

LEGISLATIVE 2021 REVIEW



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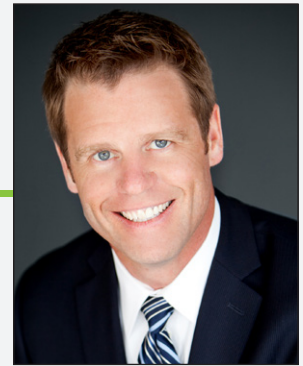
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A MESSAGE FROM JON ROBERTS

2021 CAR Legislative Policy Committee Chair



The everyday life as we knew it came to a complete halt last year. The simple run to the grocery store was no longer simple, working parents struggled to find a balance between homeschooling and zoom meetings, and the social visits among family and friends canceled. In the 2021 legislative session, state lawmakers focused on getting the state back on track and restoring “normalcy” for Coloradans. After taking a month-long pause for safety reasons related to COVID-19 in February, the General Assembly charged forward until their final day in June with big spending priorities including transportation funding, continued expansion of broadband, tax policy changes that offer some relief to small businesses, but tax others to help pay for tax credits for working families. Legislators also increased wildfire mitigation funding and continued their work on health care reform. Policymakers allocated substantial state and federal stimulus funding to restore support to programs and services whose budgets were cut due to the pandemic and built stronger relief efforts by creating brand new grant programs.

For REALTORS® and their clients, it was a challenging legislative session during a time when housing prices are out of reach, building costs continue to skyrocket, and available inventory is nowhere to be found. From day one, the REALTOR® community mounted a strong defense to prevent overly aggressive policies. 2021 is also a year to celebrate for Colorado REALTORS® as we honor 100 years of service by not only introducing four bills aimed to open the doors to homeownership, but successfully passing those four legislative solutions to remove regulatory housing barriers for all Coloradans.

This year, 678 bills were introduced, and CAR’s Legislative Policy Committee (LPC) took positions on 96 bills. CAR effectively advocated for transparency and disclosure requirements for special districts and HOAs, limited energy and environmental regulations that could increase the cost of housing, and made significant changes to proposed rental housing bills. When a proposal came forward to allow for inclusionary zoning practices and tempted the use of rent control to limit the housing market, it was CAR that amended the legislation to clarify that rent control in existing construction will not make housing more affordable and therefore is still prohibited by state statute.

CAR would not be successful if it were not for the countless hours put in by LPC, CAR Government Affairs staff, and lobbying team. To the LPC members that I had the honor to lead and serve alongside: thank you for your continued dedication to our industry. And thank you to 29,000 Colorado REALTORS® across the state for answering the calls to action and support of CAR’s advocacy efforts. Although another chapter closed, we continue to identify solutions that create equitable, engaging communities, and protect property owners.

Though each legislative session seems harder than the last for Colorado REALTORS® to navigate, we’re proud of the relationships we built with policymakers to protect the real estate industry. If COVID-19 has taught us one thing, we know we are stronger together.



Jon Roberts
2021 Legislative Policy Committee Chair



Colorado REALTORS® Protect Property Owners and Break Down Barriers to Homeownership

Advocating for REALTORS® and property owners is CAR's top priority. CAR works to advance meaningful public policy that builds strong communities and supports a vibrant economy where small businesses thrive and all Coloradans have equal opportunity to access homeownership.

CAR's LPC reviews legislation by the General Assembly and takes positions of support, amend, oppose, or monitor on bills that impact the real estate industry on behalf of over 29,000 REALTORS® across Colorado.

The 2021 Legislative Session, memorable for so many different reasons:

CAR Century of Opportunity Legislative Package Crosses the Finish Line

HB 1200: Revise Student Financial Literacy Standards (Support)

Sponsored by Rep. Cathy Kipp, Rep. Janice Rich, Sen. Jeff Bridges and Sen. Paul Lundeen

Signed by Governor Polis

HB 1200 strengthens financial literacy standards by ensuring Colorado's students graduate with required curriculum associated with preparing for homeownership, obtaining a higher education degree or credential, understanding student loans and how to apply for financial aid, how to save for retirement, and how to manage credit card use and debt.

There's a clear need for improved financial literacy standards that better address the realities of financial stress that every Coloradan faces. Empowering young students with the critical financial literacy knowledge they need to make better financial decisions over their lifetime has a dramatic impact on communities and will equip them with the knowledge they need to make sound financial decisions – including building credit, financing higher education opportunities, and purchasing a home.

HB 1028: Annual Public Report Affordable Housing (Support)

Sponsored by Rep. Shannon Bird, Rep. Janice Rich, Sen. Tammy Story and Sen. Rob Woodward

Signed by Governor Polis

This bill creates an annual public report that will increase accountability and transparency for how we spend our state and federal housing dollars throughout the state and will serve as a foundation to make strategic, data

driven decisions in the future. The Division of Housing report will include information on where housing projects take place, how many housing units are created, rehabbed, and preserved, and discuss what type of projects Colorado undertakes, such as homeownership, rental, supportive, or rapid re-housing.

It is no secret that Colorado faces a severe affordable housing crisis and is one of the worst states in the country in creating enough supply of housing to meet the needs of citizens. In Colorado, 1 in 7 households spend more than half their income on housing. Housing stock and affordability is a statewide issue impacting individuals, employers, and local governments. It's critically important to get it right so that we ensure there is social and economic mobility for all Coloradans.

HB 1134: Report Tenant Rent Payment Information to Credit Agencies (Support)

Sponsored by Rep. Naquetta Ricks, Rep. Mary Bradfield and Sen. Jeff Bridges

Signed by Governor Polis

This first in the nation legislation establishes a statewide pilot program enabling residents residing in housing provider properties selected by the Colorado Housing and Finance Authority (CHFA) to opt to have their rent payments reported to consumer credit bureaus as a dynamic new way build their credit.

Homeownership is one of the largest single investments and source of wealth building for many households. Everyone in Colorado deserves the opportunity to advance economically; however, debt to income ratios and credit history are the top two barriers to obtaining a mortgage, especially in communities of color. According to the Consumer Financial Protection

Bureau, Blacks and Hispanic individuals have higher rates of credit invisibility and unscorable credit records than Whites. Reporting rent payments allows renters to build credit in much the same way as homeowners build credit through the reporting of mortgage payments and enables renters to generate and build credit without taking on additional debt.

