

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0020.01 Megan McCall x4215

HOUSE BILL 23-1190

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A BILL FOR AN ACT

101 **CONCERNING A RIGHT OF FIRST REFUSAL TO PURCHASE QUALIFYING**
102 **MULTIFAMILY RESIDENTIAL PROPERTY BY A LOCAL**
103 **GOVERNMENT.**

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>.)

The bill creates a right of first refusal of a local government to match an acceptable offer for the sale of a residential or mixed-use multifamily property (property). The right to the purchase of the property by the local government is subject to the local government's commitment to using the property as long-term affordable housing. The local

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
Amended 2nd Reading
May 6, 2023

HOUSE
3rd Reading Unamended
March 7, 2023

HOUSE
Amended 2nd Reading
March 6, 2023

government may assign its right of first refusal to the state, to any political subdivisions, or to any housing authority in the state subject to the limitation that the assignee make the same commitment to using the property as long-term affordable housing.

The bill requires notices to be given by the seller to local governments and by local governments to the seller and to residents of the property. Upon receiving notice of intent to sell or of a potential sale of property, a local government has 14 business days to preserve its right of first refusal and an additional 90 business days to make an offer and must agree to close on the property within 180 business days of the execution of an agreement for the sale and purchase of the qualifying property.

The bill allows certain sales of property to be exempt from the right of first refusal and the requirements established by the bill for the right of first refusal. The bill also allows the local government to waive its right of first refusal to purchase a property if the local government elects to disclaim its rights to any proposed transaction or for any duration of time or if there is a third-party buyer interested in purchasing the property with the same commitment to preserving or converting the property for long-term affordable housing and if the third-party buyer enters into an agreement with the local government concerning the third-party buyer's commitment to long-term affordable housing.

If the local government, its assignee, or a third-party buyer who has committed to preserving or converting the property for long-term affordable housing has acquired the property and maintained the property for long-term affordable housing for 50 years, the property may be converted to another use if the following conditions are met:

- Notice is given to residents prior to the conversion;
- Any displaced residents are provided with compensation for relocation; and
- The local government, its assignee, or a third-party buyer who has committed to preserving or converting the property for long-term affordable housing guarantees the development or conversion of an equal or greater amount of units within the boundaries of the local government for long-term affordable housing and offers the units first to any residents displaced by the conversion of the property.

The bill also provides that the attorney general's office has responsibility to enforce the provisions of the bill and that the attorney general's office, a local government, or a mission-driven organization has standing to bring a civil action for violations of the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 12 to article

1 4 of title 29 as follows:

2

PART 12

3

RIGHT OF FIRST REFUSAL

4

TO PURCHASE MULTIFAMILY HOUSING

5

29-4-1201. Definitions. AS USED IN THIS PART 12, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7

(1) "APPLICABLE AREA MEDIAN INCOME" MEANS NO MORE THAN
8 EIGHTY PERCENT OF THE AREA MEDIAN INCOME IN URBAN COUNTIES, NO
9 MORE THAN ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN
10 INCOME IN RURAL COUNTIES, AND NO MORE THAN ONE HUNDRED FORTY
11 PERCENT OF THE AREA MEDIAN INCOME IN RURAL RESORT COUNTIES. THE
12 CLASSIFICATION OF URBAN, RURAL, AND RURAL RESORT COUNTIES IS THE
13 DIVISION OF HOUSING'S MOST RECENT CLASSIFICATION OF THE SAME
14 PURSUANT TO SECTION 29-4-1107 (1)(d).

15

(2) "AREA MEDIAN INCOME" MEANS THE MEDIAN INCOME OF THE
16 COUNTY IN WHICH A QUALIFYING PROPERTY IS LOCATED IN RELATION TO
17 FAMILY SIZE, AS PUBLISHED ANNUALLY BY THE UNITED STATES
18 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

19

(3) "LOCAL GOVERNMENT" MEANS:

20

(a) IF THE QUALIFYING PROPERTY IS LOCATED WITHIN THE
21 INCORPORATED AREA OF A CITY, A CITY AND COUNTY, OR A TOWN, THE
22 CITY, THE CITY AND COUNTY, OR THE TOWN; AND

23

(b) IF THE QUALIFYING PROPERTY IS LOCATED WITHIN THE
24 UNINCORPORATED AREA OF A COUNTY, THE COUNTY.


