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ON LOCAL GOVERNMENT

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## COMMITTEE ON LOCAL GOVERNMENT

As directed by the provisions of House Joint Resolution 1041 and House Joint Resolution 1050, 1974 session, the Committee on Local Government conducted studies of possible legislation relating to the development of new communities and reviewed a proposed recodification of Colorado's municipal laws.

The committee received testimony from various individuals who have had experience with large-scale developments, some of which are termed new communities, in Colorado. In addition, a three-member subcommittee made on-site visits to the new communities of Reston, Virginia, and Columbia, Maryland, and the entire committee visited the Ken Karyl Ranch site being developed by the Johns-Manville Corporation in Jefferson County.

### I. New Communities

In recent years, Colorado has been experiencing a significant growth in population with the attendant needs for housing, industry, employment, and all forms of public services and facilities. Many argue that these growth-related problems indicate a need for additional policies which could help shape the growth patterns of the state. One suggested policy is for the General Assembly to recognize the creation of new communities and to establish standards for their development.

Legislative recognition of a need for a new community policy may have been prompted by the possibility that totally new towns might be developed to provide housing and municipal services to employees of oil shale industries. Some concern was expressed that adequate state guidelines for new communities had not been developed. Other persons have perceived a need for the state to provide some form of publicly generated assistance for such development.

In 1974 this recognition of the new community issue resulted in the Senate passage of Senate Bill 89, which would have provided for the establishment of new communities. However, the House of Representatives postponed the bill indefinitely and the topic of new communities was submitted to the Committee on Local Government for a more thorough review and constituted the major area of the committee's deliberations this interim.

## Policy Questions

The attention of the Committee on Local Government centered on several major questions:

(1) What should constitute a new community and what is the potential for new community development in Colorado?

(2) If there is a need for new communities, what should be the state's policy toward new community development? Should the state provide enabling legislation to encourage and assist in their development or should the state simply clarify the existing policies and establish regulatory mechanisms?

(3) If a regulatory policy is preferred, are there certain segments of new community development for which some form of public assistance or involvement may be desirable (e.g., the provision of low and moderate income housing)?

## Definitions of a New Community

A number of definitions of "new communities" and "new towns" were used in testimony before the committee and in publications on the topic. For example, one author has listed eight different definitional categories for new communities, while the U.S. Department of Housing and Urban Development regulations set forth five categories of new communities. Terms commonly used to describe new communities include: satellite; growth centers; free-standing; and new-town-in-town.

Several of the categories simply apply new terminology to existing types of developments. Is not the development of a new-town-in-town essentially the same as an urban renewal program since both redevelop existing areas in a central city? Additionally, depending on the size, could not a planned unit development be a satellite new community or a growth center?

Committee definition. The committee concluded that, for purposes of Colorado's policy, there is only one type of development which should be called a new community -- the so-called "free standing" new community, planned to be locationally separate from existing communities and designed to provide all the services and facilities normally associated with a city, including commercial, educational, health, cultural, and recreational facilities. These communities are planned to provide a balance between residential and non-residential development in order to ensure the economic self-sufficiency of the new community. A final characteristic is that they already have, or are projected to have, significant size in

terms of population. Columbia, Maryland, for example, has a population in excess of 30,000 and is planned to reach 110,000 by 1981.

### New Community Prototypes as Compared with Existing Colorado Developments

The types of developments commonly advertised or referred to as new communities in Colorado are actually large-scale developments. They are different from the above-described new communities in the degree to which they are spatially distinct from existing communities, economically self-sufficient, and able to provide their existing or future residents with normal city services and facilities.

While new large-scale developments in Colorado may be separate from existing communities to varying degrees, they appear to be designed as satellite communities rather than as free-standing entities. Further, although some large-scale developments in Colorado are planned to include some commercial and industrial facilities, they still depend on the existing employment base of the front range to stimulate demand for their development. The Ken Karyl Ranch, for example, is located approximately 18 miles from downtown Denver, and utilizes this proximity as one of its selling points to market its residential development. Another large-scale development, the Cheyenne Mountain Ranch, developed by Gates Land Company, was planned to be a part of the City of Colorado Springs and has been annexed by that city.

Large-scale developments in Colorado are also primarily dependent on existing communities for the provision of many services and facilities and diverse living opportunities. While these developments may provide various recreational facilities and light commercial facilities, they tend to be designed primarily for residential use.

One possible exception are the developments which occur as a result of specialized industries, such as the mountain recreation industry and, potentially, oil shale. Both of these industries may become the major employment sources for the permanent residents of the areas in which they are located. However, project operations for oil shale development have recently been curtailed and the feasibility of such development is uncertain at this time.

The primary reason for the differences between the new community prototypes and the large-scale development occurring in Colorado has been attributed by some individuals to the difference in population pressures in the two localities.

Columbia, Maryland, for example, is located in Howard County, a county which is projected to reach a population of one million people by 1981. Columbia is planned to accommodate roughly one-tenth of the growth.

## II. Committee Recommendations -- New Communities and Housing

### New Communities and Developments of Major Impact -- Bill 27

Bill 27 would amend the new community provisions now in House Bill 1041 -- the major land use act of 1974. H.B. 1041 contains three references to new communities -- a definition; a declaration that site selection and development of new communities may be designated by local government as an activity of state interest; and a paragraph setting brief criteria for administration of these activities. Both the definition and the criteria were challenged as being inadequate. This, the committee recommends two classifications of community-type development -- new communities and developments of major impact.

New communities. The definition of new communities in H.B. 1041 includes both free-standing communities as well as major additions to existing communities. The proposed definition would be more limited; it would refer only to self-sufficient, free-standing, locationally separate new towns.

Criteria is proposed for new community development which would help assure the financial and economic feasibility of a proposed total new community in terms of: (a) the developer's capability to implement the project; (b) project planning to provide a balanced economic base; and (c) service and facilities costs to be supported by future tax revenues. Assurance of both the financial capability of the developer and economic feasibility of a proposed new community were viewed as essential to protect the interests of future residents of the new community. A subsequent incorporation as a municipality would be encouraged, but not required.

Under the proposed bill, new communities would automatically become matters of state interest and therefore subject to state control, whether or not designated by local governments.

Developments of major impact. The committee recognizes that if the proposed definition of new communities were

adopted without other amendments, a significant number of large-scale developments near or adjoining existing municipalities might not be adequately regulated. Colorado continues to experience the construction of many large-scale developments advertised by the developers as "new communities". Such development probably would not meet the above-proposed definition of a new community. The committee has concluded that local governments should also be allowed to designate large-scale developments as activities of state interest guided by minimum statutory criteria for development.

The committee proposal would make state guidance and assistance available to foster the orderly growth of such major developments -- termed "developments of major impact" -- which would significantly affect the existing public services and facilities of local jurisdictions. Statutory criteria is recommended to assist local governments in guiding the development of such projects. The criteria would include: (a) conformance with local master plans; (b) assurance that projected tax or other community revenues would cover the cost of basic public services; and (c) assurance that proposed services and facilities would complement, not detract from, existing ones. Developments of major impact would become matters of state interest if designated by local governments, the same as are other matters of state interest under H.B. 1041.

Developments which revitalized existing communities, particularly in rural areas, were considered highly desirable by the committee. This policy is recommended because it would augment assistance to the declining economies in rural areas and also is viewed as being more feasible than developing new communities because a core of basic services and facilities have already been developed.

#### State Assistance for Low and Moderate Income Housing -- Bill

28

The lack of low and moderate income housing was constantly cited as a major problem throughout the committee's review of new community prototypes and developments of major impact in Colorado. Developers of Columbia and Reston informed the subcommittee that, at best, they had been only partially successful in providing low and moderate income housing. Most, if not all, such housing in these areas resulted from federally assisted housing programs. Colorado developers also related similar experiences. In the Cheyenne Mountain Ranch project, for example, only about five percent of the units were moderately priced and this housing was also financed through federal subsidy.

Housing costs. It was reported that housing costs are generally increasing much more rapidly than are incomes, so that increasingly greater numbers of low and moderate income families are being priced out of the housing market. An early 1974 study was cited which suggested that the cost of new housing in the Denver area is rising at a rate of about 10.5 percent annually due to inflation, while incomes in Colorado are rising at about eight percent annually. High interest rates were another factor which strained the ability of many families to purchase housing.

Others who testified also noted the shortage of lower-priced housing for the workers of mountain recreational areas such as Aspen and Vail. It was therefore recognized that additional mechanisms appear to be needed to assist in the provision of lower-priced housing in community development and redevelopment.

Housing Finance Authority. Bill 28 proposes to amend the State Housing Finance Authority Act by:

(a) Extending the authority board's power to allow it to serve as a conduit for new community loan guarantees under Title VII of the 1970 Urban Growth and New Community Development Act or any other related federal programs;

(b) Allowing the use of funds raised by revenue bonds to assist developers in land purchase and in providing basic services, the so-called front end costs. The savings realized by lower front end finance charges would be required to be passed on through the project to provide lower-cost housing as a final product; and

(c) Allowing the board to enter into joint projects with local governments to develop housing in conjunction with local industrial and commercial facilities financed by the local governments under Colorado's County and Municipality Development Revenue Bond Act as a part of a total development or redevelopment program.

Clarifying Amendments to the Housing Finance Act -- Bill 29

When the committee completed its draft of Bill 29 above, it asked Mr. Robert Johnson, bond counsel with the firm of Dawson, Nagel, Sherman and Howard, to review the draft and offer comments thereon. In his review, Mr. Johnson noted several problems in the existing housing finance act which he believed needed resolution. Bill 29 results from these suggestions.

Some of the proposed amendments are substantive but for the most part they are of a technical nature or they clarify language in the law. Mr. Johnson believed, however, that these amendments may substantially improve the sale of bonds under the act, and may possibly reduce the chances of a challenge in court to the implementation of the act.

### III. Senate Bill 89, 1974 Session

As indicated previously, the study of new communities was prompted, in part, by legislative action on Senate Bill 89, 1974 session. The Committee on Local Government does not recommend S.B. 89, but the committee believes that some discussion of why it rejected this proposal may be of interest.

S.B. 89 generally paralleled the procedures for formation of special districts. The bill proposed the creation of a transitional governing body called a "new community authority" which would oversee the new community's development before it is phased into a home rule municipality. A new community authority would be a body corporate and a political subdivision governed, at the outset, by a board appointed jointly by the developer and the approving Board of County Commissioners. The new community authority would be granted powers to develop, finance, and regulate the development of the community.

The specific problems in S.B. 89 fall within three general categories: general policy concerns, constitutional objections, and implementation problems.

#### General Policy Concerns

A new community authority is defined as a governmental subdivision. However, in light of the sizeable number of developer-appointed members on the authority's governing board, several persons questioned whether the authority board could be legally formed under the state's constitution as a public governing body. The argument was raised that individuals representing the private interests of the developer would be delegated legislative power as members of the authority board.

Some persons were concerned that, given any direct or indirect financial interest in the outcome of the board's actions, the developer-appointed members could not be expected to exercise complete objectivity in their decision-making.



Since the qualifications for developer-appointed board members were not set forth in the bill, it was argued that officers or employees of the developer could be appointed to the authority's governing board. The bill, however, would have explicitly exempted developer-appointed officials from civil or criminal liability for conflict of interest in actions as board members. For example, it was pointed out that developer-appointed officials potentially could determine the amount of user fees and other charges assessed for the new community development program through exercise of a veto, because they would hold almost one-half of the seats on the board.

Potential conflicts of interest could occur under the bill in another way. The developer would be authorized to appear as an interested party before the board on which his officers or appointees would be serving as officials.

