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National Mortgage News



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Legal marijuana sales keeping Colorado's housing market blazing

By Brad Finkelstein

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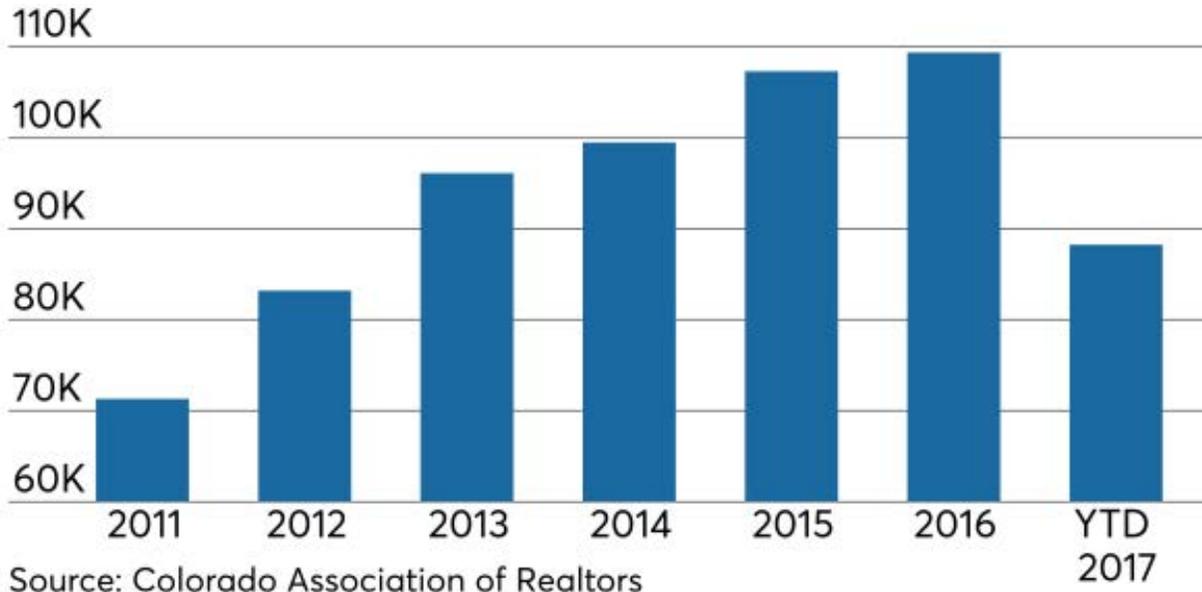
A gauge of the influence legalized marijuana might have on real estate and mortgage lending nationwide is happening in Colorado.

Cannabis for personal, recreational and industrial use has been legal there since the start of 2014. But while the mortgage industry has converged on Denver for this year's [Mortgage Bankers Association's Annual Convention and Expo](#), compliance concerns on the federal level are [keeping mortgage lenders from making loans to cannabis workers](#) in Colorado, 28 other states, plus Washington, D.C.

Nearly three years after legalization in Colorado, "we can see that it has absolutely affected our market," said Kelly Moye, a real estate broker at Remax Alliance in Bloomfield, Colo. It started on the commercial side, where cannabis businesses increased the demand for warehouse and retail space.

Smoking market

Single-family and co-op sales in Colorado, already on the upswing, got a boost after marijuana was legalized in 2014.



Now, "tons of different companies who want to take up that space and are willing to pay a premium for that," said Moyer, who is also the spokeswoman for the Colorado Association of Realtors.

The dynamic between commercial and residential demand does not operate in a vacuum. When space got rented or purchased by legal cannabis businesses, it created many new jobs with people moving to Colorado who needed places to live.

"Our supply and demand has really taken a crazy turn in the last five years for lots of reasons, legal marijuana being one of them," Moyer said.

Home sales went from 96,067 in 2013 to 99,434 one year and then 107,246 in 2015, according to the Colorado Association of Realtors. The [inventory shortage](#) affected 2017 sales there.

Sale prices have also grown, from a median of \$187,900 in 2011 to \$298,000 in 2016 and \$325,000 for the first nine months of this year, according to Attom Data Solutions.

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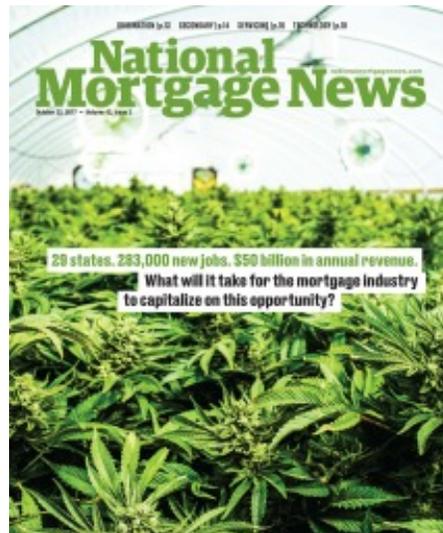
In addition to legal cannabis creating new jobs, Amazon and Google have also added employees in the state and increased competition for housing. Colorado's quality of life is particularly appealing to a lot of people looking to fill those positions.

Some of her clients are between 25 and 35 years old are looking to buy a condominium or first home and they might not have been [in a position to buy](#) if they didn't have a job in the cannabis business.

"There are a lot of people who are moving here to work in that industry who may not have moved here otherwise. And all of a sudden, we have a significant low supply and high demand issue, which pushes prices up," Moye said.

And even if they can't get credit or lack the cash to purchase a home, they are competing for rental properties. So rents are rising and people working in more traditional businesses are making the calculation that it is cheaper to buy.

"So those people who are renting and working in the marijuana industry cause the people who are not to go out and buy, which then fuels our housing market," Moye said.