25

(4) "LONG-TERM AFFORDABLE HOUSING" MEANS HOUSING FOR
26 WHICH THE ANNUAL RENT FOR ANY UNIT IN THE QUALIFYING PROPERTY
27 DOES NOT EXCEED THE RENT FOR HOUSEHOLDS OF A GIVEN SIZE AT THE

1 APPLICABLE AREA MEDIAN INCOME, AS PUBLISHED ANNUALLY BY THE
2 UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
3 FOR A MINIMUM OF ONE HUNDRED YEARS AND WHERE THE LOCAL
4 GOVERNMENT AGREES NOT TO RAISE RENT FOR ANY UNIT IN THE
5 QUALIFYING PROPERTY BY MORE THAN THE RENT INCREASE CAP; EXCEPT
6 THAT THE RENT INCREASE CAP SHALL NOT APPLY TO UNITS OF HOUSING
7 REGULATED BY FAIR MARKET RENTS PUBLISHED BY THE UNITED STATES
8 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY OTHER
9 FEDERAL OR STATE PROGRAMS THAT RESTRICT OR LIMIT ALLOWABLE
10 RENTS.

11 (5) "MISSION-DRIVEN ORGANIZATION" MEANS AN ORGANIZATION
12 IN GOOD STANDING WITH THE SECRETARY OF STATE THAT IS EXEMPT FROM
13 TAXATION PURSUANT TO SECTION 501 (a) OF THE FEDERAL "INTERNAL
14 REVENUE CODE OF 1986", AS AMENDED, AND LISTED AS AN EXEMPT
15 ORGANIZATION IN SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL
16 REVENUE CODE OF 1986", AS AMENDED.

17 (6) (a) "QUALIFYING PROPERTY" MEANS A MULTIFAMILY
18 RESIDENTIAL OR MIXED-USE RENTAL PROPERTY CONSISTING OF FIFTEEN OR
19 MORE UNITS IN URBAN COUNTIES AND FIVE OR MORE UNITS IN RURAL OR
20 RURAL RESORT COUNTIES. THE CLASSIFICATION OF URBAN, RURAL, AND
21 RURAL RESORT COUNTIES IS THE DIVISION OF HOUSING'S MOST RECENT
22 CLASSIFICATION OF THE SAME PURSUANT TO SECTION 29-4-1107 (1)(d).

23 
24 (b) "QUALIFYING PROPERTY" DOES NOT INCLUDE A MOBILE HOME
25 PARK AS DEFINED IN SECTION 38-12-201.5 (6).

26 (7) "RENT INCREASE CAP" MEANS A PERCENTAGE OF THE CURRENT
27 ANNUAL RENT FOR A QUALIFYING PROPERTY THAT IS EQUAL TO THE

1 GREATER OF:

2 (a) THE AVERAGE ANNUAL PERCENTAGE CHANGE FOR THE
3 PREVIOUS TWELVE MONTHS AT THE TIME OF THE CALCULATION IN THE
4 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS
5 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL
6 ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX; OR

7 (b) THREE PERCENTAGE POINTS.

8 (8) "RESIDENTIAL SELLER" MEANS AN OWNER OF A QUALIFYING
9 PROPERTY.

10 **29-4-1202. Right of first refusal - eligibility - process - notice**

11 **- tolling.** (1) (a) (I) IN ACCORDANCE WITH THIS PART 12, THE LOCAL
12 GOVERNMENT FOR THE JURISDICTION IN WHICH A QUALIFYING PROPERTY
13 IS LOCATED HAS A RIGHT TO PURCHASE THE QUALIFYING PROPERTY FOR AN
14 ECONOMICALLY SUBSTANTIALLY IDENTICAL OFFER TO ANOTHER OFFER
15 THAT A RESIDENTIAL SELLER RECEIVES ON THE QUALIFYING PROPERTY.
16 THE LOCAL GOVERNMENT'S RIGHT TO PURCHASE THE QUALIFYING
17 PROPERTY IS LIMITED TO PRESERVING OR CONVERTING THE QUALIFYING
18 PROPERTY FOR LONG-TERM AFFORDABLE HOUSING BY THE LOCAL
19 GOVERNMENT OR ANOTHER PUBLIC OR PRIVATE ENTITY THAT THE LOCAL
20 GOVERNMENT ASSIGNS ITS RIGHTS TO UNDER THIS PART 12, OR THAT THE
21 LOCAL GOVERNMENT TRANSFERS THE QUALIFYING PROPERTY TO.

22 (II) IN EXERCISING ITS RIGHT OF FIRST REFUSAL SET FORTH IN
23 SUBSECTION (1)(a)(I) OF THIS SECTION AND IN THIS PART 12, A LOCAL
24 GOVERNMENT MAY PARTNER WITH A NONPROFIT ENTITY, A PRIVATE
25 ENTITY, OR ANOTHER GOVERNMENTAL ENTITY TO CO-FINANCE, LEASE, OR
26 MANAGE THE QUALIFYING PROPERTY FOR THE PUBLIC PURPOSE OF
27 MAINTAINING THE QUALIFYING PROPERTY AS LONG-TERM AFFORDABLE

1 HOUSING IF THE LOCAL GOVERNMENT OR ITS ASSIGNEE MAINTAINS
2 OWNERSHIP OF THE QUALIFYING PROPERTY.

3 (b) ANY PURCHASE AND SALE AGREEMENT FOR THE CONVEYANCE
4 OF A QUALIFYING PROPERTY BY A RESIDENTIAL SELLER IS CONTINGENT
5 UPON THE RIGHT OF FIRST REFUSAL SET FORTH IN THIS PART 12.