HB 1271: Department of Local Affairs Innovative Affordable Housing Strategies (Support)

Sponsored by Rep. Julie McCluskie, Rep. Iman Jodeh and Sen. Julie Gonzales

Signed by Governor Polis

Forty-eight million in stimulus dollars will cover the costs of providing three programs in the Department of Local Affairs (DOLA) and Division of Housing (DOH) to promote new solutions for statewide affordable housing development to meet local governments where they are:

1. The Affordable Housing Guided Toolkit and Local Officials Guide helps local governments develop an overall affordable housing strategy and engage stakeholders in the community.
2. The Planning Grant Program awards funding to local governments to help adopt land use strategies, enabling local governments to be competitive in applying for a housing development incentives grant.
3. The Housing Development Incentives Grant enables local governments to apply for state grants to adopt strategies from a menu of best practices in affordable housing development to spur housing creation or reduce regulatory barriers (a concept created by CAR and Habitat for Humanity).

A significant challenge to housing affordability is lack of supply. This problem challenges employers seeking to locate employees or retain top talent in Colorado, it challenges civil servants that drive our community operations, it challenges our aging seniors that call Colorado home, and it challenges young professionals and their growing families who are the lifeblood of Colorado's future. Construction costs, regulations, building or water permitting fees, and outdated zoning rules decrease the speed and availability of producing new affordable housing that Coloradans desperately need. And time costs money. This legislation stretches local governments to adopt best practices and reduce regulatory barriers with grants of financial support from the state to help cover the costs of adoption.



Housing, Economic Development & Property Management

SB 252: Community Revitalization Grant Program (Support)

Sponsored by Sen. Stephen Fenberg, Sen. Chris Holbert, Rep. Brianna Titone and Rep. Susan Lontine

Signed by Governor Polis

This bill creates a \$65 million dollar community revitalization grant program within the Office of Economic Development to create or revitalize mixed-use commercial centers. Eligible grant recipients include local governments, for profit entities, and nonprofit organizations. The Department of Local Affairs provides assistance to administer the program, creates an application processes, and helps review and award grants.

Successful revitalization programs are essential to the future success of our communities. Coming out of the pandemic we can repurpose underutilized commercial property to create more comprehensive mixed-use centers that meet a multitude of purposes for residents that help Coloradans create healthy and prosperous communities where people can, live, work, and play. These programs stimulate the economy because they create new housing and enhance property values, and they help current businesses thrive and attract new businesses to the area. Even before the pandemic, Colorado faced an extreme affordable housing shortage as the cost of land and building materials continue to soar. This grant program allows Colorado to strategically invest in a brighter future.

SB 242: Housing Development Grants Hotels Tenancy Support Program (Monitor)

Sponsored by Sen. Julie Gonzales, Sen. Brittany Pettersen, Rep. Serena Gonzales-Gutierrez and Rep. Steven Woodrow

Signed by Governor Polis

SB 242 transfers \$15 million to the Housing Development Grant Fund within the Division of Housing for rental assistance, tenancy support service programs, and grants and loans to purchase underutilized hotels, motels, and other properties for temporary housing. The bill expands those who are eligible to benefit from the rental assistance and tenancy support programs to include individuals experiencing homelessness.

In Colorado, home prices grew faster than median household incomes resulting in one of the top five worst gaps in the country. It is critically important that we find creative solutions to bring affordable housing options to the market and identify solutions to speed up transitions from rent to homeownership, as one effective way to build wealth and secure a strong financial future, especially for low-income households. Ultimately, a stable home is fundamental to a stable and productive life.

HB 1117: Local Government Authority Promote Affordable Housing Units (Amend)

Sponsored by Rep. Susan Lontine, Rep. Serena Gonzales-Gutierrez, Sen. Julie Gonzales and Sen. Robert Rodriguez

Signed by Governor Polis

HB 1117 gives cities and counties the ability to pursue inclusionary zoning for new construction development. As introduced, the bill's language would have reversed the Town of Telluride decision and opened the door to rent control policies in Colorado.

We know that rent control policies only artificially control the price of some housing units at the expense of raising the costs for other units to offset the government-mandated price. Creating a world of haves and have nots. However, a few significant amendments improved the initial draft of the bill. First, CAR successfully amended the bill to reinforce that this legislation does not give local governments the authority to adopt or enforce rent control policies for existing development within their communities.

Second, an amendment supported by many stakeholders and the Governor's Office added context to the local authority to include goals of increasing numbers of housing units with zoning changes that embrace density, construction incentives, transit-oriented development near employment centers, mixed-use, reduced utility and regulatory fees, infill development, and include a diversity of housing options for rent and for sale. Several ideas relate back to the best practices in the menu of options in HB 1271.

HB 1108: Gender Identity Expression Anti-Discrimination (Support)

Sponsored by Rep. Daneya Esgar and Sen. Dominick Moreno

Signed by Governor Polis

This bill includes more inclusive language in our housing and other non-discrimination laws by adding gender expression and gender identity to existing protected classes. This wide range of statutes cover housing, financial services, healthcare, funeral arrangements, access to and participation in public services, education, youth services, criminal justice, and transportation.

Over 20 states currently include gender identity in their non-discrimination protections. With the passage of HB 1108, Colorado joins these states. Colorado is a frequent leader in housing laws, in fact we were the first in the nation to pass statewide Fair Housing laws to prevent discrimination in housing. As REALTORS®, it is both our duty and part of our code of ethics to enable every consumer the ability to pursue the American dream of homeownership. We proudly support this legislation that opens that door to future prosperity even wider to reach more Coloradans.

HB 1121: Residential Tenancy Procedures (Amend)

Sponsored by Rep. Dominique Jackson, Rep. Iman Jodeh and Sen. Julie Gonzales

Signed by Governor Polis

HB 1121 makes changes to the eviction court timelines and limits rent increases within a tenancy. While this bill is not perfect, CAR worked diligently to mitigate the introduced version to a better, more balanced place by having multiple conversations with housing stakeholders and bill sponsors. Under this bill, the writ of restitution service by a sheriff or other county official moves from 48 hours after judgment to 10 days, and housing provider landlords cannot increase rent more than one time in a 12-month period. Notice periods also change from 21 to 60 days when the rent is increased or there is a termination of tenancy without a written agreement between the housing parties.

