANCING FUND, SHALL REMAIN IN THE FINANCING FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR. ALL MONEY TRANSFERRED TO THE FINANCING FUND PURSUANT TO SUBSECTION (3) OF THIS SECTION IS CONTINUOUSLY APPROPRIATED TO THE OFFICE FOR THE PURPOSES SET FORTH IN SECTION 29-32-104(1).

(3) 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 ON THE DATE OF THE TRANSFER TO THE SUPPORT FUND AND SIXTY PERCENT OF THE BALANCE OF THE FUND ON THE DATE OF THE TRANSFER TO THE FINANCING FUND.

**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. NO SINGLE CONTRACT MAY EXCEED FIVE YEARS IN DURATION. UPON THE EXPIRATION OF ANY CONTRACT TERM, THE OFFICE MAY RENEW THE CONTRACT WITH THE SAME ADMINISTRATOR OR MAY SELECT ANOTHER ADMINISTRATOR. THE ADMINISTRATOR SELECTED BY THE OFFICE SHALL EXPEND THE MONEY TRANSFERRED TO THE FINANCING FUND IN SECTION 29-32-103(2) 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 SHALL BE FORGIVEN IF LAND ACQUIRED WITH THE ASSISTANCE OF THE PROGRAM IS PROPERLY ZONED WITH AN 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 A STATE AGENCY OR OTHER ENTITY FOR THE DEVELOPMENT OF AFFORDABLE HOUSING WITH THE APPROVAL OF THE ADMINISTRATOR. ALL PRINCIPAL AND INTEREST PAYMENTS ON LOANS MADE UNDER THIS PARAGRAPH (a) SHALL BE PAID TO THE ADMINISTRATOR AND USED BY THE ADMINISTRATOR FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (1). AS DETERMINED BY 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 SHALL MAKE EQUITY INVESTMENTS IN LOW- AND MIDDLE-INCOME MULTI-FAMILY RENTAL DEVELOPMENTS. THE PROGRAM SHALL ALSO MAKE EQUITY INVESTMENTS IN EXISTING AFFORDABLE HOUSING PROJECTS WHICH INCLUDE MULTI-FAMILY RENTAL UNITS FOR THE PURPOSE OF ENSURING THAT SAID PROJECTS REMAIN AFFORDABLE. THE AVERAGE OF RENTS FOR PROJECTS FUNDED BY THE PROGRAM (CALCULATED BY ADDING TOGETHER THE MONTHLY RENT FOR ALL UNITS IN A PROJECT AND DIVIDING BY THE NUMBER OF UNITS IN THE PROJECT) 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 FOR HOUSEHOLDS THAT ARE AT OR BELOW 90% 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, IN PROJECTS FUNDED BY THE PROGRAM, TENANTS WHO RESIDE IN THE PROJECT FOR AT LEAST ONE YEAR SHALL BE ENTITLED TO A SHARE OF THE EQUITY GROWTH IN THE PROJECT, IF ANY, IN THE FORM OF FUNDING FROM THE PROGRAM FOR A DOWN-PAYMENT ON HOUSING OR RELATED PURPOSES, IN AN AMOUNT DETERMINED BY THE ADMINISTRATOR. 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 SHALL PRIORITIZE HIGH-DENSITY HOUSING, MIXED-INCOME HOUSING, AND PROJECTS CONSISTENT WITH THE GOAL OF ENVIRONMENTAL SUSTAINABILITY. AS DETERMINED BY THE ADMINISTRATOR, 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 SHALL:

(I) PROVIDE DEBT FINANCING OF LOW- AND MIDDLE-INCOME MULTI-FAMILY RENTAL DEVELOPMENTS,

(II) PROVIDE GAP FINANCING IN THE FORM OF SUBORDINATE DEBT AND PRE-DEVELOPMENT LOANS FOR PROJECTS THAT QUALIFY FOR FEDERAL LOW INCOME HOUSING TAX CREDITS,

(III) PROVIDE DEBT FINANCING OF EXISTING AFFORDABLE HOUSING PROJECTS FOR THE PURPOSE OF PRESERVING EXISTING AFFORDABLE MULTI-FAMILY RENTAL UNITS, AND

(IV) PROVIDE DEBT FINANCING FOR MODULAR AND FACTORY BUILD HOUSING MANUFACTURERS.