6 (c) (I) IF THE LOCAL GOVERNMENT PROVIDES NOTICE PURSUANT TO
7 SUBSECTION (3)(a)(I) OF THIS SECTION TO A RESIDENTIAL SELLER THAT
8 THE LOCAL GOVERNMENT MAY EXERCISE ITS RIGHTS UNDER THIS PART 12,
9 THE RESIDENTIAL SELLER SHALL NOT PROCEED WITH THE SALE OF THE
10 QUALIFYING PROPERTY TO ANY OTHER PARTY AND THE LOCAL
11 GOVERNMENT SHALL HAVE A RIGHT TO MAKE AN OFFER THAT IS
12 ECONOMICALLY SUBSTANTIALLY IDENTICAL TO AN ACCEPTABLE OFFER ON
13 THE QUALIFYING PROPERTY THAT IS IDENTIFIED BY THE RESIDENTIAL
14 SELLER AS REQUIRED BY SUBSECTION (2)(d)(I)(B) OF THIS SECTION.

15 (II) FOR THE PURPOSE OF DETERMINING WHETHER THE TERMS OF
16 AN OFFER BY A THIRD PARTY AND AN OFFER BY THE LOCAL GOVERNMENT
17 ARE ECONOMICALLY SUBSTANTIALLY IDENTICAL, IT IS IMMATERIAL HOW
18 THE OFFER WOULD BE FINANCED. FOR PURPOSES OF THIS PART 12, A
19 RESIDENTIAL SELLER SHALL NEGOTIATE IN GOOD FAITH WITH THE LOCAL
20 GOVERNMENT THAT MAKES AN OFFER THAT IS ECONOMICALLY
21 SUBSTANTIALLY IDENTICAL TO AN ACCEPTABLE OFFER ON THE QUALIFYING
22 PROPERTY THAT IS IDENTIFIED BY THE RESIDENTIAL SELLER AS REQUIRED
23 BY SUBSECTION (2)(d)(I)(B) OF THIS SECTION FOR THE SALE OF THE
24 QUALIFYING PROPERTY WHICH INCLUDES, BUT IS NOT LIMITED TO
25 EVALUATING AN OFFER FROM THE LOCAL GOVERNMENT OR ITS ASSIGNEE
26 WITHOUT CONSIDERATION OF:

27 (A) THE TIME PERIOD FOR CLOSING;

1 (B) THE TYPE OF FINANCING OR PAYMENT METHOD;

2 (C) WHETHER OR NOT THE OFFER IS CONTINGENT ON FINANCING
3 OR PAYMENT METHOD; AND

4 (D) WHETHER OR NOT THE OFFER IS CONTINGENT ON AN
5 APPRAISAL, INSPECTION, OR REVIEW OF TITLE, OBTAINING TITLE
6 INSURANCE, OR OTHER CUSTOMARY CONDITIONS FOR THE SALE OF SIMILAR
7 PROPERTY.

8 (III) IF THE RESIDENTIAL SELLER REJECTS THE OFFER MADE BY THE
9 LOCAL GOVERNMENT, THE RESIDENTIAL SELLER SHALL PROVIDE A
10 WRITTEN EXPLANATION OF THE REJECTION AND SHALL INVITE THE LOCAL
11 GOVERNMENT TO MAKE A SUBSEQUENT OFFER BY IDENTIFYING THE TERMS
12 AND CONDITIONS THAT MUST BE INCLUDED IN THE SUBSEQUENT OFFER FOR
13 THE RESIDENTIAL SELLER TO POTENTIALLY ACCEPT THE SUBSEQUENTLY
14 MADE OFFER BY THE LOCAL GOVERNMENT. ■ ■ A RESIDENTIAL SELLER
15 SHALL NOT COLLUDE WITH A POTENTIAL BUYER FOR THE PRIMARY
16 PURPOSE OF INFLATING A SALES PRICE ABOVE THE MARKET PRICE OF A
17 QUALIFYING PROPERTY.