SB 173: Rights in Residential Lease Agreements (Amend)

Sponsored by Sen. Julie Gonzales, Sen. Dominick Moreno, Rep. Yadira Caraveo and Rep. Serena Gonzales-Gutierrez

Signed by Governor Polis

SB 173 focuses on rules related to tenant late fees, evictions proceedings, and rental agreements. The tenant focused housing legislation including SB 173, HB 1121, and a potential extension of the CDC moratorium became a large focus of the legislature coming out of the pandemic with so many Coloradans not able to pay their rents because of lost employment. However, it was equally important that we focused on the housing provider side of that relationship because they also have mortgages to pay if their tenants cannot pay their rent. CAR focused throughout the session to bring

balance to these pieces of legislation and was successful in mitigating the most damaging aspects of the original introduced version of SB 173 multiple times before it was finalized as we worked with bill sponsors and other housing industry stakeholders.

The bill is by no means perfect, but it is much better than where it started and is more balanced for both the tenants and the housing providers. And balanced public policy prevents the outcome that no one wants to see – increased selling of affordable rentals, which would only exacerbate the lack of available affordable housing.

That joint advocacy led to the following changes:

- Removing trial by jury language and deceptive trade practices and attorney general lawsuits language that would subject housing providers to additional litigation and costs.
- Balancing the language throughout to say either party or prevailing party instead of favoring the tenant position only in the court process.
- Ensuring that if a housing provider must provide information to the tenant that obligation is narrowed to the information relevant to the court case, not the entire tenant record which would have been burdensome on the housing provider.
- Moving the grace period for landlords to be able to charge a fee for late rent payments to 7 days instead of requiring them to wait for the 14th day as the bill originally stated.
- Balancing the tenant and housing provider fees and penalties, now a late fee may not be greater than \$50 dollars (previously \$20) or 5% (previously 2.5%) of the rent that remains due. On the housing provider side moving from penalties down to \$50 for violations and seven days to cure any problems, and then if no action is taken a civil suit could go forward but penalties are not \$2,000 as originally stated but instead range from \$150 to \$1,000.
- Moving the timeframe to set a court date upon service from originally proposed 14 days to a range between 7 to 10 days.
- Removing the allowance of rent accepted and tenant ability to remain in the property to 48 hours after a judgment is in hand for the housing provider and instead moving the date back to at the court case so that when there is a decision parties can act accordingly.
- And finally, CAR advocated to remove a section referencing federal law (Miss Murphy's exemption) that is a discriminatory section of our housing law while preserving the current single family exemption in prior legislative sessions.

State Legislators Didn't Introduce Legislation to Extend the Statewide Eviction Moratorium

COVID-19 changed the world. The pandemic forced businesses to close their doors, many lost their jobs, and most of the workforce had to juggle between homeschooling, remote working and sheltering in place. While the CDC's eviction moratorium was intended to extend a helping hand to those that could not pay their rent at no fault of their own, it has also exacerbated the housing market as both tenants and property owners have rent or mortgages to pay. Without balanced economic and financial support, for housing providers and the tenants they serve the whole system falls apart. CAR has consistently come to the table to negotiate

with stakeholders and legislators to strike this balance in policy and work with legislative leadership to make public policy that works for all. Given the strong economic recovery in Colorado, and foundation of vaccinations helping people get back to work and the new housing policy put forward in 2021, state legislators decided not to extend the statewide moratorium to 2022. And we will continue to engage in the affordable housing taskforce this summer and fall to advocate for continued balanced American Rescue Plan Act housing policy.



Taxation & Land Use

SB 293: Property Tax Classification and Assessment Rates (Monitor)

Sponsored by Sen. Chris Hansen, Sen. Bob Rankin, Rep. Daneya Esgar and Rep. Matt Gray

Signed by Governor Polis

SB 293 was introduced in the final days of the legislative session and rushed through the legislative process. The bill does many things that could have impacts for years to come. First, it temporarily reduces property tax assessment rates for single family residential and multi-family homes for two years. Second, it creates new property tax categories, creating two residential categories: single family and multi-family and four nonresidential categories: commercial nonresidential, agricultural, renewable energy production and lodging. Finally, it allows homeowners' whose property taxes increased by more than 4% (with a minimum of \$100 and maximum of \$10,000) to be deferrable for payment later during a transaction for sale starting in 2023. Lawmakers are required to revisit these tax assessment rates in two years and implement a study to review the performance of the referral program.

The temporary property tax reductions include the following:

- Multifamily residential property, (including duplexes, triplexes, and apartment buildings), reduced from 7.15% to 6.8%
- Single family residential property reduced from 7.15% to 6.95%
- Agricultural and property used for producing renewable energy nonresidential property would be reduced from 29% to 26.4%

State policymakers introduced SB 293 to circumvent Initiative 27, a 2021 statewide ballot measure that would permanently reduce property taxes in the commercial and residential sectors and target the rising costs of property taxes for homeowners. Last year, CAR warned that one of the unintended consequences of decoupling Gallagher in the constitution could be policymakers messing around with property taxes. Unfortunately, that came to fruition much sooner than we anticipated, and policymakers can and are now making changes to property tax assessment rates and creating new classes of property. This will continue to be a topic that CAR tracks because the original version of SB 293 would have taxed short term rentals at a commercial rate even if you only rent out one room to pay your

mortgage or perhaps you want to consider group living options. A lodging hotel is not the same as a short term rental because they have abilities to recoup costs that private property owners do not. CAR will advocate and ensure property owners are protected and we anticipate further legislation in this area next year.

SB 033: Conservation Easement Working Group Proposal (Support)

Sponsored by Sen. Jerry Sonnenberg, Sen. Faith Winter, Rep. Dylan Roberts and Rep. Perry Will

Died on Calendar

HB19-1264 created a working group of stakeholders to propose alternatives to existing appraisal processes and assesses the value of a conservation easement tax credit. They also reviewed eligibility criteria and a process to provide retroactive tax credits to taxpayers whose conservation easement tax credit claims were denied in whole or in part from 2000 to 2013. This bill included some recommendations from the working group and suggested changes to allow taxpayers to reclaim disallowed credits and create a new dispute resolution process for multiple claimants within the same credit.