Finance charge. S.B. 89 would authorize the assessment of a community development charge as a covenant on any real property conveyed within a new community. The development charge would finance all or part of the community program conducted by the new community authority. The charge would be fixed by the developer and the new community authority on the basis of property value either as a fee established at the time such real estate is conveyed, or as a percent of gross business receipts if the property is used for business or commercial purposes, or as a combination of both.

The first problem noted with regard to this charge is the difficulty in legally classifying it. The finance charge probably is not a general ad valorem property tax because it need not be uniformly levied on all classes of property. It would not appear to qualify as a user fee since it is not levied in the basis of use. It is not purely a business tax since it could also be levied upon residential property. Finally, it was argued that it is difficult to consider the charge to be a special assessment because there is no provision for hearing or notice required before determining the amount of assessment. Such hearing could be unnecessary because the charge is based on a contract between the developer and the purchaser of a developed tract.

A second significant problem was that, while the authority was responsible for setting the amount of the charge, for controlling its use, and for enforcing its collection, the charge is in fact levied as the result of a contract made between the developer and the purchaser. How could the authority function if it was not a party to the contract? In what position would the purchaser be placed? The purchaser

would in effect sign a contract to pay a charge with a party other than the one responsible for levying, collecting, and regulating it.

Districting. Wards would be determined by the developer at the time he petitions for the establishment of a new community authority.

The wards are to be of roughly equal size in terms of projected population. Some committee members objected to the creation of wards based on projected, rather than actual, population on the grounds that it could violate the "one-man-one-vote" principle.

Incorporation procedures. The bill provided that the new community authority shall follow the procedures for incorporation upon obtaining the required population under existing incorporation law or after the passage of a specified period of time. Concern was expressed that residents of new communities would be deprived of the option to determine whether or not their community should be incorporated.

Similarity to metropolitan districts. S.B. 89 would appear to provide another mechanism for creating multi-purpose districts, in addition to the existing metropolitan district law. The new community authority, similar to a metropolitan district, would be vested with the power to perform a wide range of functions and services, but it would not be subject to the statutory and constitutional procedures and limitations placed upon cities and towns. For example, statutory limits are specified for municipal bonded indebtedness, but no such limitation exists for the new community authority.

### Constitutional Objections

Several constitutional objections were raised in the course of committee hearings based upon the assumption that the new community authority would not be a political subdivision, but rather a semi-private corporation. First, Sections 1 and 2 of Article XI of the State Constitution preclude state and local governments from pledging credit and aid, either directly or indirectly, to corporations. The argument was raised that county governments could be in violation of this constitutional provision by lending its auspices to the authority through its power to appoint and remove members of the authority's governing board. The authority board would be authorized to issue bonds, and counties might be considered to be lending their credit to a private corporation.

A second constitutional objection was that the bill could be in conflict with portions of Section 35 of Article V which prohibits delegation by the General Assembly of municipal functions to any special commission or private corporation. Since members appointed by a private corporation would serve on the authority's governing board, these members would have been delegated power to legislate the conduct of municipal functions. Further, the same challenge might be made against the developer who would be a private corporation, granted authority to set forth zoning regulations in his original petition, as well as to establish wards.

Section 35 of Article V also prohibits the General Assembly from delegating the power to levy taxes to a private corporation. The finance charge on real property and gross business receipts, some argued, might be considered to be a form of taxation and such a grant of power could violate this constitutional provision.

#### Implementation Problems

Several objections to S.B. 89 were expressed by representatives of Colorado developers. The developers of the Reston, Virginia, and Columbia, Maryland, new communities offered essentially the same comments to the visiting subcommittee. Some developers indicated that they would not utilize S.B. 89 because they would not be able to retain control over the project through its completion. Second, a necessary commitment by the state to assure continuity and stability of government regulations toward new community development appeared to be lacking. Third, the mechanics of the authority and the procedures of the bill were too cumbersome, in the view of some developers. Finally, many believed that the bill is too closely tied with the federal new community act, Title VII of the 1970 Housing and Urban Development Act, which also involves complex requirements and procedures.

#### IV. Municipal Recodification

##### Committee Procedure

House Joint Resolution 1050 directed that the committee conduct a review of a proposed recodification of Colorado's municipal laws.

The Committee on Legal Services contracted with John A. Criswell of Criswell and Patterson, attorneys, to develop a revision of all of Chapter 139, C.R.S. 1963, now cited as

Title 31, C.R.S. 1973. Mr. Criswell's primary responsibility was to reorganize the provisions of Colorado's municipal law and to update and clarify language where such changes could be made without altering the substance of the law. Substantive changes included in the recodification were identified and reviewed by the Committee on Local Government.

#### Committee Recommendation

At the conclusion of its deliberations, the committee agreed to recommend an amended draft of the recodification. The committee believes that, except for the substantive and significant technical changes it reviewed and approved (which are too numerous to list herein) the draft is as free as possible from any non-intentional changes of a substantive nature. It is recognized that any extensive statutory recodification may include some unintentional changes in substance which simply have not been recognized as such and therefore were not identified. To prevent, so far as possible, such unintentional changes, the entire bill had been reviewed by members of the committee, a representative group of the Colorado Municipal League, legislative staff members, and other attorneys and individuals. The committee believes that a thorough review of the bill was accomplished and the bill is recommended for consideration during the 1975 session.

Because of its length, the recodification draft is not included as part of this report.

DISSENTING VIEW REGARDING THE COMMITTEE  
BILL ON NEW COMMUNITIES AND  
DEVELOPMENTS OF MAJOR IMPACT

We, the undersigned members of the Committee on Local Government, submit the following dissenting comments on the committee's proposed bill on new communities and developments of major impact. Our dissenting comments must be read with the understanding that we do support the bill in principle. We agree that by setting forth the role of the state in evaluating and administering new communities and developments of major impact, it offers recognition of and possible means of meeting the problems posed by such developments.

Our objections center on Section 26-65.1-10<sup>4</sup> (4.5) which defines developments of major impact, in part, as any development which will

...substantially increase one or more of the following in the affected municipality, county, or surrounding area: Population, school enrollment, water use, sewage effluent, valuation for assessment, and road and street lane mileage.

This is an inadequate standard. What is, and who is to determine what constitutes, a "substantial increase"?

We believe that a more responsible legislative alternative would be for the General Assembly to adopt the approach initially suggested, but subsequently removed, by the subcommittee which developed the bill. The initial subcommittee definition read as follows:

(III) The proposed development will increase population, school enrollment, water use, sewage effluent, assessed value, or road and street lane mileage of the affected municipality or county in the following percentages:

(a) Five percent in a county of one hundred thousand population or more;

(b) Ten percent in a county of twenty-five thousand population or more but less than one hundred thousand;

(c) Fifteen percent in a county of less than twenty-five thousand.

This approach would provide clear and meaningful statutory standards which can readily be interpreted and applied.

We are aware that the percentages used in the above-quoted definition represent no magic formula. We are also cognizant of the argument of the staff of the Land Use Commission that such specific language could limit their flexibility to deal with some future types of development not currently contemplated in the act. But, we must point out that standards such as we suggest can be changed by future legislative action if data show that there are other specific standards which have greater applicability or that these standards are not workable.

It is the responsibility of the General Assembly to set state policy and to specify the basic standards under which that policy will be administered. In this instance, specific identifiable standards had been proposed in committee and rejected. If these standards are rejected and the committee's language adopted by the General Assembly, the General Assembly will have, in our opinion, abdicated its responsibility. The determination of what constitutes a "substantial increase" will be left to the uncertainty of administrative decision-making and to the varied attitudes of 63 counties and more than 200 municipal governing bodies.

Local and state officials expect strong leadership from the General Assembly. Local officials and state agencies can do the jobs asked of them only if their responsibilities, and the standards under which such responsibilities are to be met, are clearly defined. If we continue to adopt such imprecise standards as proposed by the committee, they are not receiving the kinds of leadership they, as well as all of Colorado's citizens, have a right to expect.

In summary, the dissent presented herein is not directed as an attempt to change any long-standing public policy. Quite the opposite is true. It encourages the continuation of the traditional policy that says, in effect, that legislative delegations of responsibility must be accompanied by clear and concise standards for implementation. This is an important issue of public policy which we believe the General Assembly must address.

Representative Charles B. Howe  
Representative Gerard V. Frank  
Representative David M. Gaon

Representative James D. Lloyd  
Senator Lorena E. Darby  
Senator J. Robert Allshouse

COMMITTEE ON LOCAL GOVERNMENT

BILL 27

A BILL FOR AN ACT

1 CONCERNING LAND USE, AND PROVIDING FOR THE TREATMENT OF NEW  
2 COMMUNITIES AND DEVELOPMENTS OF MAJOR IMPACT AS ACTIVITIES  
3 OF STATE INTEREST.

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Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Establishes site selection and development of developments of major impact as a new activity of state interest and recites criteria for the administration thereof; declares site selection and development of new communities an activity of state interest; adjusts procedures related to new communities accordingly.

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4 Be it enacted by the General Assembly of the State of Colorado:

5 SECTION 1. 24-65.1-101 (2) (a), Colorado Revised Statutes  
6 1973 (numbered as 106-7-101 (2) (a), C.R.S. 1963), as enacted by  
7 section 1 of chapter 80, Session Laws of Colorado 1974, is  
8 amended to read:

9 24-65.1-101. Legislative declaration. (2) (a) The general  
10 assembly shall describe ~~areas~~ MATTERS which ARE OR may be of  
11 state interest ~~and-activities-which-may-be-of-state-interest~~ and  
12 establish criteria for the administration of such ~~areas--and~~  
13 ~~activities~~ MATTERS;



1 SECTION 2. 24-65.1-104 (13), Colorado Revised Statutes 1973  
2 (numbered as 106-7-104 (13), C.R.S. 1963), as enacted by section  
3 1 of chapter 80, Session Laws of Colorado 1974, is amended, and  
4 the said 24-65.1-104 is further amended BY THE ADDITION OF A NEW  
5 SUBSECTION to read:

6 24-65.1-104. Definitions pertaining to other areas and  
7 activities of state interest.

8 (13) "New ~~communities~~ COMMUNITY" means ~~the--major~~  
9 ~~revitalization-of-existing-municipalities-or-the-establishment-of~~  
10 ~~urbanized-growth-centers--in--unincorporated--areas~~ A COMMUNITY  
11 WHICH IS TO BE LOCATED WHOLLY IN AN UNINCORPORATED AREA AND WHICH  
12 IS CHARACTERIZED BY THE FOLLOWING:

13 (a) PHYSICAL SEPARATION AND ECONOMIC INDEPENDENCE FROM AN  
14 EXISTING MUNICIPALITY; AND

15 (b) INDEPENDENT PROVISION OF:

16 (I) EMPLOYMENT, RECREATIONAL, AND RESIDENTIAL  
17 OPPORTUNITIES; AND

18 (II) ALL SERVICES, FACILITIES, AND ACTIVITIES NORMALLY  
19 ASSOCIATED WITH A MUNICIPALITY.

20 (4.5) "Development of major impact" means any development,  
21 whether in an incorporated or unincorporated area, regarding  
22 which one of the following impacts can be reasonably foreseen:

23 (a) Provision of adequate services to the development will  
24 require formation or extension of a special district; or

25 (b) The development will substantially increase one or more  
26 of the following in the affected municipality, county, or  
27 surrounding area: Population, school enrollment, water use,

1 sewage effluent, valuation for assessment, and road and street  
2 lane mileage.