18 (d) AT ANY TIME THE LOCAL GOVERNMENT MAY ASSIGN ITS RIGHTS
19 REGARDING A QUALIFYING PROPERTY UNDER THIS PART 12 TO A
20 HOUSING AUTHORITY THAT IS WITHIN THE LOCAL GOVERNMENT'S
21 JURISDICTION, A REGIONAL HOUSING AUTHORITY THAT SERVES THE LOCAL
22 GOVERNMENT'S JURISDICTION, OR THE COLORADO HOUSING AND FINANCE
23 AUTHORITY, CREATED IN SECTION 29-4-704 (1), SUBJECT TO THE
24 LIMITATIONS THAT THE QUALIFYING PROPERTY MUST BE USED TO
25 PRESERVE OR BE CONVERTED FOR LONG-TERM AFFORDABLE HOUSING AND
26 THAT ALL OTHER PROVISIONS OF THIS PART 12 ARE APPLICABLE TO THE
27 ASSIGNEE. UPON ASSIGNMENT, THE ASSIGNEE ASSUMES ALL LIABILITY OF

1 THE LOCAL GOVERNMENT REGARDING THE EXERCISE OF RIGHTS UNDER
2 THIS PART 12 AND IS RESPONSIBLE FOR PERFORMING ALL REQUIREMENTS
3 UNDER THIS PART 12 WITH RESPECT TO A QUALIFYING PROPERTY AS IF THE
4 ASSIGNEE WERE THE LOCAL GOVERNMENT. THE ASSIGNEE MUST NOTIFY
5 THE RESIDENTIAL SELLER OF THE ASSIGNMENT IF THE LOCAL GOVERNMENT
6 HAS ALREADY SENT THE RESIDENTIAL SELLER NOTICE PURSUANT TO
7 SUBSECTION (3)(a) OF THIS SECTION.

8 (e) IF A QUALIFYING PROPERTY IS CLASSIFIED AS MIXED-USE, THE
9 LOCAL GOVERNMENT'S RIGHTS UNDER THIS PART 12 SHALL ONLY EXTEND
10 TO THE PORTION OF THE QUALIFYING PROPERTY THAT IS RESIDENTIAL, BUT
11 NOTHING IN THIS PART 12 EXCLUDES THE LOCAL GOVERNMENT FROM
12 INCLUDING THE PURCHASE OF ANY COMMERCIAL PORTION OF THE
13 QUALIFYING PROPERTY BY THE LOCAL GOVERNMENT IN THE TERMS OF THE
14 SALE AT THE DISCRETION OF THE LOCAL GOVERNMENT.

15 (f) THE GOVERNING BODY OF THE LOCAL GOVERNMENT MAY ELECT
16 TO DISCLAIM ANY RIGHTS PROVIDED UNDER THIS PART 12 WITH RESPECT
17 TO ANY PROPOSED TRANSACTION OR FOR ANY DURATION OF TIME.

18 (g) A LOCAL GOVERNMENT THAT HAS NOT FULLY DISCLAIMED ALL
19 RIGHTS UNDER THIS PART 12 PURSUANT TO SECTION 29-4-1203 (2)(a),
20 SHALL POST A NOTICE IN A CONSPICUOUS LOCATION ON ITS WEBSITE THAT
21 INFORMS RESIDENTIAL SELLERS THAT QUALIFYING PROPERTIES, IF SOLD,
22 MAY BE SUBJECT TO A RIGHT OF FIRST REFUSAL FOR PURCHASE BY THE
23 LOCAL GOVERNMENT AT A PRICE AGREED UPON BY THE RESIDENTIAL
24 SELLER.

25 (h) THE LOCAL GOVERNMENT MAY CREATE A RIGHT OF FIRST
26 REFUSAL OPPORTUNITY EVALUATION RUBRIC BASED ON LOCAL HOUSING
27 NEEDS TO DETERMINE WHEN IT MAY OR MAY NOT EXERCISE ITS RIGHT OF

1 FIRST REFUSAL UNDER THIS PART 12. SUCH A RUBRIC MAY CONSIDER
2 GEOGRAPHY, ACQUISITION COST, PROXIMITY TO AMENITIES, UNIT COUNT,
3 AND OTHER LOCAL PRIORITIES. FOR QUALIFYING PROPERTIES THAT DO NOT
4 ALIGN WITH THE LOCAL PRIORITIES IDENTIFIED IN THE RUBRIC, THE LOCAL
5 GOVERNMENT SHOULD EXPEDITIOUSLY WAIVE ITS RIGHT OF FIRST REFUSAL
6 TO SUCH QUALIFYING PROPERTIES.

7 (2) **Notice by residential seller.** (a) WITHIN FOURTEEN
8 **CALENDAR** DAYS OF A TRIGGERING EVENT DEMONSTRATING A
9 RESIDENTIAL SELLER'S INTENT TO SELL THE QUALIFYING PROPERTY, A
10 RESIDENTIAL SELLER SHALL PROVIDE NOTICE TO THE GOVERNING BODY OF
11 THE LOCAL GOVERNMENT IN WHICH THE QUALIFYING PROPERTY IS
12 LOCATED. THE NOTICE MUST BE GIVEN IN ACCORDANCE WITH SUBSECTION
13 (2)(d) OF THIS SECTION.