HB 1233: Conservation Easement Tax Credit Modifications (Support)

Sponsored by Rep. Dylan Roberts, Rep. Perry Will, Sen. Kerry Donovan and Sen. Faith Winter

Signed by Governor Polis

HB 1233 adjusts the Conservation Easement Tax Credit Program expanding the list of entities eligible to donate a conservation easement and receive a tax credit. It also adjusts the tax credit formula allowing landowners who are donating an easement to receive up to 90% of the value of their easement in tax credits. Further, it creates a tracking system for the transfer of tax credits within the Department of Revenue to increase processing efficiency and eliminate the 6-month waiting period for landowners and transferees to utilize the credit. The bill also allows landowners to sell credits and take advantage of the TABOR refund rather than choosing one over the other. Finally, HB 1233 reduces the administrative burden on the Department of Revenue and provides the Division of Conservation authority to serve as a receivership of orphaned easements.

As a member of the business community who specializes in the transfer and sale of real property, the simple fact is that a conservation easement is a very valuable property right. And the ability to preserve open space not only protects the use and enjoyment of property, but it also preserves a good quality of life for many Coloradans that enhances property values. We supported the components of this bill that make the necessary changes to the program that will enable this property right to continue long into the future because we should continue good conservation policy that ensures that Colorado maintains the character that drew all of us to choose to live here in this great state.

HB 1311: Income Tax (Monitor)

Sponsored by Rep. Emily Sirota, Rep. Mike Weissman, Sen. Chris Hansen and Sen. Dominick Moreno

Signed by Governor Polis

Once again, the Colorado Senate made changes to a package of tax exemption rollbacks, but unlike last year, many of the items in the package remained intact. HB 1311 raises revenue on some tax categories in order to expand tax programs benefiting lower-income Colorado families, focusing

on the earned income tax credit and child tax credit. Accordingly, the bill makes several changes to existing state tax laws, such as:

- Requiring taxpayers with incomes of \$400,000 or more to add back certain itemized deductions, including charitable giving, if they exceed \$30,000 for a single filer or \$60,000 for joint filers.
- Repealing state income-tax deductions for federally taxable capital gains, with an exception for certain agricultural properties that are limited to a maximum deduction of \$100,000/year.
- Requiring that all federally taxed Social Security income is deductible in Colorado, except for pension and annuity income.
- Extending the requirement that taxpayers with adjusted gross income of \$500,000 or more for a single filer, or \$1 million or more for joint filers, add back federally qualified business income deductions (199A) when calculating state taxable income through 2026.
- Capping the amount a taxpayer can deduct for contributions to a 529 College Savings Plan account to \$20,000 for a single filer or \$30,000 for joint filers.
- Creating a tax credit for businesses that convert to employee-owned models.

And it changes existing EITC and child tax credits by expanding Colorado's Earned Income Tax Credit to 20% of the federal EITC, starting in 2022 (From 2023 through 2025, the state credit would go up to 25% before returning to 20% in 2026.) funding Colorado's child tax credit for the first time for single filers making less than \$75,000 and joint filers making less than \$85,000, and expanding access for the EITC and child tax credit to those without a social security number.

HB 1312: Insurance Premium Property Sales Severance Tax (Monitor)

Sponsored by Rep. Mike Weissman, Rep. Emily Sirota, Sen. Chris Hansen and Sen. Dominick Moreno

Signed by Governor Polis

HB 1312 focuses on eliminating tax breaks and adding new taxes in order to expand the business personal property exemption from \$7,900 to \$50,000.

After various amendments, HB 1312 makes the following changes to the tax codes:

- Increases the requirements for insurance companies to prove they have a significant workforce presence in Colorado to qualify for a lower 1% insurance premium tax.
- Limits severance tax deductions that oil and gas companies can claim for transportation, manufacturing or processing costs and phase out other severance tax exemptions and tax credits for the coal industry between 2022 and 2026, to allocate to the Just Transitions Cash Fund that assists communities affected by the move away from a fossil-fuel economy.
- Adds digital goods like video, music, e-books available on CDs or to download, and streaming services to be considered taxable property which is problematic for the software industry.

However, this bill as introduced would have been very damaging to every property owner throughout the state before CAR and other housing stakeholders advocated strongly to change the bill draft prior to

introduction. The original form of the bill subjected residential property owners to highest and best use valuation that would enable your property to be taxed at its most productive version of use. Meaning for example, if you could build a commercial building on the land of your home or your farm, you could be taxed at that higher commercial property tax rate. Thankfully we were able to replace that language with fee simple estate.

HB 1083: State Board Assessment Appeals Valuation Adjustment (Monitor)

Sponsored by Rep. Adrienne Benavidez, Sen. Kevin Priola and Sen. Rachel Zenzinger

Signed by Governor Polis

Under current law, when a property owner appeals the valuation of property set by a county board of equalization, the State Board of Assessment Appeals may not increase the valuation. This bill would allow that appeals board the authority to increase property taxes that are appealed up to them. In many cases a commercial sector might have legal representation in these cases, but many homeowners do not always have that same representation. As CAR tracked the legislation, we asked key questions about whether this would have a chilling affect on property owners' ability to appeal their property assessments as also echoed by some of our colleagues at the Division of Local Affairs. And some of our colleagues in the commercial sector raised the issue that the counties do have the ability to set the assessed value twice before the final appeal level, so time will tell us whether this change at the highest appeals level is truly warranted and fair if they don't get the assessment value correct in the two lower levels.

HB 1077: Legislative Oversight Committee Concerning Tax Policy (Amend)

Sponsored by Rep. Adrienne Benavidez, Rep. Shannon Bird, Sen. Julie Gonzales and Sen. Dominick Moreno

Signed by Governor Polis

This bill creates a Legislative Oversight Committee to review existing tax policy and consider recommendations contained in the State Auditor's tax expenditure evaluations and creates a 21-member task force to study tax policy and propose to the Committee any changes to the current taxation system. The Committee will submit an annual report to the General Assembly explaining the issues studied and recommendations considered.