3 SECTION 3. 24-65.1-203 (1), Colorado Revised Statutes 1973  
4 (numbered as 106-7-203 (1), C.R.S. 1963), as enacted by section 1  
5 of chapter 80, Session Laws of Colorado 1974, is amended BY THE  
6 ADDITION OF A NEW PARAGRAPH to read:

7 24-65.1-203. Activities of state interest which may be  
8 designated by local governments - new communities statutorily  
9 designated. (1) (g.1) Site selection and development of  
10 developments of major impact;

11 SECTION 4. 24-65.1-203, Colorado Revised Statutes 1973  
12 (numbered as 106-7-203, C.R.S. 1963), as enacted by section 1 of  
13 chapter 80, Session Laws of Colorado 1974, is amended BY THE  
14 ADDITION OF A NEW SUBSECTION to read:

15 24-65.1-203. Activities of state interest which may be  
16 designated by local governments - new communities statutorily  
17 designated. (2) Site selection and development of new  
18 communities throughout the state is a matter of state interest  
19 whether or not a local government has designated such activity  
20 within its jurisdiction.

21 SECTION 5. 24-65.1-204 (7), Colorado Revised Statutes 1973  
22 (numbered as 106-7-204 (7), C.R.S. 1963), as enacted by section 1  
23 of chapter 80, Session Laws of Colorado 1974, is REPEALED AND  
24 REENACTED, WITH AMENDMENTS, to read:

25 24-65.1-204. Criteria for administration of activities of  
26 state interest. (7) In addition to the applicable criteria  
27 listed in section 24-65.1-206, the criteria for developments of

1 major impact are as follows:

2 (a) Priority and encouragement shall be given to  
3 developments of major impact which strengthen the economic base  
4 of declining rural areas or are intended to revitalize existing  
5 municipalities.

6 (b) Incorporation of a development of major impact shall  
7 require a clear and convincing demonstration of need and the  
8 absence of other viable alternatives for services and facilities.

9 (c) A development of major impact shall be developed in  
10 conformance with any applicable master plan adopted pursuant to  
11 section 30-28-108 or 31-23-106, C.R.S. 1973, and shall be  
12 complementary to local and regional interests.

13 (d) A plan for a development of major impact shall project  
14 that the net public costs of providing public services,  
15 facilities, and improvements will not exceed, or would be  
16 provided from nonpublic sources if they would exceed, the  
17 revenues generated by the development.

18 (e) In a development of major impact, services and  
19 facilities shall be provided in a manner which complements and  
20 does not detrimentally affect similar existing facilities in the  
21 region.

22 SECTION 6. Part 2 of article 65.1 of title 24, Colorado  
23 Revised Statutes 1973 (numbered as part 2 of article 7 of chapter  
24 106, C.R.S. 1963), as enacted by section 1 of chapter 80, Session  
25 Laws of Colorado 1974, is amended BY THE ADDITION OF THE  
26 FOLLOWING NEW SECTIONS to read:

27 24-65.1-205. Criteria for administration of new

1 communities. (1) Incorporation of a new community as a  
2 municipality shall be encouraged and may be required as a  
3 condition of granting a permit for development.

4 (2) A new community shall be developed in conformance with  
5 any applicable master plan adopted pursuant to section 39-28-108,  
6 C.R.S. 1973, and the new community shall be complementary to  
7 local and regional interests.

8 (3) A new community master plan shall include a clear  
9 statement of goals and objectives indicating locational analysis,  
10 size, design, land use, and environmental quality studies,  
11 employment projections, population profile, housing mix to  
12 accommodate various income levels, economic base, plan for  
13 governance, projected schedule of completion, and development  
14 phasing.

15 (4) A new community master plan shall project that the long  
16 range net public costs of providing public services, facilities,  
17 and improvements will not exceed, or would be provided from  
18 nonpublic sources if they would exceed, the revenues generated by  
19 the new community.

20 (5) (a) A financial plan or program shall be presented  
21 showing:

22 (I) All anticipated costs of developing public and  
23 publically financed services and facilities;

24 (II) The manner by which and the sources from which  
25 development costs will be met, including anticipated revenues  
26 from the development, financial resources of the developer,  
27 borrowing, and special districts, if any;

1 (III) A procedure allowing for periodic updating of the  
2 financial plan or program to take into consideration changes in  
3 costs, revenues, market conditions, and other relevant changes  
4 affecting the development.

5 (b) In the case of a private developer, the financial plan  
6 or program shall provide assurances that the developer will have  
7 an adequate incentive, in terms of equity invested and expected  
8 return, for completing the approved development and is  
9 financially capable to insure completion of the community.

10 (6) In a new community, services and facilities shall be  
11 provided in a manner which complements and does not overload  
12 facilities of existing local governments in the region. The  
13 services and facilities to be provided shall include but not be  
14 limited to transportation, highways, roads, schools, water, solid  
15 and liquid waste disposal, storm drainage, electricity, gas,  
16 telephone, fire and police protection, and health, recreational,  
17 cultural, shopping, commercial, and industrial facilities.

18 (7) A new community shall be economically feasible in terms  
19 of employment and economic base and shall project the potential  
20 for commercial, industrial, and residential development so that a  
21 balanced new community can be completed at the proposed location  
22 within a reasonable time or within the time specified in the  
23 plan.

24 24-65.1-206. Criteria for administration of new communities  
25 and developments of major impact. (1) Formation of any special  
26 district to assist in the development of a new community or a  
27 development of major impact shall be discouraged.

1           (2) New communities and developments of major impact, the  
2 planned construction of which would result in the loss or  
3 significant change in use of water and the future productivity of  
4 food, fiber, and forests and which would have a significant  
5 negative impact upon any major portion of the area's economy,  
6 shall be discouraged. A finding shall be made by the local  
7 government that no satisfactory equivalent alternative location  
8 is available in the area. The location shall satisfy the plans  
9 and needs for such new community or development of major impact  
10 as evidenced by the local government's and the region's growth  
11 patterns and pressures.

12           24-65.1-207. Aid in identifying and evaluation of criteria  
13 for new communities and developments of major impact. (1) In  
14 cooperation with other state agencies and local governments, the  
15 Colorado land use commission shall:

16           (a) Develop procedures, guidelines, and methods for  
17 identifying new communities and developments of major impact;

18           (b) Conduct a continuous evaluation of the criteria  
19 applicable to new communities and developments of major impact;

20           (c) Develop and continue to update analytical methods and  
21 procedures to be employed by local governments in the application  
22 of criteria;

23           (d) Develop and publish model guidelines for administration  
24 for use by local governments, which guidelines are based upon  
25 such criteria.

26           SECTION 7. 24-65.1-402 (1) and (3), Colorado Revised  
27 Statutes 1973 (numbered as 106-7-402 (1) and (3), C.R.S. 1963),

1 as enacted by section 1 of chapter 80, Session Laws of Colorado  
2 1974, are amended to read:

3 24-65.1-402. Guidelines - regulations. (1) The local  
4 government shall develop guidelines for administration of the  
5 designated matters of state interest. The content of such  
6 guidelines shall be such as to facilitate administration of  
7 matters of state interest consistent with ~~sections-106-7-202--and~~  
8 ~~106-7-204~~ THE APPLICABLE PROVISIONS OF PART 2 OF THIS ARTICLE.

9 (3) No provision in this article shall be construed as  
10 prohibiting a local government from adopting guidelines or  
11 regulations containing requirements which are more stringent than  
12 the requirements of the criteria listed in ~~sections-106-7-202-and~~  
13 ~~106-7-204~~ THE APPLICABLE PROVISIONS OF PART 2 OF THIS ARTICLE.

14 SECTION 8. 24-65.1-501 (1), Colorado Revised Statutes 1973  
15 (numbered as 106-7-501 (1) (a), C.R.S. 1963), as enacted by  
16 section 1 of chapter 80, Session Laws of Colorado 1974, is  
17 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18 24-65.1-501. Permit for development in area of state  
19 interest or for conduct of an activity of state interest. (1)

20 (a.5) (I) A developer or local government may request in writing  
21 that the Colorado land use commission conduct a preliminary  
22 review of the proposal for development and offer an advisory  
23 opinion as to whether the provisions of sections 24-65.1-104  
24 (4.5) and (13), 24-65.1-204 (7), 24-65.1-205, and 24-65.1-206 may  
25 be applicable to the proposed development and whether an  
26 application for a permit should be filed.

27 (II) The preliminary review shall be completed within

1 thirty days after the receipt of the request unless the developer  
2 and the Colorado land use commission or the local government and  
3 the Colorado land use commission, as the case may be, jointly  
4 agree to a different completion date.

5 (III) The issuance of such an advisory opinion shall not be  
6 considered as final and shall not be construed to supersede any  
7 of the provisions of this article or any other applicable  
8 statute.

9 SECTION 9. 24-65.1-501, Colorado Revised Statutes 1973  
10 (numbered as 106-7-501, C.R.S. 1963), as enacted by section 1 of  
11 chapter 80, Session Laws of Colorado 1974, is amended BY THE  
12 ADDITION OF A NEW SUBSECTION to read:

13 24-65.1-501. Permit for development in an area of state  
14 interest or for conduct of an activity of state interest. (2.5)

15 (a) Any person desiring to conduct a new community development  
16 shall mail a copy of the application to the Colorado land use  
17 commission for review pursuant to section 24-65.1-503. The  
18 application shall be sent by registered mail, return receipt  
19 requested, on the same day such person files his application with  
20 the local government.

21 (b) A local government shall receive a new community  
22 application, give notice, conduct a hearing, and approve or deny  
23 the permit for conduct of the activity according to the  
24 applicable provisions of this section.

25 SECTION 10. Part 5 of article 65.1 of title 24, Colorado  
26 Revised Statutes 1973 (numbered as part 5 of article 7 of chapter  
27 106, C.R.S. 1963), as enacted by section 1 of chapter 80, Session



1 Laws of Colorado 1974, is amended BY THE ADDITION OF A NEW  
2 SECTION to read:

3 24-65.1-503. New communities - concurrent review - cease  
4 and desist order. (1) The Colorado land use commission shall  
5 review all applications for a new community and determine whether  
6 the new community satisfies the applicable criteria. It may  
7 participate as a party in interest in the local government's  
8 hearing on the permit.

9 (2) If the Colorado land use commission determines that a  
10 new community does not comply with the applicable criteria but  
11 the local government grants the permit relating thereto, the  
12 Colorado land use commission, within fifteen days after the  
13 permit is granted, may request the governor's permission to issue  
14 a cease and desist order pursuant to section 24-65-104 (2),  
15 C.R.S. 1973. If the governor does not give said permission  
16 within fifteen days after it is requested, the permit shall be  
17 deemed approved.

18 SECTION 11. Safety clause. The general assembly hereby  
19 finds, determines, and declares that this act is necessary for  
20 the immediate preservation of the public peace, health, and  
21 safety.

COMMITTEE ON LOCAL GOVERNMENT

BILL 28

A BILL FOR AN ACT

1 CONCERNING THE STATE HOUSING FINANCE AUTHORITY, AND INCREASING  
2 THE POWERS OF ITS BOARD.

---

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases the powers of the state housing finance authority to allow the board's participation in projects designed to redevelop or expand existing municipalities and projects designed as total communities; conditions the board's power to acquire land upon certain findings; and provides the terms for sale or lease of such projects.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Part 7 of article 4 of title 29, Colorado  
5 Revised Statutes 1973, is amended BY THE ADDITION OF THE  
6 FOLLOWING NEW SECTIONS to read:

7 29-4-725. Additional legislative declaration. The general  
8 assembly finds and declares that there exists in all areas of  
9 this state a need to expand the capability for government to meet  
10 the state's growing needs for housing and for public,  
11 industrial, commercial, recreational, transportation, and  
12 ancillary facilities. Local governments and private enterprise

1 continue to encounter difficulty in providing, at reasonable  
2 costs, new large-scale industrial and commercial development or  
3 redevelopment coordinated with housing and related amenities for  
4 persons and families of low and moderate income. To help provide  
5 such facilities in a planned and orderly manner, the general  
6 assembly also finds and declares that the compelling need for  
7 such assistance can best be served by granting additional special  
8 powers to the board of directors of the Colorado housing finance  
9 authority created in this part 7.