14 (b) A TRIGGERING EVENT REQUIRING NOTICE UNDER THIS
15 SUBSECTION (2) INCLUDES ANY TIME THE RESIDENTIAL SELLER:

16 (I) SIGNS A CONTRACT WITH A REAL ESTATE BROKER OR
17 BROKERAGE FIRM TO LIST THE QUALIFYING PROPERTY FOR SALE OR TO
18 SELL OR TRANSFER THE QUALIFYING PROPERTY;

19 (II) SIGNS A LETTER OF INTENT, OPTION TO SELL OR BUY, OR OTHER
20 CONDITIONAL WRITTEN AGREEMENT WITH A POTENTIAL BUYER FOR THE
21 SALE OR TRANSFER OF THE QUALIFYING PROPERTY, WHICH INCLUDES THE
22 ESTIMATED PRICE, TERMS, AND CONDITIONS OF THE PROPOSED SALE OR
23 TRANSFER, EVEN IF THE PRICE, TERMS, OR CONDITIONS ARE SUBJECT TO
24 CHANGE;

25 (III) SIGNS A CONTRACT WITH A POTENTIAL BUYER'S REAL ESTATE
26 BROKER OR BROKERAGE FIRM RELATED TO THE POTENTIAL SALE OR
27 TRANSFER OF THE QUALIFYING PROPERTY;

1 (IV) PROVIDES A SIGNED PROPERTY DISCLOSURE FORM FOR THE
2 QUALIFYING PROPERTY TO A POTENTIAL BUYER;

3 (V) LISTS THE QUALIFYING PROPERTY FOR SALE;

4 (VI) MAKES A CONDITIONAL ACCEPTANCE OF AN OFFER FOR THE
5 SALE OR TRANSFER OF THE QUALIFYING PROPERTY;

6 (VII) TAKES ANY OTHER ACTION DEMONSTRATING AN INTENT TO
7 SELL THE QUALIFYING PROPERTY; EXCEPT THAT ANY ACTION TAKEN TO
8 ENGAGE WITH A POLITICAL SUBDIVISION OR A HOUSING AUTHORITY IN THE
9 STATE TO FACILITATE NEGOTIATIONS BETWEEN THE RESIDENTIAL SELLER
10 AND A THIRD-PARTY TO CREATE OR PRESERVE LONG-TERM AFFORDABLE
11 HOUSING FOR A QUALIFYING PROPERTY IS NOT CONSIDERED A TRIGGERING
12 EVENT UNTIL ANOTHER ACTION SET FORTH IN THIS SUBSECTION (2)(b)
13 OCCURS;

14

15 (VIII) RECEIVES A NOTICE THAT A CERTIFICATE OF LEVY HAS BEEN
16 FILED RELATED TO THE QUALIFYING PROPERTY PURSUANT TO SECTION
17 13-56-101; OR

18 (IX) THE POTENTIAL SALE TO A THIRD-PARTY BUYER PURSUANT TO
19 SECTION 29-4-1203 (2) TERMINATES.

20 (c) A RESIDENTIAL SELLER DOES NOT NEED TO PROVIDE A
21 SUBSEQUENT NOTICE TO THE LOCAL GOVERNMENT UNLESS THE TERMS OF
22 AN ACCEPTABLE SALE MATERIALLY CHANGE. IF THE TERMS OF AN
23 ACCEPTABLE SALE MATERIALLY CHANGE, THE RESIDENTIAL SELLER SHALL
24 PROVIDE A SUBSEQUENT NOTICE TO THE LOCAL GOVERNMENT. FOR
25 PURPOSES OF THIS SUBSECTION (2)(c), ANY CHANGE IN THE PRICE OF A
26 WRITTEN OFFER THE RESIDENTIAL SELLER HAS RECEIVED ON THE
27 QUALIFYING PROPERTY OR ANY CHANGE IN THE PRICE OF AN ACCEPTABLE

1 WRITTEN OFFER ON THE QUALIFYING PROPERTY IS A MATERIAL CHANGE.
2 FOR PURPOSES OF THIS SUBSECTION (2)(c), A MATERIAL CHANGE OCCURS
3 IF THE SALE PRICE OF A QUALIFYING PROPERTY CHANGES BY AT LEAST
4 NINETY PERCENT FROM THE SALE PRICE THAT WAS PREVIOUSLY PROVIDED
5 IN ANY NOTICE THE RESIDENTIAL SELLER IS REQUIRED TO PROVIDE TO THE
6 LOCAL GOVERNMENT PURSUANT TO THIS SECTION.