As introduced, HB 1077 would have allowed the Task Force to work on state ballot initiatives potentially allowing legislators to have a direct influence with outside ballot campaign groups creating a conflict of interest. CAR worked closely with the Colorado Chamber of Commerce to amend the bill and provide clarification that the Task Force would not be working with outside ballot issues campaigns to maintain a transparent and fair process.

HB 1061: Residential Land Property Tax Classification (Monitor)

Sponsored by Rep. Matt Gray and Sen. Chris Hansen

Signed by Governor Polis

This bill changes the definition for residential land so that a parcel of land is only classified as residential if it contains a related improvement that is essential to the adjacent parcel. Meaning, if a property owner purchases the neighboring lot, the land will be classified as residential only if there is a residential improvement, otherwise it will be classified as vacant land. CAR

clarified on the public record that short term rentals adjacent to residential property are classified as residential under this bill.



Regulatory

SB 262: Special District Transparency (Support)

Sponsored by Sen. Rachel Zenzinger, Sen. Bob Gardner, Rep. Shannon Bird and Rep. Hugh McKean

Signed by Governor Polis

The bill increases transparency and accountability about property taxes for residents. Special districts include anything from your neighborhood construction improvement or development to fire district or scientific and cultural district and even water districts. One type of special district is a metro district. Metro districts provide a financing tool for quasi-governmental entities and builders to fund the public infrastructure or services that local communities and neighborhoods use. Metro districts can allow potential first-time homebuyers to purchase a home with a lower down-payment in a new construction development.

Under the legislation, special districts would be required to publish important information such as contact information for current directors and managers of the district, budget information, map of district boundaries, meeting schedules, announcements about elections and nominations to serve on the board, annual reports, intergovernmental agreements, the bond servicing plan, and instructions about how to obtain a copy of the rules and regulations and list of improvements.

Most importantly, the bill also requires the builder or developer to disclose to residents about their estimated tax responsibilities, provide access to the special district website, and provide a formula to calculate how property taxes in the metro district could increase. This transparency is critical for consumers to understand how much their potential mortgage and other taxes will cost them every month. REALTORS® do not have access to this information, and do not have the duty under their licensure law to investigate, but now with this new requirement that this information must be shared with the purchaser, consumers will have much more knowledge going into the purchase of a new home.

SB 190: Protect Personal Data Privacy (Amend)

Sponsored by Sen. Robert Rodriguez, Sen. Paul Lundeen, Rep. Monica Duran and Rep. Terri Carver

Signed by Governor Polis

The bill creates the Colorado Privacy Act within the Colorado Consumer Protection Act and holds companies' responsible to prevent unauthorized disclosure of sensitive and personal information of consumers and gives consumers meaningful ways to control the use of their own data in business transactions in requests to controllers. The bill gives the Attorney General

and district attorneys the power to enforce any violations.

SB 190 empowers consumers with rights to opt out of the processing of their personal data, confirm how their information is processed, and allow them the ability to correct inaccurate data or delete their data and have the option to get portability of their data. CAR worked to ensure the bill did not reverse or interfere with the consumer data usage protections put in place by the recently enacted remote notarization law (SB20-096).

SB 184: Ski Area Safety Plans and Accident Reporting (Oppose)

Sponsored by Sen. Tammy Story and Sen. Jessie Danielson

Postponed Indefinitely

The bill would have required Colorado ski areas to publicly report all accidents and injuries and collect and make available specific information about each accident, including where and when it occurred, the conditions at the time, the type of injuries and whether death occurred on site or following medical transport, and nonprivate information about the injured person. If the bill had passed, Colorado would be alone among the 37 ski states with these requirements. There are no equivalent requirements for any other amateur sport or recreation activity in the state. Importantly, Colorado's reputation as a fun, safe outdoor recreation destination for enthusiasts across the country and worldwide would be at risk. All while doing nothing to improve safety on the slopes.

Ski areas are the economic engines of Colorado's mountain towns. Tourism dollars drive demand for restaurants, hotels, and countless small businesses and services. This bill would have needlessly hurt ski areas and the communities that depend on them by creating the assumption that there is a safety crisis that requires government intervention. Building this unfounded perception will have negative reputational and business consequences for those who work, play, and own property in our mountain communities.

SB 070: County Authority to Register Businesses (Amend)

Sponsored by Sen. Dominick Moreno and Rep. Shannon Bird

Signed by Governor Polis

This bill gives a local board of county commissioners the authority to register businesses in the unincorporated portions of the county. The local governments wanted this power so that they could be able to share information that became really important for relief programs during the pandemic. However, SB 070 does not grant a board of commissioners the power to license or collect fees or fines for such registrations if businesses choose not to register—an amendment CAR advocated strongly for because it would mean duplicated costs to businesses already registered with the State.

HB 1229: Home Owners' Associations Governance Funding Record Keeping (Amend)

Sponsored by Rep. Brianna Titone, Rep. Naquetta Ricks and Sen. Rhonda Fields

Signed by Governor Polis

This bill increases requirements for disclosure and transparency for HOAs in Colorado common interest ownership communities. While the original bill was more comprehensive, CAR fought to maintain the section of the bill requiring HOAs to maintain a list of all fees, assessments, and expenses that it charges in connection with the purchase or sale of a unit, including

transfer fees, record change fees, and the charge for status letter and other information currently required to be disclosed annually under existing law to property owners. The bill also expands access to xeriscaping and installation of renewable energy generation devices and exempts timeshares (who are also regulated by CCIOA) from the legislation.

CAR also raised concerns about accessing the most up to date information. Certifying that delivered documents are complete at the moment they are sent to a buyer puts REALTORS® and those involved in a real estate transaction at risk of providing a buyer with what might not actually be the most up to date information if further changes took place prior to the closing.

HB 1195: Regulation of Radon Professionals (Support)

Sponsored by Rep. Kevin Van Winkle, Rep. Dafna Michaelson Jenet, Sen. Don Coram and Sen. Joann Ginal

Signed by Governor Polis

This bill requires radon professionals who perform mitigation and testing services to be licensed by the Department of Regulatory Affairs (DORA) which in many cases are home inspectors. The bill also creates a process for complaints, investigations and disciplinary action, requires radon professionals obtain professional liability insurance, and allows DORA to determine disciplinary action and establish fines given the level of the violation.

