

## HB21-1054: HOUSING PUBLIC BENEFIT VERIFICATION REQUIREMENT

Concerning a housing assistance exception to the requirement to verify lawful presence in the United States for public benefit.

### Details

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<b>Bill Sponsors:</b>	House – Jackson (D) Senate – Gonzales (D)
<b>Committee:</b>	House State, Civic, Military, and Veterans Affairs
<b>Bill History:</b>	2/16/2021- Introduced in House 2/25/2021- House State, Civic, Military, and Veterans Affairs Committee Refer Amended to House Committee of the Whole 3/2/2021- Passed House Second Reading 3/3/2021- Passed House Third Reading
<b>Next Action:</b>	Introduction in Senate
<b>Fiscal Note:</b>	<a href="#">2/19/2021</a>

### Bill Summary

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Currently, both federal and state law require that individuals verify lawful presence to receive certain government benefits. This bill removes the requirement to verify lawful presence for public or assisted housing benefits.

### Issue Summary

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#### Federal Law: State & Local Public Benefits

Federal law has a variety of restrictions on benefits for undocumented immigrants. This section will focus on restrictions for state and local public benefits. Federal law states that undocumented immigrants are not eligible for any state or local public benefit<sup>1</sup>, except in certain circumstances.<sup>2</sup> The exceptions include:

- Health care assistance necessary to treat an emergency medical condition, which means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part.<sup>3</sup> It cannot be related to an organ transplant procedure.
- Short-term non-cash, in-kind emergency disaster relief
- Immunization programs
- In-kind community services that protect life or safety (i.e. soup kitchens, crisis counseling, or short-term shelter) and are not conditional on income or resources

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<sup>1</sup> 8 U.S. Code § 1621

<sup>2</sup> (A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

<sup>3</sup> 42 U.S. Code § 1396b(v)(3)

Federal law stipulates that lawful presence is not required for state or local public benefits created pursuant to state legislation that affirmatively provides that lawful presence is not required for eligibility.

### State Law: Restriction of Public Benefits

Legislation originally passed in 2006, HB06S-1023, required state and local government agencies, with some exceptions, to verify the lawful presence of applicants for public benefits. Codified in Article 76.5 of Title 24 within the Colorado Revised Statutes, the exceptions currently include:

- Any purpose for which lawful presence is not required by law, ordinance, or rule
- Health benefits for treating an emergency medical condition,<sup>4</sup> cannot be related to an organ transplant procedure
- Short-term, noncash, in-kind emergency disaster relief
- Immunization programs
- In-kind community services that protect life or safety (i.e. soup kitchens, crisis counseling, or short-term shelter) and are not conditional on income or resources
- Pregnant women
- Under the age of 18, including over 18 and under 19 years old and remain eligible for medical assistance after turning 18
- Renewing an educator license
- Recipients of certain higher education-related services and benefits

### Housing

Colorado has a shortage of rental homes that are affordable and available to those households with extremely low incomes.<sup>5</sup> There are approximately 165,000 extremely low income renter households in Colorado but a shortage of 114,000 rental homes that are affordable and available for those renters.<sup>6</sup> Because of the shortage, nearly 75% of extremely low income renter households have a severe cost burden.

Even before the onset of the COVID-19 pandemic, Coloradans were experiencing housing instability. In 2019, 6.7% of Coloradans (360,000) were worried that they would not have a stable place to live in the next two months.<sup>7</sup> More than half of those that reported this worry also reported problems paying for food and medical bills. Additionally, nearly half of those reporting housing instability reported their health