THE AVERAGE OF RENTS FOR PROJECTS FUNDED BY THE PROGRAM (CALCULATED BY ADDING TOGETHER THE MONTHLY RENT FOR ALL UNITS IN A PROJECT AND DIVIDING BY THE NUMBER OF UNITS IN THE PROJECT) 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 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 AT BELOW MARKET INTEREST RATES AS DETERMINED BY THE ADMINISTRATOR. RETURNS ON PROGRAM INVESTMENTS UP TO THE AMOUNT OF THE PROGRAM'S INITIAL INVESTMENT SHALL BE RETAINED IN THE PROGRAM AND REINVESTED BY THE ADMINISTRATOR IN THE PROGRAM ESTABLISHED IN THIS PARAGRAPH (C). 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. AS DETERMINED BY THE ADMINISTRATOR, 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) 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.

(3) THE DIVISION SHALL EXPEND THE MONEY TRANSFERRED TO THE SUPPORT FUND IN SECTION 29-32-103(1) 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 SHALL OFFER HOME OWNERSHIP DOWN-PAYMENT ASSISTANCE TO FIRST-TIME HOMEBUYERS AND SHALL PRIORITIZE 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 SHALL ALSO MAKE GRANTS OR LOANS TO NON-PROFITS AND COMMUNITY LAND TRUSTS TO SUPPORT AFFORDABLE HOME OWNERSHIP AND TO GROUPS OR ASSOCIATIONS OF MOBILE HOME OWNERS TO ASSIST THEM WITH THE PURCHASE OF A MOBILE HOME PARK PURSUANT TO SECTION 38-12-217. 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. ALL PRINCIPAL AND INTEREST PAYMENTS ON LOANS MADE UNDER THIS PARAGRAPH (a) SHALL BE PAID TO THE DIVISION AND USED BY THE ADMINISTRATOR FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (3). UP TO 50% OF MONIES TRANSFERRED TO THE DIVISION FROM THE FUND ANNUALLY MAY BE USED FOR THE PROGRAM. THE DIVISION SHALL DETERMINE HOW MUCH OF THE AVAILABLE FUNDING SHALL BE ALLOCATED TO EACH ASPECT OF 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 SHALL PROVIDE RENTAL ASSISTANCE, HOUSING VOUCHERS, AND EVICTION DEFENSE ASSISTANCE, INCLUDING LEGAL, FINANCIAL, AND CASE MANAGEMENT, TO PERSONS EXPERIENCING HOMELESSNESS OR AT RISK OF EXPERIENCING HOMELESSNESS. THE PROGRAM SHALL 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 HOUSING PROGRAMS PAID FOR BY NON-PROFIT ORGANIZATIONS, LOCAL GOVERNMENTS OR PRIVATE ENTITIES ON A PAY FOR SUCCESS BASIS, MEANING AN ORGANIZATION, LOCAL GOVERNMENT OR PRIVATE ENTITY WOULD RECEIVE FINANCIAL SUPPORT FROM THE PROGRAM UPON ACHIEVING OBJECTIVES CONTRACTUALLY AGREED UPON WITH THE DIVISION.

ALL PRINCIPAL AND INTEREST PAYMENTS ON LOANS MADE UNDER THIS PARAGRAPH (b) SHALL BE PAID TO THE DIVISION AND USED BY THE ADMINISTRATOR FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (3). 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 SHALL 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) 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.

**29-32-105. Local government affordable housing commitments – three-year commitment cycle - expedited development approval process - eligibility for**

**assistance from the fund.** (1) (a) NOT LATER THAN NOVEMBER 1, 2023, THE GOVERNING BODY OF EACH LOCAL GOVERNMENT, OTHER THAN LOCAL HOUSING AUTHORITIES, DESIRING TO RECEIVE FUNDING UNDER THIS SECTION OR DESIRING TO MAKE AFFORDABLE HOUSING PROJECTS WITHIN ITS TERRITORIAL BOUNDARIES ELIGIBLE FOR FUNDING UNDER THIS SECTION 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.