7 (d) (I) THE NOTICE GIVEN PURSUANT TO THIS SUBSECTION (2) MUST
8 BE DELIVERED TO THE CLERK OF THE GOVERNING BODY OF THE LOCAL
9 GOVERNMENT BY ELECTRONIC MAIL DELIVERY; EXCEPT THAT, IF THERE IS
10 NOT AN ELECTRONIC MAILING ADDRESS AVAILABLE FOR THE CLERK, THEN
11 BY HAND DELIVERY, UNITED STATES FIRST CLASS MAIL, OR OVERNIGHT
12 DELIVERY AND MUST INCLUDE:

13 (A) A GENERAL DESCRIPTION OF THE QUALIFYING PROPERTY TO BE
14 PURCHASED, INCLUDING THE ADDRESS AND NAME OF THE PROPERTY, IF
15 ANY, AND ANY ADDITIONAL DESCRIPTIONS OF THE QUALIFYING PROPERTY
16 ON FILE WITH THE OFFICE OF THE ASSESSOR IN THE COUNTY IN WHICH THE
17 QUALIFYING PROPERTY IS LOCATED;

18 (B) THE PRICE, TERMS, AND CONDITIONS OF AN ACCEPTABLE OFFER
19 THE RESIDENTIAL SELLER HAS RECEIVED TO SELL THE QUALIFYING
20 PROPERTY OR THE PRICE, TERMS, AND CONDITIONS FOR WHICH THE
21 RESIDENTIAL SELLER INTENDS TO SELL THE QUALIFYING PROPERTY;

22 (C) ANY TERMS OR CONDITIONS WHICH, IF NOT MET, WOULD BE
23 SUFFICIENT GROUNDS, IN THE RESIDENTIAL SELLER'S DISCRETION AND IN
24 COMPLIANCE WITH THIS PART 12 AND ANY OTHER APPLICABLE LAW, TO
25 REJECT AN OFFER;

26 (D) IF THE RESIDENTIAL SELLER HAS ENTERED INTO A CONTINGENT
27 PURCHASE AND SALE AGREEMENT WITH A PROSPECTIVE BUYER, A COPY OF

1 THE AGREEMENT;

2 (E) THE RESIDENTIAL SELLER'S ADDRESS AND, IF AVAILABLE,
3 ELECTRONIC MAILING ADDRESS TO RECEIVE NOTICES FROM THE LOCAL
4 GOVERNMENT; AND

5 (F) THE NAMES AND MAILING ADDRESSES THAT THE RESIDENTIAL
6 SELLER HAS ON RECORD FOR EVERY TENANT RESIDING IN THE QUALIFYING
7 PROPERTY.

8 (II) THE PRICE, TERMS, AND CONDITIONS STATED IN THE NOTICE
9 MUST BE UNIVERSAL AND APPLICABLE TO ALL POTENTIAL BUYERS AND
10 MUST NOT BE SPECIFIC TO OR PROHIBITIVE OF THE LOCAL GOVERNMENT
11 MAKING A SUCCESSFUL OFFER TO PURCHASE THE QUALIFYING PROPERTY,
12 MUST NOT BE UNLAWFUL, AND MUST NOT INHIBIT THE EXERCISE OF THE
13 RIGHTS PROVIDED UNDER THIS PART 12.

14 (III) THE LOCAL GOVERNMENT MAY SHARE THE INFORMATION
15 CONTAINED IN THE NOTICE WITH ITS OFFICERS, EMPLOYEES, AGENTS, AND
16 PROSPECTIVE ASSIGNEES OR A PROSPECTIVE ENTITY THE LOCAL
17 GOVERNMENT PARTNERS WITH PURSUANT TO SUBSECTION (1)(a)(II) OF
18 THIS SECTION FOR THE PURPOSES OF EVALUATING OR OBTAINING
19 FINANCING FOR THE PROSPECTIVE TRANSACTION. THE INFORMATION
20 CONTAINED IN THE NOTICE MUST BE KEPT CONFIDENTIAL IF THE
21 RESIDENTIAL SELLER SO REQUESTS AND IS CONFIDENTIAL INFORMATION
22 NOT SUBJECT TO PUBLIC DISCLOSURE; EXCEPT THAT THE OCCURRENCE OF
23 A TRIGGERING EVENT, THE LOCATION OF THE QUALIFYING PROPERTY, AND
24 THE IDENTITY OF THE RESIDENTIAL SELLER ARE NOT CONFIDENTIAL AND
25 ARE SUBJECT TO PUBLIC DISCLOSURE. NOTHING IN THIS SECTION REQUIRES
26 A LOCAL GOVERNMENT TO EXERCISE ITS RIGHTS UNDER THIS PART 12.