### People of Color Are More Likely to Report Housing Instability

Race/Ethnicity and Stable Housing, 2019

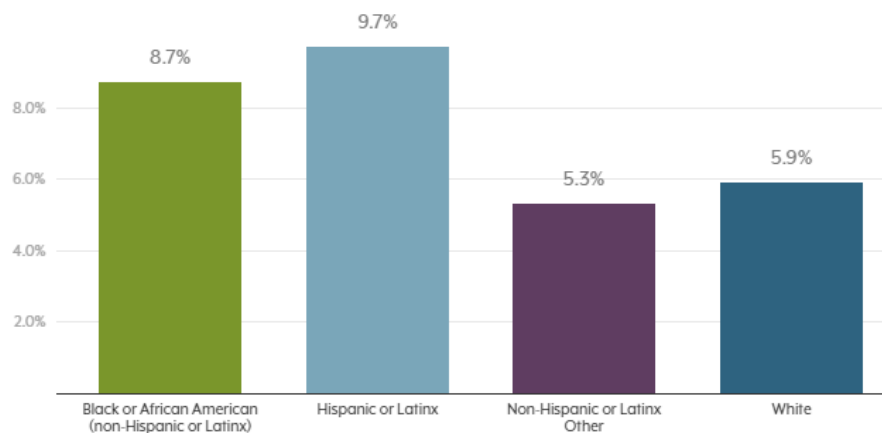


Chart: Colorado Health Institute • Source: Colorado Health Access Survey

<sup>4</sup> Same definition as the federal law

<sup>5</sup> Extremely low incomes are defined as those at or below the federal poverty level (FPL) or 30% of their area median income (AMI). National Low Income Housing Coalition (n.d) *Colorado*. Retrieved from <https://nlihc.org/housing-needs-by-state/colorado>

<sup>6</sup> National Low Income Housing Coalition (n.d) *Colorado*. Retrieved from <https://nlihc.org/housing-needs-by-state/colorado>

<sup>7</sup> Colorado Health Institute (June 9, 2020). *Making a Home for Health: Supporting Health by Putting Housing First*. Retrieved from <https://www.coloradohealthinstitute.org/research/making-home-health>

being fair or poor (44.1%), their oral health being poor or fair (46.8%), and having poor mental health (45.8%). People of color were more likely to report housing instability than white Coloradans. Further, 14.4% of Coloradans who are not U.S. citizens reported instability, which is more than double that of citizens (6.5%).

Colorado has about 10,857 people experiencing homeless on a given night.<sup>8</sup> Larimer County's temporary COVID-19 shelter, day shelter, and inclement weather shelters, operated by Homeward Alliance and Fort Collins Rescue Mission, serve up to 200 people daily. More households than ever before are on the brink of housing instability in Larimer County. This is reflected in the increased number of people per week currently seeking services through Murphy Center for Hope program. The Murphy Center is a collaboration between 20 independent organizations that serves as a hub of services for people who face homelessness or housing instability. Between October 1, 2020, and December 31, 2020, the Murphy Center served 1,124 unduplicated people, averaging 125 check-ins per day. Just under 50% of the people served identified themselves as living with a disability and 35% of the people served were ages 50 or older. The Murphy Center has recorded an increase of roughly 30 new entries to homelessness each week.

### This Legislation

The bill adds to the list of exceptions for verification of lawful presence the receipt of public or assisted housing, housing services, housing assistance, or other similar benefit, unless required by federal law.

The bill is effective upon the Governor's signature or if the Governor allows it to become law without their signature.

### Fiscal Note

The fiscal note finds that starting in fiscal year 2021-22, the bill will decrease state workload on an ongoing basis. Therefore, no appropriation is required.

### Reasons to Support

Housing is associated with improved health. Ensuring all Coloradans, regardless of immigration status, are eligible to apply for and receive housing assistance and participating in housing programs will aid in improving health status and assuring family stability. Renters that are cost burdened are more likely than others to sacrifice other necessities like food, utilities, and health care to pay for rent. For example, with such an exemption the Division of Housing within the Department of Local Affairs would be able to finance agriculture housing for transient farm workers and provide direct rental assistance with state funds during the COVID-19 pandemic to those without documentation.

In addition, the bill is likely to save time and money for state and local housing benefit programs as there will be a decrease in the administrative burden of verifying legal residency.

### Supporters

- American Civil Liberties Union of Colorado
- Boulder County
- Colorado Center on Law & Policy
- Colorado Children's Campaign
- Colorado Coalition of the Homeless
- Colorado Cross-Disability Coalition
- Colorado Mountain College
- Colorado Nonprofit Association
- Counties & Commissioners Acting Together (CCAT)
- COVID-19 Eviction Defense Project
- Enterprise Community Partners
- Interfaith Alliance

<sup>8</sup> National Alliance to End Homelessness (2019) *Colorado*. Retrieved from <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-report/colorado/>

- Mental Health Colorado
- Stand for Children
- Together CO
- United for a New Economy
- Violence Free Colorado

### Reasons to Oppose

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Some may assert that due to their documentation status, individuals should not be allowed to access publicly-funded services. Including this exception in statute could increase demand on these programs, necessitating future funding by both state and local governments.

### Opponents

- Any opposition has not been made public at this time.

### About this Analysis

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This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. This analysis is accurate to staff knowledge as of date printed. For more information about this analysis or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at [awilliams@healthdistrict.org](mailto:awilliams@healthdistrict.org).