10 29-4-726. Additional definitions. As used in sections  
11 29-4-725 to 29-4-729, unless the context otherwise requires:

12 (1) "Community development" or "community redevelopment"  
13 means a project for the development of low and moderate income  
14 housing together with such civic, industrial, commercial,  
15 transportation, and other facilities and improvements as may be  
16 necessary.

17 (2) "Improvements" means streets, sewer and water lines and  
18 other utilities, low and moderate income housing, recreational  
19 facilities and other community amenities.

20 (3) "Local government" means any county, city, city and  
21 county, or town or any department or agency thereof.

22 (4) "Project" means a project for community development or  
23 redevelopment including lands, buildings, improvements, or any  
24 interest therein, that are acquired, owned, constructed, or  
25 improved by the board or by a local government in accordance with  
26 and in furtherance of a detailed master plan, or a plan or  
27 program designed to develop or redevelop a given area or a

1 municipality.

2 29-4-727. Special powers authorized. (1) The board shall  
3 have the following additional and discretionary special powers:

4 (a) To participate in the planning, design, construction,  
5 and financing of projects designed to redevelop or expand  
6 existing municipalities;

7 (b) To participate in the planning, design, construction,  
8 and financing of the development of projects designed as total  
9 communities adjacent to or separate from existing municipalities;

10 (c) To acquire or contract to acquire from any person,  
11 firm, corporation, local government, or federal or state agency,  
12 by grant, gift, purchase, or otherwise, real, personal, or mixed  
13 property or any interest therein; and to own, hold, clear,  
14 improve, and rehabilitate and to sell, assign, exchange,  
15 transfer, convey, lease, mortgage, or otherwise dispose of or  
16 encumber the same;

17 (d) To carry out its responsibilities and perform its  
18 functions through one or more local governments;

19 (e) To acquire, construct, reconstruct, improve, alter, or  
20 repair or to provide for the construction, reconstruction,  
21 improvement, alteration, or repair of any project and related  
22 improvements;

23 (f) To arrange, or to contract with a local government, for  
24 the planning, replanning, opening, grading, or closing of  
25 streets, roads, roadways, alleys, or other places; the furnishing  
26 of facilities; the acquisition by a local government of property  
27 or property rights; or the furnishing of property or services in  
28 connection with a project;

1 (g) To sell, lease, assign, transfer, convey, exchange,  
2 mortgage, or otherwise dispose of or encumber any project, and,  
3 in the case of the sale of any project, to accept a purchase  
4 money mortgage in connection therewith; and to lease, repurchase,  
5 or otherwise acquire and hold any project which the board has  
6 theretofore sold, leased, or otherwise conveyed, transferred, or  
7 disposed of;

8 (h) To act as agent for or contract with local governments  
9 to construct, acquire, or finance facilities as part of a project  
10 under the "County and Municipality Development Revenue Bond Act",  
11 article 3 of this title;

12 (i) To act as agent for, contract for, and accept any  
13 moneys, gifts, grants, or loans of funds or property or financial  
14 or other aid in any form from the federal government or any  
15 agency or instrumentality thereof, or from the state or any  
16 agency or instrumentality thereof, or from any other source, so  
17 long as related to the purposes of sections 29-4-725 to 29-4-729;

18 (j) To do any and all other things, not in conflict with  
19 other provisions of this part 7, necessary or convenient to carry  
20 out the purposes and exercise the powers given and granted.

21 29-4-728. Findings for land acquisition. (1)  
22 Notwithstanding any other provision of this part 7, the board  
23 shall not be empowered to undertake the acquisition and  
24 improvement of a project unless:

25 (a) Primary consideration has been given to local needs and  
26 desires as expressed in local and regional plans as well as to  
27 statewide needs;

1 (b) Project plans have been filed with and approved by  
2 officials of the local governments involved;

3 (c) There exists, in the area in which the project is to be  
4 located, a need for safe and sanitary housing accommodations for  
5 persons or families of low income for which private financing is  
6 not readily available and which may best be provided under the  
7 provisions of this part 7;

8 (d) The acquisition and construction, proposed leasing,  
9 operation, and use of such project will aid in the development,  
10 growth, and prosperity of the state and the area in which such  
11 project is located;

12 (e) The plan or undertaking affords maximum opportunity for  
13 participation by private enterprise, consistent with public  
14 needs;

15 (f) There is a feasible method where redevelopment occurs,  
16 for the prompt relocation of families and individuals displaced  
17 from the project area into decent, safe, and sanitary dwellings,  
18 which are or will be provided in the project area or in other  
19 areas not generally less desirable at rents or prices within the  
20 financial means of such families or individuals and which are  
21 reasonably accessible to their places of employment. The board  
22 may render to business and commercial tenants displaced from the  
23 project area such assistance as it may deem necessary to enable  
24 them to relocate.

25 (g) The project, when completed, will provide housing for  
26 low and moderate income families in substantially the same  
27 proportion as provided in section 29-4-713; and

1           (h) The project meets the standards for financing and the  
2 standards for approval of organizations as set forth in this part  
3 7.

4           29-4-729. Sale or lease of land. The board may sell, or  
5 lease for a term not exceeding ninety-nine years, all or any  
6 portion of the real property constituting a project to any local  
7 government, person, firm, partnership, or corporation, either  
8 public or private, upon such terms and conditions as may be  
9 approved by the agency whenever the agency finds that such sale  
10 or lease is in conformity with a plan or undertaking for a  
11 project approved pursuant to this part 7.

12           SECTION 2. Safety clause. The general assembly hereby  
13 finds, determines, and declares that this act is necessary for  
14 the immediate preservation of the public peace, health, and  
15 safety.

COMMITTEE ON LOCAL GOVERNMENT

BILL 29

A BILL FOR AN ACT

1 CONCERNING HOUSING, AND EXPANDING THE POWERS OF THE BOARD OF THE  
2 COLORADO HOUSING FINANCE AUTHORITY.

---

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Clarifies the purposes for which, the conditions under which, and the persons to whom the Colorado housing finance authority board may loan moneys.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. The introductory portion of 29-4-707 (1) and  
5 29-4-707 (1) (s), Colorado Revised Statutes 1973, are amended to  
6 read:

7 29-4-707. General powers of the board. (1) In addition to  
8 any other powers granted to the authority in this part 7, the  
9 board, ON THE BEHALF AND IN THE NAME OF THE AUTHORITY, shall have  
10 the following powers:

11 (s) To provide a method for ~~nonprofit~~ HOUSING FACILITY  
12 sponsors to let contracts on a fair and competitive basis for the  
13 construction of housing facilities or the performance or  
14 furnishing of labor, materials, or supplies as required in this



1 part 7.

2 SECTION 2. 29-4-708 (1), Colorado Revised Statutes 1973, is  
3 amended to read:

4 29-4-708. Power of board - housing facility plans of  
5 developers. (1) The board shall approve or disapprove the  
6 financial feasibility of any plan OF ANY SPONSOR, DEVELOPER,  
7 BUILDER, OR LOCAL HOUSING AUTHORITY for the development of a  
8 housing facility which contemplates the issuance of authority  
9 bonds payable WHOLLY OR IN PART out of revenues to be derived  
10 from the proposed housing facility OR OTHER REVENUES OTHERWISE  
11 MADE AVAILABLE OR ADMINISTERED BY THE AUTHORITY, INCLUDING ANY  
12 FEDERALLY AIDED OR STATE-AIDED PLAN OR PROJECT.

13 SECTION 3. 29-4-709 (1), Colorado Revised Statutes 1973, is  
14 amended to read:

15 29-4-709. Powers of the board - financing - investments -  
16 refunding obligations. (1) Upon a determination by the board  
17 that a housing development plan is financially feasible and the  
18 approval by the board of the plan pursuant to section 29-4-708 OR  
19 SECTION 29-4-725, the board shall require the executive director  
20 to take the necessary steps to arrange financing for such  
21 project, under the provisions of this PART 7, INCLUDING, WITHOUT  
22 LIMITATION, THIS section and section 29-4-714.

23 SECTION 4. The introductory portion of 29-4-710 (1) (a) and  
24 29-4-710 (1) (b), (1) (c), and (1) (d), Colorado Revised Statutes  
25 1973, are amended to read:

26 29-4-710. Powers of the board - executive director -  
27 lending - assistance in housing facility development. (1) (a)

1 Lend money, CONDITIONALLY OR UNCONDITIONALLY AND SECURED OR  
2 UNSECURED, INCLUDING ADVANCES TO DEFRAY DEVELOPMENT COSTS OF ANY  
3 NATURE, to qualified individuals, organizations, or corporations  
4 subject to the provisions of this section and sections 29-4-708  
5 and 29-4-712; but such loans shall be made only upon the  
6 determination by the executive director that such loans are not  
7 otherwise available from private lenders upon reasonably  
8 equivalent terms and conditions, and, in connection with any such  
9 loan:

10 (b) Make or participate in the making of ADVANCES AND  
11 construction loans to sponsors, housing authorities, developers,  
12 and builders of housing facilities;

13 (c) Exercise the option to make or participate in the  
14 making of loans secured by second deeds of trust or mortgages to  
15 sponsors, housing authorities, developers, builders of housing  
16 facilities, and individuals if the total of the first and second  
17 mortgages does not exceed ninety-two percent of the total  
18 appraised value of any property which secures such second deed of  
19 trust or mortgage or to purchase or participate in the purchase  
20 of second deeds of trust or mortgages meeting this criterion if  
21 the total amount of such second deeds of trust or mortgages does  
22 not exceed fifteen percent of the total amount of loans secured  
23 by first deeds of trust or mortgages issued by the authority. In  
24 order to qualify for such loans secured by second deeds of trust  
25 or mortgages, the owner of a building must agree to make the  
26 dwelling units available to low and moderate income people  
27 PERSONS AND FAMILIES in such numbers and on such terms as the

1 board may require.

2 (d) MAKE SECURED OR UNSECURED LOANS TO LENDERS FOR, AND  
3 PURCHASE or contract to purchase from lenders, construction loans  
4 and mortgage loans TO BE MADE OR made to sponsors, developers,  
5 builders, and purchasers of housing facilities;

6 SECTION 5. 29-4-711, Colorado Revised Statutes 1973, are  
7 amended to read:

8 29-4-711. Mortgage - limitations on profits. (1) (a) A  
9 mortgagor OR OTHER SPONSOR OR DEVELOPER may not make  
10 distributions in any one year with respect to a project financed  
11 by OR THROUGH the authority in excess of six percent of ~~the~~  
12 ~~mortgagor's~~ SUCH ENTITY'S equity in such project.

13 (b) The ~~mortgagor's~~ ENTITY'S equity in a project shall  
14 consist of the difference between the mortgage OR OTHER CAPITAL  
15 INVESTMENT and the total project cost.

16 (c) "Total project cost" includes construction costs  
17 (including job overhead and a builder's and sponsor's profit and  
18 risk fee), architectural, engineering, legal, and accounting  
19 costs, organizational expenses, land value, interest and  
20 financing charges paid PRIOR TO AND during construction, the cost  
21 of relocation of displaced residents, and the cost of landscaping  
22 and off-site improvements, whether or not such costs have been  
23 paid in cash or in a form other than cash.

24 (2) With respect to every project, the board shall  
25 establish the ~~mortgagor's~~ ENTITY'S equity at the time of the  
26 making of the final mortgage OR OTHER LOAN advance, and that  
27 figure shall remain constant during the life of the authority's

1 mortgage OR OTHER LOAN on such project.