(b) IN THE CASE OF A COUNTY, THE REQUIREMENTS OF THIS SUBSECTION (1) 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 (1), SHALL BE DETERMINED BY THE LOCAL GOVERNMENT BY REFERENCE TO:

(I) THE 2017-2021 AMERICAN COMMUNITY SURVEY 5-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

(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 (1)(C)(I) OF THIS SECTION, OR IF THE DIVISION FINDS THAT THE ESTIMATES SPECIFIED IN SAID SUBSECTION (1)(C)(I) WOULD BE IMPRACTICAL OR 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, OTHER THAN LOCAL HOUSING AUTHORITIES, DESIRING TO RECEIVE FUNDING UNDER THIS SECTION OR DESIRING TO MAKE AFFORDABLE HOUSING PROJECTS WITHIN ITS TERRITORIAL BOUNDARIES ELIGIBLE FOR FUNDING UNDER THIS SECTION 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 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.

(e) IN DRAFTING AND ENACTING COMMITMENTS UNDER THIS SUBSECTION (1) 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.

(2)(a) IN ORDER TO RECEIVE FINANCIAL ASSISTANCE UNDER THIS ARTICLE, OR FOR AFFORDABLE HOUSING PROJECTS WITHIN A MUNICIPALITY, A CITY AND COUNTY, OR THE UNINCORPORATED AREA OF A COUNTY TO BE ELIGIBLE FOR FUNDING, THE LOCAL GOVERNMENT, OTHER THAN A LOCAL AFFORDABLE HOUSING AUTHORITY, 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 (2) SHALL BE INTERPRETED AS REQUIRING AN AFFORDABLE HOUSING DEVELOPER TO UTILIZE A FAST-TRACK APPROVAL PROCESS.

(3) (a) 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, OTHER THAN LOCAL HOUSING AUTHORITIES, MUST 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.

(b)(I) IF A LOCAL 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 MAKES AND FILES WITH THE DIVISION THE COMMITMENT REQUIRED BY SUBSECTION (1) OF THIS SECTION BY NOVEMBER 1, 2026, OR BY NOVEMBER 1<sup>ST</sup> OF A SUBSEQUENT YEAR IN WHICH THE BASELINE RESETS, AND IT MET ITS COMMITMENT TO INCREASE AFFORDABLE HOUSING MADE UNDER SUBSECTION (1) OF THIS SECTION FOR THE PREVIOUS

THREE-YEAR CYCLE, IT SHALL BE DEEMED TO HAVE 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, FAILS TO MAKE AND FILE WITH THE DIVISION THE COMMITMENT REQUIRED BY SUBSECTION (1) OF THIS SECTION BY NOVEMBER 1, 2023, OR BY NOVEMBER 1<sup>ST</sup> OF A SUBSEQUENT YEAR IN WHICH THE BASELINE RESETS, IT SHALL BE INELIGIBLE TO RECEIVE FINANCIAL ASSISTANCE FROM THE DIVISION OR ADMINISTRATOR DURING THE FOLLOWING CALENDAR YEAR.

(IV) IF A LOCAL 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, IT SHALL BE 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 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 DEVELOPING AN AFFORDABLE HOUSING PROJECT WITHIN THE TERRITORIAL BOUNDARIES OF A LOCAL GOVERNMENT THAT FAILS TO MEET THE REQUIREMENTS OF SUBSECTION (1) OR (2) OF THIS SECTION SHALL BE 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 ELIGIBLE FOR FUNDING EVEN IF THE COUNTY IN WHICH THE PROJECT IS LOCATED IS INELIGIBLE.

(VII) 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.

(d) 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 (1) 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 (1) 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 SHALL BE ATTRIBUTED TO A LOCAL GOVERNMENT IN PROPORTION TO THE FUNDING PROVIDED BY THE LOCAL GOVERNMENT TO SUCH HOUSING.

**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 AND CASH FUND APPROPRIATIONS FOR AFFORDABLE HOUSING PROGRAMS AS OF STATE FISCAL  
YEAR 2022-23.