Radon is the second leading cause of lung cancer, causing approximately twenty thousand deaths a year in the U.S., including 500 deaths in Colorado. More than half of Colorado homes have radon levels that are higher than the EPA's recommended level of 4 picocuries per liter. When dealing with a substance that has no color, odor, or taste, but can cause long-term illness such as lung cancer (one of the deadliest forms of cancer), residents should have complete confidence in the radon report they are receiving and paying for. HB 1195 gives consumers confidence that when they seek radon services, their home is in good hands and are not unknowingly living with a dangerous substance that could cause irreversible and long-lasting health effects.



Wildfire Mitigation

Every year, wildfires and their dangers to properties and lives increases. Colorado's record-breaking fires in 2020 burned nearly 667,000 acres and the Cameron Peak Fire (Colorado's largest wildfire) caused over \$6.3 million in market property loss according to the Larimer County's Assessor's Office. If we do not take the proactive steps to prioritize funding for forest health, mitigation, preparedness, response, and the related issues of protecting our water supply and air quality, these dangers will only increase for citizens.

Colorado REALTORS® regularly partner with the Colorado State Forest Service, Rocky Mountain Insurance Association, the National Fire Protection

Association, and other like-minded fire prevention organizations with Colorado Project Wildfire. [Colorado Project Wildfire](#) brings education, awareness, and access to mitigation resources directly to residents in local communities. Colorado REALTORS® believe education combined with monetary incentives, and increased access to resources are highly effective ways to address the devastating impacts of wildfires on our population. We are happy to see the Legislature focus so many meaningful public policy solutions at the Capitol this year.

SB 237: Create Forest Health Council in Department of Natural Resources (Support)

Sponsored by Sen. Kerry Donovan, Rep. Julie McCluskie and Rep. Mike Lynch

Signed by Governor Polis

The Forest Health Council was previously within the State Forest Service which is housed at Colorado State University. SB 237 moves the Council to within the Division of Forestry under the Department of Natural Resources. This move allows the Council to directly report to the Governor and General Assembly which is an effective and streamlined way to develop strategies and advise on forest health and wildfire mitigation.

SB 166: Colorado Fire Commission Recommendations (Support)

Sponsored by Sen. Bob Rankin, Sen. Stephen Fenberg, Rep. Julie McCluskie and Rep. Perry Will

Signed by Governor Polis

SB19-040 established Colorado's first ever commission to address fire issues in Colorado. The purpose of the Colorado Fire Commission is to allow the state to more proactively address fire issues by developing long-term strategies and recommendations on complex fire issues. Sarah Thorsteinson, Association Executive for the Summit REALTORS®, sits on the Commission as the voice for property owners.

The Commission met four times between October 2019 and July 2020 and identified the following top priorities to be addressed in year one: (1) regional and statewide coordination of mutual aid, (2) large fire funding mechanisms, and (3) understanding Colorado's true fire problem through data. In addition, there were 13 subcommittee meetings and three task force meetings which resulted in SB 166.

SB 136: Sunset Forest Health Advisory Council (Support)

Sponsored by Sen. Joann Ginal, Sen. Don Coram, Rep. Lisa Cutter and Rep. Terri Carver

Signed by Governor Polis

The Forest Health Advisory Council was established in 2016 to advise the State Forester. It's a 24-member committee housed in the Colorado State Forest Service within Colorado State University, and its members are appointed by the Governor and leadership of the General Assembly. In addition to advising the State Forester, the committee's work includes recommending legislation and facilitating collaboration on forestry. SB 136 continues the Forest Health Advisory Council in the Department of Higher Education (which is scheduled to repeal on September 1, 2021) through September 1, 2026.

SB 054: Transfers for Wildfire Mitigation and Response (Support)

Sponsored by Sen. Chris Hansen, Sen. Bob Rankin and Rep. Julie McCluskie

Signed by Governor Polis

This bill transfers \$13 million General Fund dollars to three cash funds for wildfire prevention and recovery, including:

- \$6 million to the Forest Restoration and Wildfire Risk Mitigation Grant Program for HOAs, community groups, local governments, fire protection districts, utilities and nonprofit organizations seeking funding to address forest issues and reduce wildfire risk and destruction to lives, property and water;
- \$3 million to the Wildfire Preparedness Fund, which is used as the state match for federal wildfire hazard mitigation grants to local governments and for related strategic planning; and
- \$4 million to the Colorado Water Conservation Board (CWCB) Construction Fund, for the Watershed Restoration Program.

HB 1261: Extend Beetle Kill Wood Products Sales Tax Exemption (Support)

Sponsored by Rep. Marc Catlin, Rep. Lisa Cutter, Sen. Don Coram and Sen. Joann Ginal

Signed by Governor Polis

Wood that is from salvaged trees killed or infested by pine or spruce beetles is exempt from state sales and use tax. This sales and use tax exemption applies to products such as lumber, furniture, wood chips or wood pellets, and other wood products made with wood from salvaged trees killed or infested by mountain pine or spruce beetles. HB 1261 extends the exemption through June 30, 2026.

HB 1208: Natural Disaster Mitigation Enterprise (Oppose)

Sponsored by Rep. Lisa Cutter, Rep. Matt Gray, Sen. Kevin Priola and Sen. Faith Winter

Signed by Governor Polis

This bill creates a fee-based enterprise on new insurance policies to fund climate change and natural disaster mitigation efforts. The fee is collected annually by the Division of Insurance on behalf of the enterprise. For an insurer, the fee is equal to \$2 multiplied by the number of certain policies or contracts of insurance held by the insurer that cover property or risks in the state.

CAR commissioned a legal analysis of this proposal which determined that it's unconstitutional because it violates TABOR (Colorado's Taxpayer Bill of Rights) and accordingly, testified in opposition emphasizing that this funding could be at risk of not being legally valid, especially because local grants are not considered a nexus that connects the folks being taxed to the fee which is a requirement in TABOR.