2 SECTION 6. The introductory portion of 29-4-712 (1) (c) and  
3 29-4-712 (1) (c) (III), Colorado Revised Statutes 1973, are  
4 amended to read:

5 29-4-712. Standards for approval of organizations. (1) (c)  
6 Such facilities or services will be available for persons OR  
7 FAMILIHS meeting the following requirements:

8 (III) Low- and moderate-income families who otherwise  
9 qualify under ~~section-29-4-702-(8)~~ SUBSECTIONS (5) AND (8) OF  
10 SECTION 29-4-702.

11 SECTION 7. 29-4-714 (4), Colorado Revised Statutes 1973, is  
12 amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

13 29-4-714. Bonds and notes - procedures. (4) Any notes may  
14 be made payable from the proceeds of, and such payment may be  
15 secured by, a pledge as collateral security of bonds (other than  
16 notes) issued for the purpose of securing the payment of the  
17 notes and indirectly for purposes encompassing the purposes for  
18 which the notes are issued, in addition to the provisions for the  
19 payment of notes in subsection (2) of this section or any  
20 combination of such provisions for payment of notes and the  
21 security therefor; any such bonds pledged as collateral security  
22 shall not be issued in an aggregate principal amount exceeding  
23 the aggregate principal amount of the notes secured by a pledge  
24 of such bonds; said bonds shall not bear interest at any time  
25 when any interest accrues at the same time on the note so secured  
26 exceeding the maximum rate of interest fixed by the board.

27 (5) For the purpose of funding any note, any bond other

1 than a note pledged as collateral security to secure the payment  
2 of such note may be reissued, and any such bond not previously  
3 issued but authorized to be issued for a purpose the same as or  
4 encompassing the purpose for which the note was issued may be  
5 issued for such a funding. Bonds for funding, including but not  
6 limited to any such reissued bonds, and bonds for any other  
7 purpose authorized in this part 7, other than notes, may be  
8 issued separately or issued in combination in one series or more.  
9 Except as otherwise provided in this section, any such funding  
10 bonds shall be issued as is provided for refunding bonds in this  
11 part 7, including but not limited to section 29-4-719.

12 (6) Any bonds (including any notes) may be secured by a  
13 trust indenture by and between the authority and a corporate  
14 trustee, which trustee may be any trust company or commercial  
15 bank having and exercising powers of a trust company and located  
16 within or without this state.

17 (7) Any resolution of the authority authorizing any bonds,  
18 or any trust indenture pertaining thereto, may contain  
19 provisions:

20 (a) Vesting in a trustee such property, rights, powers, and  
21 duties in trust as the authority may determine, including but not  
22 limited to all of the rights, powers, and duties of any trustee  
23 appointed by holders of notes or bonds, or both, and limiting or  
24 abrogating the right of such holders to appoint a trustee under  
25 this part 7 or limiting the rights, powers, and duties of such  
26 trustee;

27 (b) Complying with or proceeding under sections 11-54-111

1 to 11-54-115, C.R.S. 1973, except as otherwise provided in this  
2 part 7;

3 (c) Stating any other matters of a like or different  
4 character which in any way affect the security or protection of  
5 the notes or bonds or both.

6 SECTION 8. Part 7 of article 4 of title 29, Colorado  
7 Revised Statutes 1973, is amended BY THE ADDITION OF THE  
8 FOLLOWING NEW SECTIONS to read:

9 29-4-725. Power of board - housing facility plans re  
10 lenders. (1) The board may cause the executive director to  
11 formulate and from time to time modify a plan for the development  
12 of housing facilities meeting the standards and other  
13 requirements of section 29-4-713 and paragraphs (c) to (e) of  
14 subsection (1) of section 29-4-712 by the authority making money  
15 available to lenders for loans for housing facilities, including  
16 but not limited to mortgage loans, other long-term loans,  
17 construction loans, and advances to defray development costs.

18 (2) The board shall approve or disapprove the financial  
19 feasibility of such a plan or any material modification thereof,  
20 which plan contemplates the use of the proceeds of authority  
21 bonds, revenues derived or to be derived from housing facilities  
22 or otherwise by the authority, directly or indirectly, or other  
23 revenues otherwise made available or administered by the  
24 authority, including any federally aided or state-aided plan or  
25 project.

26 (3) If the board determines that such plan is financially  
27 feasible, that private financing is not available, and that the

1 necessary means of financing such plan are available through  
2 participation of the authority, the board may signify its  
3 approval of such plan.

4 29-4-726. Powers of the board - executive director -  
5 lending - assistance in lender's housing facilities project. (1)

6 Upon the approval by the board of a lender's housing facilities  
7 plan pursuant to section 29-4-725 and upon the issuance of bonds  
8 or other financial arrangement to implement the plan, the board  
9 shall adopt rules and regulations concerning the lending program  
10 and shall authorize the executive director to:

11 (a) Lend money to qualified lenders;

12 (b) In connection with any loan relating to the lending  
13 program and made to the authority by a governmental entity, agree  
14 to limitations upon the exercise of any powers conferred upon the  
15 authority by this part 7;

16 (c) In addition to the powers otherwise to be exercised by  
17 the executive director under this article, including, without  
18 limitation, section 29-4-710 (1) (c) to (1) (p), make and execute  
19 contracts with lenders pertaining to the lending program;

20 (d) Make advance commitments under stated conditions and  
21 terms;

22 (e) Require lenders, in connection with loans thereto or  
23 the purchase of outstanding residential housing facilities loans  
24 therefrom by the authority, to enter into agreements with the  
25 authority pertaining, among other matters, to:

26 (I) Prices relating to loans by the lenders, rates of  
27 return on their loans, and the value of their services under such

1 agreements;

2 (II) Periods of time for the performance of services or  
3 other undertakings;

4 (III) Collateral security furnished to the authority by the  
5 lenders, the substitution of collateral security from time to  
6 time under stated conditions, and the character and amount of  
7 such collateral security;

8 (IV) Standards as to the number and other characteristics  
9 of housing facilities;

10 (V) Inspection and audit of the books and records of the  
11 lenders and periodic reports thereby;

12 (VI) Representations and warranties by the lenders;

13 (VII) Any other matters related to loans to the lenders and  
14 loans thereby for housing facilities, and commitments and other  
15 obligations relating thereto, as the board deems relevant.

16 (2) The board shall terminate, temporarily or otherwise,  
17 any such lending program if at any time the board determines that  
18 it is not economically feasible for the authority to continue the  
19 lending program, that lenders have an adequate supply of money  
20 for low- and moderate-income family housing facilities without  
21 such program, or that the lenders can not or are unwilling to  
22 agree to comply with the standards, rules and regulations, or  
23 other provisions of this part 7.

24 SECTION 9. Safety clause. The general assembly hereby  
25 finds, determines, and declares that this act is necessary for  
26 the immediate preservation of the public peace, health, and  
27 safety.



COMMITTEE ON LOCAL GOVERNMENT

BILL 28

A BILL FOR AN ACT

1 CONCERNING THE STATE HOUSING FINANCE AUTHORITY, AND INCREASING  
2 THE POWERS OF ITS BOARD.

---

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases the powers of the state housing finance authority to allow the board's participation in projects designed to redevelop or expand existing municipalities and projects designed as total communities; conditions the board's power to acquire land upon certain findings; and provides the terms for sale or lease of such projects.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Part 7 of article 4 of title 29, Colorado  
5 Revised Statutes 1973, is amended BY THE ADDITION OF THE  
6 FOLLOWING NEW SECTIONS to read:

7 29-4-725. Additional legislative declaration. The general  
8 assembly finds and declares that there exists in all areas of  
9 this state a need to expand the capability for government to meet  
10 the state's growing needs for housing and for public,  
11 industrial, commercial, recreational, transportation, and  
12 ancillary facilities. Local governments and private enterprise

1 continue to encounter difficulty in providing, at reasonable  
2 costs, new large-scale industrial and commercial development or  
3 redevelopment coordinated with housing and related amenities for  
4 persons and families of low and moderate income. To help provide  
5 such facilities in a planned and orderly manner, the general  
6 assembly also finds and declares that the compelling need for  
7 such assistance can best be served by granting additional special  
8 powers to the board of directors of the Colorado housing finance  
9 authority created in this part 7.

10 29-4-726. Additional definitions. As used in sections  
11 29-4-725 to 29-4-729, unless the context otherwise requires:

12 (1) "Community development" or "community redevelopment"  
13 means a project for the development of low and moderate income  
14 housing together with such civic, industrial, commercial,  
15 transportation, and other facilities and improvements as may be  
16 necessary.

17 (2) "Improvements" means streets, sewer and water lines and  
18 other utilities, low and moderate income housing, recreational  
19 facilities and other community amenities.

20 (3) "Local government" means any county, city, city and  
21 county, or town or any department or agency thereof.

22 (4) "Project" means a project for community development or  
23 redevelopment including lands, buildings, improvements, or any  
24 interest therein, that are acquired, owned, constructed, or  
25 improved by the board or by a local government in accordance with  
26 and in furtherance of a detailed master plan, or a plan or  
27 program designed to develop or redevelop a given area or a

1 municipality.

2 29-4-727. Special powers authorized. (1) The board shall  
3 have the following additional and discretionary special powers:

4 (a) To participate in the planning, design, construction,  
5 and financing of projects designed to redevelop or expand  
6 existing municipalities;

7 (b) To participate in the planning, design, construction,  
8 and financing of the development of projects designed as total  
9 communities adjacent to or separate from existing municipalities;

10 (c) To acquire or contract to acquire from any person,  
11 firm, corporation, local government, or federal or state agency,  
12 by grant, gift, purchase, or otherwise, real, personal, or mixed  
13 property or any interest therein; and to own, hold, clear,  
14 improve, and rehabilitate and to sell, assign, exchange,  
15 transfer, convey, lease, mortgage, or otherwise dispose of or  
16 encumber the same;

17 (d) To carry out its responsibilities and perform its  
18 functions through one or more local governments;

19 (e) To acquire, construct, reconstruct, improve, alter, or  
20 repair or to provide for the construction, reconstruction,  
21 improvement, alteration, or repair of any project and related  
22 improvements;

23 (f) To arrange, or to contract with a local government, for  
24 the planning, replanning, opening, grading, or closing of  
25 streets, roads, roadways, alleys, or other places; the furnishing  
26 of facilities; the acquisition by a local government of property  
27 or property rights; or the furnishing of property or services in  
28 connection with a project;

1 (g) To sell, lease, assign, transfer, convey, exchange,  
2 mortgage, or otherwise dispose of or encumber any project, and,  
3 in the case of the sale of any project, to accept a purchase  
4 money mortgage in connection therewith; and to lease, repurchase,  
5 or otherwise acquire and hold any project which the board has  
6 theretofore sold, leased, or otherwise conveyed, transferred, or  
7 disposed of;

8 (h) To act as agent for or contract with local governments  
9 to construct, acquire, or finance facilities as part of a project  
10 under the "County and Municipality Development Revenue Bond Act",  
11 article 3 of this title;

12 (i) To act as agent for, contract for, and accept any  
13 moneys, gifts, grants, or loans of funds or property or financial  
14 or other aid in any form from the federal government or any  
15 agency or instrumentality thereof, or from the state or any  
16 agency or instrumentality thereof, or from any other source, so  
17 long as related to the purposes of sections 29-4-725 to 29-4-729;

18 (j) To do any and all other things, not in conflict with  
19 other provisions of this part 7, necessary or convenient to carry  
20 out the purposes and exercise the powers given and granted.