27 (e) (I) PRIOR TO THE SALE OF A QUALIFYING PROPERTY, A

1 RESIDENTIAL SELLER SHALL EXECUTE AND RECORD IN THE REAL PROPERTY
2 RECORDS OF THE COUNTY IN WHICH THE QUALIFYING PROPERTY IS
3 LOCATED AN AFFIDAVIT CERTIFYING UNDER PENALTY OF PERJURY THAT
4 THE REQUIREMENTS OF THIS PART 12 HAVE BEEN SATISFIED, AND STATE
5 WITH RESPECT TO SUCH SALE EITHER THAT:

6 (A) THE RIGHTS AND PROPERTY INTERESTS OF THE LOCAL
7 GOVERNMENT UNDER THIS PART 12 HAVE EXPIRED OR HAVE BEEN
8 RELEASED OR WAIVED; OR

9 (B) THAT THE PURCHASER IS THE LOCAL GOVERNMENT OR ITS
10 ASSIGNEE UNDER THIS PART 12.

11 (II) ANY PARTY THAT ACQUIRES AN INTEREST IN THE QUALIFYING
12 PROPERTY AND A TITLE INSURANCE ENTITY AS DEFINED IN SECTION
13 10-11-102 (11) SHALL HAVE AN ABSOLUTE RIGHT TO RELY ON THE TRUTH
14 AND ACCURACY OF ALL STATEMENTS IN THE AFFIDAVIT MADE PURSUANT
15 TO SUBSECTION (2)(e)(I) OF THIS SECTION AND SHALL NOT BE LIABLE IN
16 LAW OR EQUITY, INCLUDING UNDER ANY POLICY OR AGREEMENT OF TITLE
17 INSURANCE AS DEFINED IN SECTION 10-11-102 (8), FOR A RESIDENTIAL
18 SELLER'S MISREPRESENTATION IN THE AFFIDAVIT.

19 (3) **Notice by the local government.** (a) (I) THE LOCAL
20 GOVERNMENT SHALL PROVIDE NOTICE TO THE RESIDENTIAL SELLER WITHIN
21 SEVEN CALENDAR DAYS OF RECEIPT OF THE NOTICE REQUIRED PURSUANT
22 TO SUBSECTION (2) OF THIS SECTION OF THE LOCAL GOVERNMENT'S INTENT
23 TO PRESERVE ITS RIGHTS UNDER THIS PART 12. IF THE LOCAL GOVERNMENT
24 PLANS TO ASSIGN ITS RIGHTS UNDER THIS PART 12 IN ACCORDANCE WITH
25 SUBSECTION (1)(d) OF THIS SECTION, THE LOCAL GOVERNMENT MUST
26 DISCLOSE THE POTENTIAL ASSIGNEE IN THE NOTICE. THE NOTICE MUST BE
27 DELIVERED BY ELECTRONIC MAIL DELIVERY; EXCEPT THAT, IF THE

1 RESIDENTIAL SELLER HAS NOT PROVIDED AN ELECTRONIC MAILING
2 ADDRESS, THEN BY HAND DELIVERY, UNITED STATES FIRST CLASS MAIL,
3 OR OVERNIGHT DELIVERY TO THE ADDRESS PROVIDED BY THE RESIDENTIAL
4 SELLER PURSUANT TO SUBSECTION (2)(d)(I)(E) OF THIS SECTION.

5 (II) THE NOTICE GIVEN PURSUANT TO SUBSECTION (3)(a)(I) OF THIS
6 SECTION IS NONBINDING ON THE LOCAL GOVERNMENT.

7 (III) IF NO NOTICE IS GIVEN BY THE LOCAL GOVERNMENT OR IF THE
8 LOCAL GOVERNMENT FAILS TO MAKE AN OFFER WITHIN THE TIME PERIOD
9 PROVIDED IN AND IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION,
10 THE RIGHTS UNDER THIS PART 12 EXPIRE AND THE RESIDENTIAL SELLER
11 MAY PROCEED WITH THE SALE OF THE QUALIFYING PROPERTY TO A BUYER
12 OF THEIR CHOOSING.

13 (b) (I) UPON GIVING NOTICE TO A RESIDENTIAL SELLER PURSUANT
14 TO SUBSECTION (3)(a) OF THIS SECTION, THE LOCAL GOVERNMENT SHALL
15 PROVIDE NOTICE TO EACH RESIDENT OF THE QUALIFYING PROPERTY WHO
16 IS IDENTIFIED IN THE SELLER'S NOTICE PROVIDED IN SUBSECTION
17 (2)(d)(I)(F) OF THIS SECTION INFORMING THE RESIDENT THAT THERE IS
18 INTEREST BY THE LOCAL GOVERNMENT OR AN ASSIGNEE IN PURCHASING
19 THE QUALIFYING PROPERTY AND PROVIDING A DATE, TIME, AND LOCATION
20 THAT THE LOCAL GOVERNMENT WILL HOLD A MEETING FOR RESIDENTS TO
21 ATTEND FOR INFORMATION REGARDING A POTENTIAL PURCHASE OF THE
22 PROPERTY BY THE LOCAL GOVERNMENT IN ACCORDANCE WITH
23 SUBSECTION (3)(d) OF THIS SECTION.