HB 1008: Forest Health Project Financing (Support)

Sponsored by Rep. Jeni James Arndt, Rep. Marc Catlin, Sen. John Cooke and Sen. Chris Hansen

Signed by Governor Polis

This bill provides a new revenue stream to allow local communities to participate in and financially contribute to forest health projects. These legal

entities would also be able to issue bonds toward watershed protection projects which are vital to restore forest health and to protect our water supply. Because the legislation also requires the consent of the communities that are impacted by the taxing district created, CAR supported this bill as a great innovative approach to fund forest health projects.



Infrastructure & Employment Law

SB 260: Sustainability of the Transportation System (Amend)

Sponsored by Sen. Stephen Fenberg, Sen. Faith Winter, Rep. Alec Garnett and Rep. Matt Gray

Signed by Governor Polis

This transformative bill raises nearly \$5.4 billion as a sustainable future funding source to maintain and expand roads, bridges and highways, increase transit, and quickly accelerate the use of clean-energy vehicles with infrastructure of charging stations. Over the next 11 fiscal years, about \$3.8 billion would come from new road user fees and \$1.6 billion would come from General Fund transfers and incorporated state and federal stimulus funds from 2021. Additionally, the bill includes short-term reductions of vehicle registration fees for all drivers of \$11.10 in 2022 and \$5.55 in 2023, with those fees returning to normal in 2024.

Because the bill sets up a variety of new enterprises that do not raise more than \$100 million in the first five years, it avoids the limitations of voters approval for new fees as required by Proposition 117 that passed last November's ballot. These three new enterprises would convert fleets to electric, support clean transit, and increase the communities' use of clean vehicles. It is unclear if the bill might be subject to lawsuits over TABOR and Proposition 117 because of these enterprises.

Finally, other provisions of the bill speak to the spending allocations including highway, bridge and tunnel projects, the progress towards some of CDOT's 10-year priority project list, paying off debts of previous state obligations, allowing regional organizations to act as regional transportation authorities, and language that requires the state to consider air pollution and traffic volume effects on communities near transportation projects.

SB 060: Expand Broadband Service (Amend)

Sponsored by Sen. Kerry Donovan and Rep. Dylan Roberts

Signed by Governor Polis

This bill directs the Colorado Broadband Office to contract with a nonprofit organization to create a reimbursement program to subsidize certain households for broadband service, based on household income and local broadband accessibility, or to provide another form of payment assistance, if the office and the nonprofit organization determine that a reimbursement program is not cost-effective. The reimbursement program can provide up to \$600 per year for broadband services to eligible households. The program

will repeal on September 1, 2026. The bill authorizes the office to use up to \$5.0 million from the Digital Grant Inclusion Program created by HB 1289 to implement the program that would otherwise be used for telehealth services funded by federal stimulus dollars.

HB 1109: Broadband Board Changes to Expand Broadband Services (Monitor)

Sponsored by Sen. Jeff Bridges, Sen. Don Coram, Rep. Matt Soper and Rep. Brianna Titone

This bill makes changes to the state's broadband deployment board and creates a new definition of "underserved communities." This board gives out grants from the Broadband Administrative fund, which gets its money from the state's High Cost Support Mechanism, a service charge paid for by telecommunication companies, which then passes those charges on to the consumer. The High Cost Support Mechanism fee generates \$12 million per year and is intended to help underserved communities throughout Colorado.

CAR watched both SB 060 and HB 1109 to make sure there were no property rights affected by the legislation, but as an industry we are strong advocates for high-functioning broadband because everyone should have an equal opportunity to operate their business, research assignments for school, and generally have access to a highly functioning internet whether they live in the eastern plains, front range, resort mountains or the western slope.

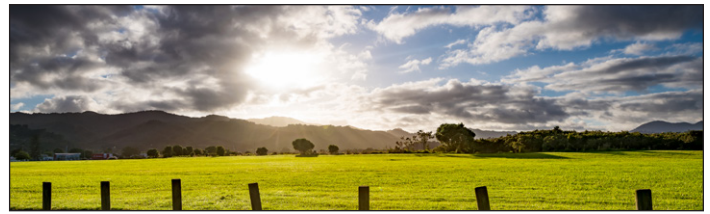
SB 176: Protecting Opportunities and Workers' Rights Act (Amend)

Sponsored by Sen. Faith Winter, Sen. Brittany Pettersen, Rep. Susan Lontine and Rep. Matt Gray

Postponed Indefinitely

SB 176 would have created and expanded definitions under current law to provide increased protections for Colorado workers and allow employment discrimination court claims. It also would have expanded time limits for when charges can be brought against employers to the Colorado Civil Rights Commission.

This bill changes Colorado's established system of civil rights laws and increases litigation costs for employers and workers. If passed, SB 176 would have led to costly new lawsuits at a time when businesses are still trying to recover from the hardships due to COVID-19. But most importantly, the bill would have created an "employee" relationship for independent contractors which causes liability for brokerage firms and employers that we traditionally do not have under the federal IRS revenue code. CAR worked to get an amendment offered that fixed this issue; however the bill died in committee. It will likely be back next year.



Environment

CAR is an active member of the Colorado Real Estate Alliance, where together with real estate industry coalition members we work to educate policymakers on the potentially harmful impacts policy could have on the real estate industry. Recently, energy mandates either limit consumer choice, increase costs for consumers, or burden Colorado's residential and commercial sectors. Legislative proposals that do not match current technology capacity or overlap federal program deadlines has been a common theme as Colorado searches for ways to invest in and contribute toward a sustainable future.

LPC took a position on some energy bills aimed to address climate change and provide consumers with options to switch out natural gas or propane appliances for electric products powered eventually by 100% renewable sources.

SB 261: Public Utilities Commission Encourage Renewable Energy Generation (Monitor)

Sponsored by Sen. Stephen Fenberg, Sen. Kevin Priola, Rep. Alex Valdez and Rep. Judy Amabile

Signed by Governor Polis

Colorado established the goal of cutting greenhouse gas emissions by at least 26% by 2025, 50% by 2030, and 90% by 2050. HB 261 makes changes to the Renewable Energy Standard (RES) and the regulation of distributed generation. This bill increases an existing limitation on the size of distributed generation facilities from 120% to 200% of a customer's historical annual usage to qualify for renewable energy credits. It also expands an existing exemption from regulation as a public utility to include persons who sell excess power from distributed generation located on property owned or leased by a customer or a master meter operator or customer served by a master meter operator. The Public Utilities Commission (PUC) is directed to adopt rules encouraging landlords and tenants in multi-unit buildings to share in the costs and benefits of installing new distributed generation facilities.