21 29-4-728. Findings for land acquisition. (1)  
22 Notwithstanding any other provision of this part 7, the board  
23 shall not be empowered to undertake the acquisition and  
24 improvement of a project unless:

25 (a) Primary consideration has been given to local needs and  
26 desires as expressed in local and regional plans as well as to  
27 statewide needs;

1 (b) Project plans have been filed with and approved by  
2 officials of the local governments involved;

3 (c) There exists, in the area in which the project is to be  
4 located, a need for safe and sanitary housing accommodations for  
5 persons or families of low income for which private financing is  
6 not readily available and which may best be provided under the  
7 provisions of this part 7;

8 (d) The acquisition and construction, proposed leasing,  
9 operation, and use of such project will aid in the development,  
10 growth, and prosperity of the state and the area in which such  
11 project is located;

12 (e) The plan or undertaking affords maximum opportunity for  
13 participation by private enterprise, consistent with public  
14 needs;

15 (f) There is a feasible method where redevelopment occurs,  
16 for the prompt relocation of families and individuals displaced  
17 from the project area into decent, safe, and sanitary dwellings,  
18 which are or will be provided in the project area or in other  
19 areas not generally less desirable at rents or prices within the  
20 financial means of such families or individuals and which are  
21 reasonably accessible to their places of employment. The board  
22 may render to business and commercial tenants displaced from the  
23 project area such assistance as it may deem necessary to enable  
24 them to relocate.

25 (g) The project, when completed, will provide housing for  
26 low and moderate income families in substantially the same  
27 proportion as provided in section 29-4-713; and

1           (h) The project meets the standards for financing and the  
2 standards for approval of organizations as set forth in this part  
3 7.

4           29-4-729. Sale or lease of land. The board may sell, or  
5 lease for a term not exceeding ninety-nine years, all or any  
6 portion of the real property constituting a project to any local  
7 government, person, firm, partnership, or corporation, either  
8 public or private, upon such terms and conditions as may be  
9 approved by the agency whenever the agency finds that such sale  
10 or lease is in conformity with a plan or undertaking for a  
11 project approved pursuant to this part 7.

12           SECTION 2. Safety clause. The general assembly hereby  
13 finds, determines, and declares that this act is necessary for  
14 the immediate preservation of the public peace, health, and  
15 safety.

COMMITTEE ON LOCAL GOVERNMENT

BILL 29

A BILL FOR AN ACT

1 CONCERNING HOUSING, AND EXPANDING THE POWERS OF THE BOARD OF THE  
2 COLORADO HOUSING FINANCE AUTHORITY.

---

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Clarifies the purposes for which, the conditions under which, and the persons to whom the Colorado housing finance authority board may loan moneys.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. The introductory portion of 29-4-707 (1) and  
5 29-4-707 (1) (s), Colorado Revised Statutes 1973, are amended to  
6 read:

7 29-4-707. General powers of the board. (1) In addition to  
8 any other powers granted to the authority in this part 7, the  
9 board, ON THE BEHALF AND IN THE NAME OF THE AUTHORITY, shall have  
10 the following powers:

11 (s) To provide a method for **nonprofit** HOUSING FACILITY  
12 sponsors to let contracts on a fair and competitive basis for the  
13 construction of housing facilities or the performance or  
14 furnishing of labor, materials, or supplies as required in this

1 part 7.

2 SECTION 2. 29-4-708 (1), Colorado Revised Statutes 1973, is  
3 amended to read:

4 29-4-708. Power of board - housing facility plans of  
5 developers. (1) The board shall approve or disapprove the  
6 financial feasibility of any plan OF ANY SPONSOR, DEVELOPER,  
7 BUILDER, OR LOCAL HOUSING AUTHORITY for the development of a  
8 housing facility which contemplates the issuance of authority  
9 bonds payable WHOLLY OR IN PART out of revenues to be derived  
10 from the proposed housing facility OR OTHER REVENUES OTHERWISE  
11 MADE AVAILABLE OR ADMINISTERED BY THE AUTHORITY, INCLUDING ANY  
12 FEDERALLY AIDED OR STATE-AIDED PLAN OR PROJECT.

13 SECTION 3. 29-4-709 (1), Colorado Revised Statutes 1973, is  
14 amended to read:

15 29-4-709. Powers of the board - financing - investments -  
16 refunding obligations. (1) Upon a determination by the board  
17 that a housing development plan is financially feasible and the  
18 approval by the board of the plan pursuant to section 29-4-708 OR  
19 SECTION 29-4-725, the board shall require the executive director  
20 to take the necessary steps to arrange financing for such  
21 project, under the provisions of this PART 7, INCLUDING, WITHOUT  
22 LIMITATION, THIS section and section 29-4-714.

23 SECTION 4. The introductory portion of 29-4-710 (1) (a) and  
24 29-4-710 (1) (b), (1) (c), and (1) (d), Colorado Revised Statutes  
25 1973, are amended to read:

26 29-4-710. Powers of the board - executive director -  
27 lending - assistance in housing facility development. (1) (a)



1 Lend money, CONDITIONALLY OR UNCONDITIONALLY AND SECURED OR  
2 UNSECURED, INCLUDING ADVANCES TO DEFRAY DEVELOPMENT COSTS OF ANY  
3 NATURE, to qualified individuals, organizations, or corporations  
4 subject to the provisions of this section and sections 29-4-708  
5 and 29-4-712; but such loans shall be made only upon the  
6 determination by the executive director that such loans are not  
7 otherwise available from private lenders upon reasonably  
8 equivalent terms and conditions, and, in connection with any such  
9 loan:

10 (b) Make or participate in the making of ADVANCES AND  
11 construction loans to sponsors, housing authorities, developers,  
12 and builders of housing facilities;

13 (c) Exercise the option to make or participate in the  
14 making of loans secured by second deeds of trust or mortgages to  
15 sponsors, housing authorities, developers, builders of housing  
16 facilities, and individuals if the total of the first and second  
17 mortgages does not exceed ninety-two percent of the total  
18 appraised value of any property which secures such second deed of  
19 trust or mortgage or to purchase or participate in the purchase  
20 of second deeds of trust or mortgages meeting this criterion if  
21 the total amount of such second deeds of trust or mortgages does  
22 not exceed fifteen percent of the total amount of loans secured  
23 by first deeds of trust or mortgages issued by the authority. In  
24 order to qualify for such loans secured by second deeds of trust  
25 or mortgages, the owner of a building must agree to make the  
26 dwelling units available to low and moderate income people  
27 PERSONS AND FAMILIES in such numbers and on such terms as the

1 board may require.

2 (d) MAKE SECURED OR UNSECURED LOANS TO LENDERS FOR, AND  
3 PURCHASE or contract to purchase from lenders, construction loans  
4 and mortgage loans TO BE MADE OR made to sponsors, developers,  
5 builders, and purchasers of housing facilities;

6 SECTION 5. 29-4-711, Colorado Revised Statutes 1973, are  
7 amended to read:

8 29-4-711. Mortgage - limitations on profits. (1) (a) A  
9 mortgagor OR OTHER SPONSOR OR DEVELOPER may not make  
10 distributions in any one year with respect to a project financed  
11 by OR THROUGH the authority in excess of six percent of the  
12 mortgagor's SUCH ENTITY'S equity in such project.

13 (b) The mortgagor's ENTITY'S equity in a project shall  
14 consist of the difference between the mortgage OR OTHER CAPITAL  
15 INVESTMENT and the total project cost.

16 (c) "Total project cost" includes construction costs  
17 (including job overhead and a builder's and sponsor's profit and  
18 risk fee), architectural, engineering, legal, and accounting  
19 costs, organizational expenses, land value, interest and  
20 financing charges paid PRIOR TO AND during construction, the cost  
21 of relocation of displaced residents, and the cost of landscaping  
22 and off-site improvements, whether or not such costs have been  
23 paid in cash or in a form other than cash.

24 (2) With respect to every project, the board shall  
25 establish the mortgagor's ENTITY'S equity at the time of the  
26 making of the final mortgage OR OTHER LOAN advance, and that  
27 figure shall remain constant during the life of the authority's

1 mortgage OR OTHER LOAN on such project.

2 SECTION 6. The introductory portion of 29-4-712 (1) (c) and  
3 29-4-712 (1) (c) (III), Colorado Revised Statutes 1973, are  
4 amended to read:

5 29-4-712. Standards for approval of organizations. (1) (c)  
6 Such facilities or services will be available for persons OR  
7 FAMILIES meeting the following requirements:

8 (III) Low- and moderate-income families who otherwise  
9 qualify under ~~section-29-4-702-(8)~~ SUBSECTIONS (5) AND (8) OF  
10 SECTION 29-4-702.

11 SECTION 7. 29-4-714 (4), Colorado Revised Statutes 1973, is  
12 amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

13 29-4-714. Bonds and notes - procedures. (4) Any notes may  
14 be made payable from the proceeds of, and such payment may be  
15 secured by, a pledge as collateral security of bonds (other than  
16 notes) issued for the purpose of securing the payment of the  
17 notes and indirectly for purposes encompassing the purposes for  
18 which the notes are issued, in addition to the provisions for the  
19 payment of notes in subsection (2) of this section or any  
20 combination of such provisions for payment of notes and the  
21 security therefor; any such bonds pledged as collateral security  
22 shall not be issued in an aggregate principal amount exceeding  
23 the aggregate principal amount of the notes secured by a pledge  
24 of such bonds; said bonds shall not bear interest at any time  
25 when any interest accrues at the same time on the note so secured  
26 exceeding the maximum rate of interest fixed by the board.

27 (5) For the purpose of funding any note, any bond other

1 than a note pledged as collateral security to secure the payment  
2 of such note may be reissued, and any such bond not previously  
3 issued but authorized to be issued for a purpose the same as or  
4 encompassing the purpose for which the note was issued may be  
5 issued for such a funding. Bonds for funding, including but not  
6 limited to any such reissued bonds, and bonds for any other  
7 purpose authorized in this part 7, other than notes, may be  
8 issued separately or issued in combination in one series or more.  
9 Except as otherwise provided in this section, any such funding  
10 bonds shall be issued as is provided for refunding bonds in this  
11 part 7, including but not limited to section 29-4-719.

12 (6) Any bonds (including any notes) may be secured by a  
13 trust indenture by and between the authority and a corporate  
14 trustee, which trustee may be any trust company or commercial  
15 bank having and exercising powers of a trust company and located  
16 within or without this state.

17 (7) Any resolution of the authority authorizing any bonds,  
18 or any trust indenture pertaining thereto, may contain  
19 provisions:

20 (a) Vesting in a trustee such property, rights, powers, and  
21 duties in trust as the authority may determine, including but not  
22 limited to all of the rights, powers, and duties of any trustee  
23 appointed by holders of notes or bonds, or both, and limiting or  
24 abrogating the right of such holders to appoint a trustee under  
25 this part 7 or limiting the rights, powers, and duties of such  
26 trustee;

27 (b) Complying with or proceeding under sections 11-54-111

1 to 11-54-115, C.R.S. 1973, except as otherwise provided in this  
2 part 7;

3 (c) Stating any other matters of a like or different  
4 character which in any way affect the security or protection of  
5 the notes or bonds or both.

6 SECTION 8. Part 7 of article 4 of title 29, Colorado  
7 Revised Statutes 1973, is amended BY THE ADDITION OF THE  
8 FOLLOWING NEW SECTIONS to read:

9 29-4-725. Power of board - housing facility plans re  
10 lenders. (1) The board may cause the executive director to  
11 formulate and from time to time modify a plan for the development  
12 of housing facilities meeting the standards and other  
13 requirements of section 29-4-713 and paragraphs (c) to (e) of  
14 subsection (1) of section 29-4-712 by the authority making money  
15 available to lenders for loans for housing facilities, including  
16 but not limited to mortgage loans, other long-term loans,  
17 construction loans, and advances to defray development costs.

