Denver Post

Editorial: Developers can still abuse taxpayers with this gross metro district trick

House Bill 1363 would close down the power of developers to buy their own tax-free metro district bonds

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By THE DENVER POST EDITORIAL BOARD |

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If Colorado lawmakers do one thing with the remaining days of the 2022 legislative session, we hope they will reform metropolitan districts.

House Bill 1363 will shut down the most egregious abuses of taxpayer dollars — when developers issue a small tranche of debt on the bond market with unfavorable terms (above-market interest) and then buy the debt themselves so future homeowners will end up paying the developer for decades through their property taxes for a completely unnecessary load of bad debt.

If homeowners wrestle control of the metro district from the developer, they are then able to refinance the bonds and escape the developer’s trap, but the debt is often intentionally hidden and getting true control of metro districts can be hard if not impossible.

HB 1363 is simple and only a small part of the reforms needed for a deeply-flawed state law that allows private, for-profit developers to spend millions (sometimes billions) of taxpayer dollars with no oversight of the spending from publicly elected officials. The only folks who determine how the money is spent and how it will be repaid by taxpayers are the developers and their employees who have a financial stake in the venture.

Millions of Coloradans are, as we speak, paying off the debt incurred by these developers with no ability to see what the money was spent on or whether the projects were priced in a reasonable fashion, let alone bid in a competitive way to assure good use of taxpayer dollars.

The Colorado General Assembly has proven itself willing to pass baby-step reforms to protect taxpayers from the many abuses that were first uncovered by The Denver Post in 2019. More must be done, and we were sad to see another good reform bill has already been defeated this year.

Democratic leaders in the Senate sent Senate Bill 136, a bill requiring disclosures about who is running special districts and their conflicts of interest, to a kill committee where it was defeated by a vote of 4 to 1. The bill would have required members of the metropolitan district board who are employed by the developer or who have a financial stake in the development to disclose that information to taxpayers, and to inform homeowners how they can nominate themselves to serve on the board in place of the financially conflicted non-residents who are running the show at their expense.

The lawmakers who keep bringing these bills in spite of powerful lobbyist opposition — Rep. Mike Weissmann, Rep. Andrew Boesenecker, and Sen. Tammy Story — are doing yeoman's work.

HB 1363 is a much more narrow reform bill. The bill made it out of a committee hearing in the House and is headed to the House floor.

For so many homeowners it is too late to protect themselves from a predatory developer with free reign over their tax money, but HB 1363 offers hope that future homeowners won't have to suffer the very worst these developers can do — an endless cycle of debt that, as one attorney assisting developers with these questionable bonds explained to The Post's editorial board off-the-record in 2019, could be used as a trust fund for the developer's children.

There is so much more reform that needs to happen — metropolitan district mill levies should be disclosed on all MLS listings and in sales offices for new developments, those serving as quasi-elected officials for metropolitan districts should not be able to vote if they have a conflict of interests, and the state should require metro districts competitively bid and publicly post all expenditures.

But for now, we'll settle for just closing the gross practice of tax-free junior bond debts getting issued and purchased by some developers for their personal gain.