A BILL FOR AN ACT

CONCERNING AN INCREASE IN THE FEE IMPOSED BY COUNTIES IN CONNECTION WITH THE RECORDING OF REAL ESTATE DOCUMENTS FOR THE PURPOSE OF FINANCING A STATEWIDE ATTAINABLE HOUSING INVESTMENT FUND.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Currently, each county clerk and recorder collects a surcharge of one dollar for each document received for recording or filing in his or her office. The surcharge is in addition to any other fees permitted by statute.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment. Capital letters indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
Section 2 of the bill raises the amount of the surcharge to $5 for documents received for recording or filing on or after January 1, 2018. Out of each $5 collected, the bill requires the clerk to retain one dollar to be used to defray the costs of an electronic or core filing system in accordance with existing law. The bill requires the clerk to transmit the other $4 collected to the state treasurer, who is to credit the same to the statewide attainable housing investment fund (fund).

Section 3 creates the fund in the Colorado housing and finance authority (authority). The bill specifies the source of moneys to be deposited into the fund and that the authority is to administer the fund. The bill directs that, of the moneys transmitted to the fund by the state treasurer, on an annual basis, not less than 25% of such amount must be expended for the purpose of supporting new or existing programs that provide financial assistance to persons in households with an income of up to 80% of the area median income for the purpose of allowing such persons to finance, purchase, or rehabilitate single family residential homes as well as to provide financial assistance to any nonprofit entity and political subdivision that makes loans to persons in such households to enable such persons to finance, purchase, or rehabilitate single family residential homes.

Section 3 also requires the authority to submit a report, no later than June 1 of each year, specifying the use of the fund during the prior calendar year to the governor and to the senate and house finance committees.

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

SECTION 1. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) Since 2000, the state's need for attainable housing in all geographic regions has grown exponentially. Among other effects, the immense demand for attainable housing is a huge impediment to economic growth and opportunity within the state and the ability of the state to provide a high quality life for all its residents and to develop, attract, and maintain a high quality workforce.

(b) A significant segment of the state's population, including many of the state's teachers, emergency responders, nurses, and small business
owners and employees, the so-called "missing middle", earn too much on an annual basis to qualify for most federal and state housing assistance programs but do not make enough in yearly income to qualify for conventional private sector assistance that also promotes home ownership, particularly home ownership that is in close proximity to these workers' places of employment.

(c) While conscious and supportive of programs that assist persons in households with low and very-low incomes to obtain attainable housing, by enacting this act the general assembly intends to assist members of the missing middle to obtain attainable housing or housing that is targeted to persons in households with incomes that are up to eighty percent of the area median income.

(d) By increasing the documentary fee for the purpose of establishing a statewide attainable housing investment fund, the general assembly intends that a significant portion of the increased revenue be directed toward assisting persons in households with an income that is up to eighty percent of the area median income for the purpose of allowing such persons in such households to finance, purchase, or rehabilitate single family residential homes.

(2) The general assembly further intends that this act be liberally construed to achieve the purpose of filling and safeguarding the basic housing needs of this critical segment of the state's population.

SECTION 2. In Colorado Revised Statutes, 30-10-421, amend (1)(b); and add (1)(b.5) as follows:

30-10-421. Filing surcharge - definitions. (1) (b) Beginning July 1, 2004, and through December 31, 2017, the county clerk and recorder shall collect a surcharge of one dollar for each
document received for recording or filing in his or her office. The surcharge shall be in addition to any other fees permitted by statute.

(b.5) (I) BEGINNING JANUARY 1, 2018, THE COUNTY CLERK AND RECORDER SHALL COLLECT A SURCHARGE OF FIVE DOLLARS FOR EACH DOCUMENT RECEIVED FOR RECORDING OR FILING IN HIS OR HER OFFICE. THE SURCHARGE IS IN ADDITION TO ANY OTHER FEES PERMITTED BY STATUTE.

(II) OF THE FIVE DOLLAR SURCHARGE COLLECTED BY THE COUNTY CLERK AND RECORDER PURSUANT TO SUBSECTION (1)(b.5)(I) OF THIS SECTION, THE CLERK RETAINS ONE DOLLAR TO BE USED TO DEFRAY THE COSTS OF THE ITEMS SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION. THE CLERK SHALL TRANSMIT THE OTHER FOUR DOLLARS COLLECTED AT LEAST ONCE EACH MONTH TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE STATEWIDE ATTAINABLE HOUSING INVESTMENT FUND CREATED IN SECTION 29-4-736 (1).

SECTION 3. In Colorado Revised Statutes, add 29-4-736 as follows:

29-4-736. Statewide attainable housing investment fund - creation - uses of moneys - definition. (1) THERE IS HEREBY CREATED IN THE AUTHORITY THE STATEWIDE ATTAINABLE HOUSING INVESTMENT FUND, REFERRED TO IN THIS SECTION AS THE "FUND", WHICH FUND IS TO BE ADMINISTERED BY THE AUTHORITY. THE AUTHORITY SHALL DEPOSIT INTO THE FUND:

(a) ALL MONEYS TRANSMITTED TO IT BY THE STATE TREASURER PURSUANT TO SECTION 30-10-421 (1)(b.5)(II);

(b) ANY MONEYS MADE AVAILABLE BY THE STATE FOR THE PURPOSES OF THE FUND; AND

-4-  SB17-085
(c) Any moneys that are made available by or to the
authority from any other sources for the purpose of the fund.

(2) Of the moneys transmitted to the fund by the state
treasurer in accordance with section 30-10-421 (1)(b.5)(II), on an
annual basis, not less than twenty-five percent of such amount
must be expended for the purpose of supporting new or existing
programs that provide financial assistance to persons in
households with an income of up to eighty percent of the area
median income for the purpose of allowing such persons in such
households to finance, purchase, or rehabilitate single family
residential homes as well as to provide financial assistance to
any nonprofit entity and political subdivision that makes loans
to persons in such households to enable persons in such
households to finance, purchase, or rehabilitate single family
residential homes.

(3) As used in this section, "area median income" is
determined in accordance with guidelines or other standards
promulgated by the United States department of housing and
urban development.

(4) New or existing programs supported by the fund that
are described in subsection (2) of this section are to be
administered by the authority. The authority has sole
administrative discretion to determine how best to expend the
portion of moneys deposited into the fund that support the
programs that it administers pursuant to this subsection (4).

(5) Any moneys in the fund not expended at the end of any
fiscal year must remain in the fund and will not be transferred
TO OR REVERT TO THE GENERAL FUND AT THE END OF ANY SUCH FISCAL YEAR. ANY INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE FUND MUST REMAIN IN THE FUND AND SHALL NOT BE CREDITED TO THE GENERAL FUND.

(6) MONEYS HELD IN THE FUND SHALL NOT BE TRANSFERRED TO ANY OF THE OTHER FUNDS CREATED IN THE AUTHORITY PURSUANT TO THIS PART 7.

(7) NOT LATER THAN JUNE 1, 2018, AND NOT LATER THAN JUNE 1 OF EACH YEAR THEREAFTER, THE AUTHORITY SHALL SUBMIT A REPORT SPECIFYING THE USE OF THE FUND DURING THE PRIOR CALENDAR YEAR TO THE GOVERNOR AND TO THE FINANCE COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.