Underwriting 'heat score'

Medical marijuana use was approved in New York State in 2014. Soon after, Michael Barone, the managing partner of Abrams Garfinkel Margolis Bergson's mortgage compliance practice, began receiving client inquiries about what is permissible when it comes to lending to that industry's workers.

"Now you have employees — the growers, the retailers, the bookkeeper that works there, the packager — who are getting W-2s that show [they work in the] marijuana field and some of them are having trouble" obtaining credit, Barone said.

The industry's hyper-sensitivity toward compliance has lenders concerned that trying to qualify cannabis workers for mortgages would amount to an underwriting "heat score" — activity that draws unwanted attention from regulators.

"These banks are not taking chances; they're not taking risk on a compliance level," he said, adding there is not enough business in making loans to these workers to take on the additional risk.

The reluctance to lend means "these people are really getting hurt. They need that income to qualify for a loan or to refinance," Barone said.

Cannabis employers have problems with access to banking services because of the federal prohibition. Approximately 70% of businesses that touch the plant **cannot establish a bank account**, according to a December 2015 survey from Marijuana Business Daily, a trade publication for the cannabis industry. Without bank accounts, employers are forced to pay their workers, along with their business expenses such as rent and taxes, in cash.

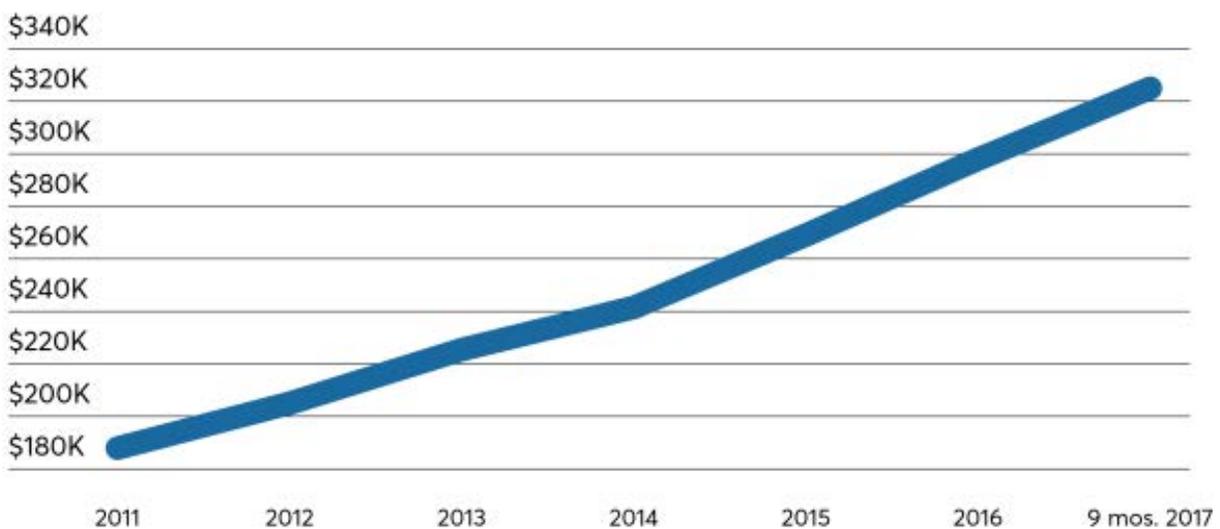
But that doesn't mean employees are getting paid under the table. Most of the businesses, even if they are operating in cash, have a payroll management system or use an outsourcer. So the employees are getting paystubs with taxes withheld, along with a W-2 at the end of the year, that lenders could use to document income, said Taylor West, the deputy director of the National Cannabis Industry Association.

But while being paid in cash is not an automatic disqualifier for getting a mortgage, it can be a red flag for underwriters.

High on prices

People moving to Colorado for marijuana industry jobs added to the inventory shortage and accelerated sales price growth

● Median sale price



Source: Attom Data Solutions

Large sums of cash passing through a bank account worry lenders who have to be mindful of [anti-money-laundering laws](#), including compliance with the Bank Secrecy Act. Any cash deposit or multiple deposits over \$10,000 trigger a reporting requirement for banks.

A number of professions involve people who receive much of their income in cash, usually from tips, and they don't have a problem qualifying for a mortgage. For a cannabis worker who still receives a W-2, "in its essence, how is it any different than other industries where people get paid cash," said Ann Fulmer, a mortgage fraud expert and chief strategy and industry relations officer at FormFree Holdings, an asset data verification company.

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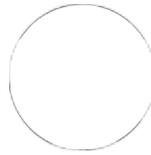
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If the applicant is receiving a W-2, that should be good enough for AML and BSA compliance, she continued, because the income is being reported.

On the other hand, "If I was an underwriter and I saw a \$25,000 cash deposit, my antenna would go way up," Fulmer said. But just because it's a red flag doesn't mean an underwriter

should automatically deny an applicant. If the income is reported on a W-2 and taxes are being paid, that could be enough to assuage concerns, she said.

Yet, "it's still illegal on a federal level. They can't [use] income for underwriting purposes which is derived from what is considered an illegal activity on the federal level," said Barone.



Brad Finkelstein

Brad Finkelstein is the originations editor of National Mortgage News.



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Posted By **C. N**
Tuesday, October 24 2017 at 2:54 PM

W-2 employees of legal marijuana businesses may have to make a few calls but should be able to find conventional FNMA financing in CO or any state where its legal. We have done several. While some lenders have overlays, many do not and can easily sell the loans to Fannie. There are port lenders who will lend to 1099 or owners as well, albeit at higher than market rates. Colorado Home Finance Authority loans are available to those who qualify as well.

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