18 (2) The board shall approve or disapprove the financial  
19 feasibility of such a plan or any material modification thereof,  
20 which plan contemplates the use of the proceeds of authority  
21 bonds, revenues derived or to be derived from housing facilities  
22 or otherwise by the authority, directly or indirectly, or other  
23 revenues otherwise made available or administered by the  
24 authority, including any federally aided or state-aided plan or  
25 project.

26 (3) If the board determines that such plan is financially  
27 feasible, that private financing is not available, and that the

1 necessary means of financing such plan are available through  
2 participation of the authority, the board may signify its  
3 approval of such plan.

4 29-4-726. Powers of the board - executive director -  
5 lending - assistance in lender's housing facilities project. (1)

6 Upon the approval by the board of a lender's housing facilities  
7 plan pursuant to section 29-4-725 and upon the issuance of bonds  
8 or other financial arrangement to implement the plan, the board  
9 shall adopt rules and regulations concerning the lending program  
10 and shall authorize the executive director to:

11 (a) Lend money to qualified lenders;

12 (b) In connection with any loan relating to the lending  
13 program and made to the authority by a governmental entity, agree  
14 to limitations upon the exercise of any powers conferred upon the  
15 authority by this part 7;

16 (c) In addition to the powers otherwise to be exercised by  
17 the executive director under this article, including, without  
18 limitation, section 29-4-710 (1) (c) to (1) (p), make and execute  
19 contracts with lenders pertaining to the lending program;

20 (d) Make advance commitments under stated conditions and  
21 terms;

22 (e) Require lenders, in connection with loans thereto or  
23 the purchase of outstanding residential housing facilities loans  
24 therefrom by the authority, to enter into agreements with the  
25 authority pertaining, among other matters, to:

26 (I) Prices relating to loans by the lenders, rates of  
27 return on their loans, and the value of their services under such

1 agreements;

2 (II) Periods of time for the performance of services or  
3 other undertakings;

4 (III) Collateral security furnished to the authority by the  
5 lenders, the substitution of collateral security from time to  
6 time under stated conditions, and the character and amount of  
7 such collateral security;

8 (IV) Standards as to the number and other characteristics  
9 of housing facilities;

10 (V) Inspection and audit of the books and records of the  
11 lenders and periodic reports thereby;

12 (VI) Representations and warranties by the lenders;

13 (VII) Any other matters related to loans to the lenders and  
14 loans thereby for housing facilities, and commitments and other  
15 obligations relating thereto, as the board deems relevant.

16 (2) The board shall terminate, temporarily or otherwise,  
17 any such lending program if at any time the board determines that  
18 it is not economically feasible for the authority to continue the  
19 lending program, that lenders have an adequate supply of money  
20 for low- and moderate-income family housing facilities without  
21 such program, or that the lenders can not or are unwilling to  
22 agree to comply with the standards, rules and regulations, or  
23 other provisions of this part 7.

24 SECTION 9. Safety clause. The general assembly hereby  
25 finds, determines, and declares that this act is necessary for  
26 the immediate preservation of the public peace, health, and  
27 safety.

COMMITTEE ON LOCAL GOVERNMENT

BILL 28

A BILL FOR AN ACT

1 CONCERNING THE STATE HOUSING FINANCE AUTHORITY, AND INCREASING  
2 THE POWERS OF ITS BOARD.

---

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Increases the powers of the state housing finance authority to allow the board's participation in projects designed to redevelop or expand existing municipalities and projects designed as total communities; conditions the board's power to acquire land upon certain findings; and provides the terms for sale or lease of such projects.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Part 7 of article 4 of title 29, Colorado  
5 Revised Statutes 1973, is amended BY THE ADDITION OF THE  
6 FOLLOWING NEW SECTIONS to read:

7 29-4-725. Additional legislative declaration. The general  
8 assembly finds and declares that there exists in all areas of  
9 this state a need to expand the capability for government to meet  
10 the state's growing needs for housing and for public,  
11 industrial, commercial, recreational, transportation, and  
12 ancillary facilities. Local governments and private enterprise



1 municipality.

2 29-4-727. Special powers authorized. (1) The board shall  
3 have the following additional and discretionary special powers:

4 (a) To participate in the planning, design, construction,  
5 and financing of projects designed to redevelop or expand  
6 existing municipalities;

7 (b) To participate in the planning, design, construction,  
8 and financing of the development of projects designed as total  
9 communities adjacent to or separate from existing municipalities;

10 (c) To acquire or contract to acquire from any person,  
11 firm, corporation, local government, or federal or state agency,  
12 by grant, gift, purchase, or otherwise, real, personal, or mixed  
13 property or any interest therein; and to own, hold, clear,  
14 improve, and rehabilitate and to sell, assign, exchange,  
15 transfer, convey, lease, mortgage, or otherwise dispose of or  
16 encumber the same;

17 (d) To carry out its responsibilities and perform its  
18 functions through one or more local governments;

19 (e) To acquire, construct, reconstruct, improve, alter, or  
20 repair or to provide for the construction, reconstruction,  
21 improvement, alteration, or repair of any project and related  
22 improvements;

23 (f) To arrange, or to contract with a local government, for  
24 the planning, replanning, opening, grading, or closing of  
25 streets, roads, roadways, alleys, or other places; the furnishing  
26 of facilities; the acquisition by a local government of property  
27 or property rights; or the furnishing of property or services in  
28 connection with a project;

1 (g) To sell, lease, assign, transfer, convey, exchange,  
2 mortgage, or otherwise dispose of or encumber any project, and,  
3 in the case of the sale of any project, to accept a purchase  
4 money mortgage in connection therewith; and to lease, repurchase,  
5 or otherwise acquire and hold any project which the board has  
6 theretofore sold, leased, or otherwise conveyed, transferred, or  
7 disposed of;

8 (h) To act as agent for or contract with local governments  
9 to construct, acquire, or finance facilities as part of a project  
10 under the "County and Municipality Development Revenue Bond Act",  
11 article 3 of this title;

12 (i) To act as agent for, contract for, and accept any  
13 moneys, gifts, grants, or loans of funds or property or financial  
14 or other aid in any form from the federal government or any  
15 agency or instrumentality thereof, or from the state or any  
16 agency or instrumentality thereof, or from any other source, so  
17 long as related to the purposes of sections 29-4-725 to 29-4-729;

18 (j) To do any and all other things, not in conflict with  
19 other provisions of this part 7, necessary or convenient to carry  
20 out the purposes and exercise the powers given and granted.

21 29-4-728. Findings for land acquisition. (1)  
22 Notwithstanding any other provision of this part 7, the board  
23 shall not be empowered to undertake the acquisition and  
24 improvement of a project unless:

25 (a) Primary consideration has been given to local needs and  
26 desires as expressed in local and regional plans as well as to  
27 statewide needs;

1 (b) Project plans have been filed with and approved by  
2 officials of the local governments involved;

3 (c) There exists, in the area in which the project is to be  
4 located, a need for safe and sanitary housing accommodations for  
5 persons or families of low income for which private financing is  
6 not readily available and which may best be provided under the  
7 provisions of this part 7;

8 (d) The acquisition and construction, proposed leasing,  
9 operation, and use of such project will aid in the development,  
10 growth, and prosperity of the state and the area in which such  
11 project is located;

12 (e) The plan or undertaking affords maximum opportunity for  
13 participation by private enterprise, consistent with public  
14 needs;

15 (f) There is a feasible method where redevelopment occurs,  
16 for the prompt relocation of families and individuals displaced  
17 from the project area into decent, safe, and sanitary dwellings,  
18 which are or will be provided in the project area or in other  
19 areas not generally less desirable at rents or prices within the  
20 financial means of such families or individuals and which are  
21 reasonably accessible to their places of employment. The board  
22 may render to business and commercial tenants displaced from the  
23 project area such assistance as it may deem necessary to enable  
24 them to relocate.

25 (g) The project, when completed, will provide housing for  
26 low and moderate income families in substantially the same  
27 proportion as provided in section 29-4-713; and

1           (h) The project meets the standards for financing and the  
2 standards for approval of organizations as set forth in this part  
3 7.

4           29-4-729. Sale or lease of land. The board may sell, or  
5 lease for a term not exceeding ninety-nine years, all or any  
6 portion of the real property constituting a project to any local  
7 government, person, firm, partnership, or corporation, either  
8 public or private, upon such terms and conditions as may be  
9 approved by the agency whenever the agency finds that such sale  
10 or lease is in conformity with a plan or undertaking for a  
11 project approved pursuant to this part 7.

12           SECTION 2. Safety clause. The general assembly hereby  
13 finds, determines, and declares that this act is necessary for  
14 the immediate preservation of the public peace, health, and  
15 safety.

COMMITTEE ON LOCAL GOVERNMENT

BILL 29

A BILL FOR AN ACT

1 CONCERNING HOUSING, AND EXPANDING THE POWERS OF THE BOARD OF THE  
2 COLORADO HOUSING FINANCE AUTHORITY.

---

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Clarifies the purposes for which, the conditions under which, and the persons to whom the Colorado housing finance authority board may loan moneys.

---

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. The introductory portion of 29-4-707 (1) and  
5 29-4-707 (1) (s), Colorado Revised Statutes 1973, are amended to  
6 read:

7 29-4-707. General powers of the board. (1) In addition to  
8 any other powers granted to the authority in this part 7, the  
9 board, ON THE BEHALF AND IN THE NAME OF THE AUTHORITY, shall have  
10 the following powers:

11 (s) To provide a method for **nonprofit** HOUSING FACILITY  
12 sponsors to let contracts on a fair and competitive basis for the  
13 construction of housing facilities or the performance or  
14 furnishing of labor, materials, or supplies as required in this

1 part 7.

2 SECTION 2. 29-4-708 (1), Colorado Revised Statutes 1973, is  
3 amended to read:

4 29-4-708. Power of board - housing facility plans of  
5 developers. (1) The board shall approve or disapprove the  
6 financial feasibility of any plan OF ANY SPONSOR, DEVELOPER,  
7 BUILDER, OR LOCAL HOUSING AUTHORITY for the development of a  
8 housing facility which contemplates the issuance of authority  
9 bonds payable WHOLLY OR IN PART out of revenues to be derived  
10 from the proposed housing facility OR OTHER REVENUES OTHERWISE  
11 MADE AVAILABLE OR ADMINISTERED BY THE AUTHORITY, INCLUDING ANY  
12 FEDERALLY AIDED OR STATE-AIDED PLAN OR PROJECT.

13 SECTION 3. 29-4-709 (1), Colorado Revised Statutes 1973, is  
14 amended to read:

15 29-4-709. Powers of the board - financing - investments -  
16 refunding obligations. (1) Upon a determination by the board  
17 that a housing development plan is financially feasible and the  
18 approval by the board of the plan pursuant to section 29-4-708 OR  
19 SECTION 29-4-725, the board shall require the executive director  
20 to take the necessary steps to arrange financing for such  
21 project, under the provisions of this PART 7, INCLUDING, WITHOUT  
22 LIMITATION, THIS section and section 29-4-714.