SB 246: Electric Utility Promote Beneficial Electrification (Oppose)

Sponsored by Sen. Stephen Fenberg, Rep. Alex Valdez and Rep. Meg Froelich

Signed by Governor Polis

Beneficial electrification is defined as converting the energy source of a customer's end use from a non-electric fuel source to a high-efficiency electric source or avoiding the use of non-electric fuel sources in new construction or industrial applications if the result reduces greenhouse gas emissions over the lifetime of the conversion and reduces societal costs or provides more efficient use of grid resources. The bill requires investor-owned electric utilities to file beneficial electrification plans with the Public Utilities Commission (PUC) at least every three years. Although

there is increasing interest in some governments to promote the use of energy-efficient electric equipment in place of less efficient fossil-fuel-based systems, natural gas is still one of the most affordable options. Even though parts of this bill included voluntary language, CAR believes these new requirements will increase the cost of housing when it is mandated on builders and homeowners. Replacing natural gas appliances should be a consumer choice, never a mandate, especially when the alternative appliances costs thousands of dollars more than consumers might be willing to pay or not offer the same level of cooking preference.

HB 1286: Energy Performance for Buildings (Amend)

Sponsored by Rep. Cathy Kipp, Rep. Alex Valdez, Sen. Kevin Priola and Sen. Brittany Pettersen

Signed by Governor Polis

The bill requires the Colorado Energy Office (CEO) to create a building energy performance program that requires large building owners to submit annual benchmarking data. HB 1286 outlines guidelines for the program, benchmarking requirements and civil penalties for violation of the requirements. The Air Quality Control Commission (AQCC) has the authority to modify elements of the program and the penalty amounts. Finally, the bill requires the CEO to establish a task force by October 1, 2021 to evaluate performance standards and report accordingly to the AQCC and the Governor.

Due to the work of CREA and other stakeholders, the bill was significantly amended to improve the bill and allow for further stakeholder engagement in the regulatory process:

- The 2026 performance standards are removed and the penalty language is cleaned up since there isn't a standard, a penalty would not be applied, but CDPHE would retain enforcement over rules once set by AQCC.
- The taskforce established in the bill will meet starting in late 2021 to consider a number of issues and develop recommendations for to AQCC to work towards a 20% emission reduction by 2030 and an interim reduction of 7% in 2026.
- By May of 2023, the AQCC has the authority to finalize rules based on the recommendations of the task force and can work to pass and implement these rules under their air quality enforcement authority.
- The task force will also work to solicit feedback from a range of building types and industries and will specifically examine building types with unique energy needs including but not limited to airports and hospitals and look at specific ways to include how buildings can comply with new standards.

HB 1052: Define Pumped Hydroelectricity as Renewable Energy (Support)

Sponsored by Rep. Hugh McKean and Sen. Rob Woodward

Signed by Governor Polis

HB 1052 adds "pumped hydroelectricity generation" to the definition of recycled energy so that Colorado's energy providers can obtain a percentage of their electricity from pumped hydroelectricity as well as other eligible energy resources to meet their minimum percentage requirements set under law. This bill diversifies the pool of green energy options available and allows providers to further meet the growing needs of our communities. CAR continues to support consumer choice in options for green energy



especially when it helps us diversify the demands on our electrical grid.

Water

As the western adage says, "Whiskey is for drinking—water is for fighting." There is no doubt that water is one of Colorado's most precious resources. As a headwaters state, Colorado supplies water to over five million Coloradans, 18 other states, and Mexico. As the west continues to grow in population, all Coloradans should work together to protect our water supply. We need to think creatively about storage and protect property owners to ensure the water rights across our state and region are not diminished.

SB 240: Watershed Restoration Grant Program Stimulus (Support)

Sponsored by Sen. Jessie Danielson, Sen. Cleave Simpson, Rep. Cathy Kipp and Rep. Marc Catlin

Signed by Governor Polis

SB 240 transfers \$15 million to the Colorado Water Conservation Board Construction Fund to protect watersheds against the impacts of wildfires through the existing watershed restoration grant program and allocates funds to conduct a statewide watershed analysis. It also requires the Department of Natural Resources to regularly update the legislature on board activities.

HB 1260: General Fund Transfer Implement State Water Plan (Support)

Sponsored by Rep. Alec Garnett, Rep. Marc Catlin, Sen. Kerry Donovan and Sen. Cleave Simpson

Signed by Governor Polis

SB 1260 transfers \$15 million to the Water Plan Implementation Cash Fund for water plan grants and expenditures to ensure compliance with interstate water allocation compacts, equitable apportion decrees, international treaties, and federal laws. It also transfers \$5 million to the Water Supply Reserve Fund to provide grants and loans to assist water users in addressing water supply issues.

HB 1046: Water Share Right Mutual Ditch Corporation (Support)

Sponsored by Rep. Jeni James Arndt, Rep. Marc Catlin, Sen. Rhonda Fields and Sen. Jerry Sonnenberg

Signed by Governor Polis

A mutual ditch company is a private, voluntary, non-profit, fee-collecting entity that holds water rights and allows members to purchase shares in the company. Current law makes it extremely difficult, if not outright prevents a shareholder from the ability to share their water rights and is also a commonly litigated issue in our courts. HB 1046 represents a consensus solution that allows for the sharing of water rights within a mutual ditch company and ensures private property rights are intact.

Thank You Leaders!



Robert Walkowicz
2021 CAR Chair



Tyrone Adams
CAR Chief Executive Officer



Sean Dougherty
CAR Government Affairs
Division Chair

A SPECIAL THANK YOU TO LPC MEMBERS, LEADERSHIP, AND STAFF

The 42 committed LPC members from all corners of the state actively volunteer countless hours of their time on subcommittees to review and analyze legislation impacting real estate, the housing industry and small businesses to recommend action on specific bills. CAR succeeds when we build relationships before we need them. Together we work hard to protect property owners and ensure REALTORS® have a seat at the table, because the work you do in the community every day with your clients, the experience you bring, and your passion truly make a big difference.

Thank you for your dedication!

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