23 SECTION 4. The introductory portion of 29-4-710 (1) (a) and  
24 29-4-710 (1) (b), (1) (c), and (1) (d), Colorado Revised Statutes  
25 1973, are amended to read:

26 29-4-710. Powers of the board - executive director -  
27 lending - assistance in housing facility development. (1) (a)

1 Lend money, CONDITIONALLY OR UNCONDITIONALLY AND SECURED OR  
2 UNSECURED, INCLUDING ADVANCES TO DEFRAY DEVELOPMENT COSTS OF ANY  
3 NATURE, to qualified individuals, organizations, or corporations  
4 subject to the provisions of this section and sections 29-4-708  
5 and 29-4-712; but such loans shall be made only upon the  
6 determination by the executive director that such loans are not  
7 otherwise available from private lenders upon reasonably  
8 equivalent terms and conditions, and, in connection with any such  
9 loan:

10 (b) Make or participate in the making of ADVANCES AND  
11 construction loans to sponsors, housing authorities, developers,  
12 and builders of housing facilities;

13 (c) Exercise the option to make or participate in the  
14 making of loans secured by second deeds of trust or mortgages to  
15 sponsors, housing authorities, developers, builders of housing  
16 facilities, and individuals if the total of the first and second  
17 mortgages does not exceed ninety-two percent of the total  
18 appraised value of any property which secures such second deed of  
19 trust or mortgage or to purchase or participate in the purchase  
20 of second deeds of trust or mortgages meeting this criterion if  
21 the total amount of such second deeds of trust or mortgages does  
22 not exceed fifteen percent of the total amount of loans secured  
23 by first deeds of trust or mortgages issued by the authority. In  
24 order to qualify for such loans secured by second deeds of trust  
25 or mortgages, the owner of a building must agree to make the  
26 dwelling units available to low and moderate income people  
27 PERSONS AND FAMILIES in such numbers and on such terms as the

1 board may require.

2 (d) MAKE SECURED OR UNSECURED LOANS TO LENDERS FOR, AND  
3 PURCHASE or contract to purchase from lenders, construction loans  
4 and mortgage loans TO BE MADE OR made to sponsors, developers,  
5 builders, and purchasers of housing facilities;

6 SECTION 5. 29-4-711, Colorado Revised Statutes 1973, are  
7 amended to read:

8 29-4-711. Mortgage - limitations on profits. (1) (a) A  
9 mortgagor OR OTHER SPONSOR OR DEVELOPER may not make  
10 distributions in any one year with respect to a project financed  
11 by OR THROUGH the authority in excess of six percent of the  
12 mortgagor's SUCH ENTITY'S equity in such project.

13 (b) The mortgagor's ENTITY'S equity in a project shall  
14 consist of the difference between the mortgage OR OTHER CAPITAL  
15 INVESTMENT and the total project cost.

16 (c) "Total project cost" includes construction costs  
17 (including job overhead and a builder's and sponsor's profit and  
18 risk fee), architectural, engineering, legal, and accounting  
19 costs, organizational expenses, land value, interest and  
20 financing charges paid PRIOR TO AND during construction, the cost  
21 of relocation of displaced residents, and the cost of landscaping  
22 and off-site improvements, whether or not such costs have been  
23 paid in cash or in a form other than cash.

24 (2) With respect to every project, the board shall  
25 establish the mortgagor's ENTITY'S equity at the time of the  
26 making of the final mortgage OR OTHER LOAN advance, and that  
27 figure shall remain constant during the life of the authority's



1 mortgage OR OTHER LOAN on such project.

2 SECTION 6. The introductory portion of 29-4-712 (1) (c) and  
3 29-4-712 (1) (c) (III), Colorado Revised Statutes 1973, are  
4 amended to read:

5 29-4-712. Standards for approval of organizations. (1) (c)  
6 Such facilities or services will be available for persons OR  
7 FAMILIES meeting the following requirements:

8 (III) Low- and moderate-income families who otherwise  
9 qualify under ~~section-29-4-702-(8)~~ SUBSECTIONS (5) AND (8) OF  
10 SECTION 29-4-702.

11 SECTION 7. 29-4-714 (4), Colorado Revised Statutes 1973, is  
12 amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

13 29-4-714. Bonds and notes - procedures. (4) Any notes may  
14 be made payable from the proceeds of, and such payment may be  
15 secured by, a pledge as collateral security of bonds (other than  
16 notes) issued for the purpose of securing the payment of the  
17 notes and indirectly for purposes encompassing the purposes for  
18 which the notes are issued, in addition to the provisions for the  
19 payment of notes in subsection (2) of this section or any  
20 combination of such provisions for payment of notes and the  
21 security therefor; any such bonds pledged as collateral security  
22 shall not be issued in an aggregate principal amount exceeding  
23 the aggregate principal amount of the notes secured by a pledge  
24 of such bonds; said bonds shall not bear interest at any time  
25 when any interest accrues at the same time on the note so secured  
26 exceeding the maximum rate of interest fixed by the board.

27 (5) For the purpose of funding any note, any bond other

1 than a note pledged as collateral security to secure the payment  
2 of such note may be reissued, and any such bond not previously  
3 issued but authorized to be issued for a purpose the same as or  
4 encompassing the purpose for which the note was issued may be  
5 issued for such a funding. Bonds for funding, including but not  
6 limited to any such reissued bonds, and bonds for any other  
7 purpose authorized in this part 7, other than notes, may be  
8 issued separately or issued in combination in one series or more.  
9 Except as otherwise provided in this section, any such funding  
10 bonds shall be issued as is provided for refunding bonds in this  
11 part 7, including but not limited to section 29-4-719.

12 (6) Any bonds (including any notes) may be secured by a  
13 trust indenture by and between the authority and a corporate  
14 trustee, which trustee may be any trust company or commercial  
15 bank having and exercising powers of a trust company and located  
16 within or without this state.

17 (7) Any resolution of the authority authorizing any bonds,  
18 or any trust indenture pertaining thereto, may contain  
19 provisions:

20 (a) Vesting in a trustee such property, rights, powers, and  
21 duties in trust as the authority may determine, including but not  
22 limited to all of the rights, powers, and duties of any trustee  
23 appointed by holders of notes or bonds, or both, and limiting or  
24 abrogating the right of such holders to appoint a trustee under  
25 this part 7 or limiting the rights, powers, and duties of such  
26 trustee;

27 (b) Complying with or proceeding under sections 11-54-111

1 to 11-54-115, C.R.S. 1973, except as otherwise provided in this  
2 part 7;

3 (c) Stating any other matters of a like or different  
4 character which in any way affect the security or protection of  
5 the notes or bonds or both.

6 SECTION 8. Part 7 of article 4 of title 29, Colorado  
7 Revised Statutes 1973, is amended BY THE ADDITION OF THE  
8 FOLLOWING NEW SECTIONS to read:

9 29-4-725. Power of board - housing facility plans re  
10 lenders. (1) The board may cause the executive director to  
11 formulate and from time to time modify a plan for the development  
12 of housing facilities meeting the standards and other  
13 requirements of section 29-4-713 and paragraphs (c) to (e) of  
14 subsection (1) of section 29-4-712 by the authority making money  
15 available to lenders for loans for housing facilities, including  
16 but not limited to mortgage loans, other long-term loans,  
17 construction loans, and advances to defray development costs.

18 (2) The board shall approve or disapprove the financial  
19 feasibility of such a plan or any material modification thereof,  
20 which plan contemplates the use of the proceeds of authority  
21 bonds, revenues derived or to be derived from housing facilities  
22 or otherwise by the authority, directly or indirectly, or other  
23 revenues otherwise made available or administered by the  
24 authority, including any federally aided or state-aided plan or  
25 project.

26 (3) If the board determines that such plan is financially  
27 feasible, that private financing is not available, and that the

1 necessary means of financing such plan are available through  
2 participation of the authority, the board may signify its  
3 approval of such plan.

4 29-4-726. Powers of the board - executive director -  
5 lending - assistance in lender's housing facilities project. (1)

6 Upon the approval by the board of a lender's housing facilities  
7 plan pursuant to section 29-4-725 and upon the issuance of bonds  
8 or other financial arrangement to implement the plan, the board  
9 shall adopt rules and regulations concerning the lending program  
10 and shall authorize the executive director to:

- 11 (a) Lend money to qualified lenders;
- 12 (b) In connection with any loan relating to the lending  
13 program and made to the authority by a governmental entity, agree  
14 to limitations upon the exercise of any powers conferred upon the  
15 authority by this part 7;
- 16 ((c)) In addition to the powers otherwise to be exercised by  
17 the executive director under this article, including, without  
18 limitation, section 29-4-710 (1) (c) to (1) (p), make and execute  
19 contracts with lenders pertaining to the lending program;
- 20 (d) Make advance commitments under stated conditions and  
21 terms;
- 22 (e) Require lenders, in connection with loans thereto or  
23 the purchase of outstanding residential housing facilities loans  
24 therefrom by the authority, to enter into agreements with the  
25 authority pertaining, among other matters, to:
  - 26 (I) Prices relating to loans by the lenders, rates of  
27 return on their loans, and the value of their services under such

1 agreements;

2 (II) Periods of time for the performance of services or  
3 other undertakings;

4 (III) Collateral security furnished to the authority by the  
5 lenders, the substitution of collateral security from time to  
6 time under stated conditions, and the character and amount of  
7 such collateral security;

8 (IV) Standards as to the number and other characteristics  
9 of housing facilities;

10 (V) Inspection and audit of the books and records of the  
11 lenders and periodic reports thereby;

12 (VI) Representations and warranties by the lenders;

13 (VII) Any other matters related to loans to the lenders and  
14 loans thereby for housing facilities, and commitments and other  
15 obligations relating thereto, as the board deems relevant.

16 (2) The board shall terminate, temporarily or otherwise,  
17 any such lending program if at any time the board determines that  
18 it is not economically feasible for the authority to continue the  
19 lending program, that lenders have an adequate supply of money  
20 for low- and moderate-income family housing facilities without  
21 such program, or that the lenders can not or are unwilling to  
22 agree to comply with the standards, rules and regulations, or  
23 other provisions of this part 7.

24 SECTION 9. Safety clause. The general assembly hereby  
25 finds, determines, and declares that this act is necessary for  
26 the immediate preservation of the public peace, health, and  
27 safety.

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## COMMITTEE ON ENERGY

Primarily as a result of the recent severe shortages of natural gas and petroleum products, the lack of adequate energy supplies has been recognized as posing a threat to the well-being of the people and the economy of Colorado. Gasoline shortages have caused Colorado motorists long waits at service stations, while home builders have had to search for alternatives to natural gas for heating of new construction. Energy supply problems are created when existing supplies are depleted or when available supplies are less than adequate to meet demand. The problems can become matters of great urgency when the delivery of existing sources of energy is suddenly interrupted. Both long- and short-term problems concerning energy supplies may require governmental response in planning for and in meeting immediate problems caused by shortages.

In the 1974 session, the General Assembly attempted to establish mechanisms through which the State of Colorado could deal with the effects of critical shortages of energy. Both houses of the General Assembly passed different versions of legislation which would have given the Governor certain powers to act in an energy emergency (Senate Bill 43). Neither version of this bill was acceptable to both houses however, and the conference committee could not resolve the differences. The General Assembly then adopted Senate Joint Resolution 28 which directed that a committee be created to study the following aspects of energy and energy resources: exploration, conservation, availability, financial and environmental impact, and alternate fuel sources.

Soon after the committee was created by the Legislative Council, it was recognized that time limitations would not permit inquiry into all study areas included in S.J.R. 28. For this reason, the committee's work centered on three primary areas: (1) the state's role in energy shortages; (2) methods of achieving energy conservation; and (3) the environmental impact of strip mining. The topics of exploration for energy resources, the availability of these resources, and the development of alternate energy sources were initially viewed by the committee as dependent upon economic factors generally outside the legislature's influence and, because of time limitations, consideration of these study areas was deferred.

While emphasis was placed on the state's role in energy shortages, it was determined that the promotion of energy conservation was an area where legislation could play a significant role. Testimony received indicated that conservation through more efficient utilization could help ease the supply