24 (II) THE LOCAL GOVERNMENT SHALL PROVIDE A SECOND NOTICE
25 TO THE RESIDENTS OF A QUALIFYING PROPERTY UPON THE EXECUTION OF
26 AN AGREEMENT FOR THE SALE AND PURCHASE OF THE QUALIFYING
27 PROPERTY PURSUANT TO SUBSECTION (4) OF THIS SECTION.

1 (III) THE LOCAL GOVERNMENT SHALL PROVIDE A THIRD NOTICE TO
2 THE RESIDENTS OF A QUALIFYING PROPERTY UPON THE CLOSING OF A SALE
3 FOR THE QUALIFYING PROPERTY BY THE LOCAL GOVERNMENT PURSUANT
4 TO SUBSECTION (4) OF THIS SECTION. THE NOTICE MUST INCLUDE CONTACT
5 INFORMATION FOR THE ENTITY THAT WILL PROVIDE MANAGEMENT
6 SERVICES TO THE QUALIFYING PROPERTY.

7 (c) THE LOCAL GOVERNMENT SHALL MAIL THE NOTICES REQUIRED
8 PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION TO THE RESIDENTS OF
9 A QUALIFYING PROPERTY USING THE MOST RECENT ADDRESS OF EACH
10 RESIDENT. THE RESIDENTIAL SELLER SHALL PROVIDE UPDATED MAILING
11 ADDRESSES FOR RESIDENTS UPON REQUEST OF THE LOCAL GOVERNMENT.
12 THE LOCAL GOVERNMENT SHALL ALSO POST A COPY OF THE NOTICES IN A
13 CONSPICUOUS PLACE IN THE QUALIFYING PROPERTY. THE NOTICES MUST
14 BE PROVIDED IN ENGLISH, SPANISH, AND ANY OTHER LANGUAGE KNOWN
15 TO BE SPOKEN BY RESIDENTS AT THE QUALIFYING PROPERTY.

16 (d) THE MEETING HELD BY THE LOCAL GOVERNMENT AS REQUIRED
17 BY SUBSECTION (3)(b)(I) OF THIS SECTION MUST BE IN AN ACCESSIBLE
18 SPACE, AND SPANISH TRANSLATION SERVICES AND, IF AVAILABLE,
19 VIRTUAL MEETING OPTIONS MUST BE PROVIDED AT NO COST TO THE
20 RESIDENTS.

21 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5)(b) OF
22 THIS SECTION FOR ALLOWABLE TOLLING PERIODS, THE LOCAL
23 GOVERNMENT HAS THIRTY CALENDAR DAYS FROM PROVIDING NOTICE
24 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION TO MAKE AN OFFER TO
25 PURCHASE THE QUALIFYING PROPERTY AND SHALL AGREE TO CLOSE ON
26 THE QUALIFYING PROPERTY WITHIN SIXTY CALENDAR DAYS, TO THE
27 EXTENT PRACTICABLE, AND NOT MORE THAN NINETY CALENDAR DAYS OF

1 THE EXECUTION OF AN AGREEMENT FOR THE SALE AND PURCHASE OF THE
2 QUALIFYING PROPERTY. THE AGREEMENT MAY INCLUDE, AT THE
3 RESIDENTIAL SELLER'S OPTION, A PROVISION THAT REQUIRES THE LOCAL
4 GOVERNMENT TO BE LIABLE TO THE RESIDENTIAL SELLER FOR THE FAIR
5 MARKET VALUE OF ANY LOST BENEFIT OF THE QUALIFYING PROPERTY THAT
6 IS CAUSED BY THE LOCAL GOVERNMENT MATERIALLY BREACHING OR
7 DEFAULTING ON THE AGREEMENT IN A MANNER THAT IS NOT CURED BY
8 THE LOCAL GOVERNMENT UNDER THE TERMS OF THE AGREEMENT AND IN
9 A MANNER THAT ALLOWS THE RESIDENTIAL SELLER TO TERMINATE THE
10 AGREEMENT.

11 (5) (a) IF THE LOCAL GOVERNMENT OR ITS ASSIGNEE RECEIVES A
12 SUBSEQUENT NOTICE FROM A RESIDENTIAL SELLER AS REQUIRED BY
13 SUBSECTION (2)(c) OF THIS SECTION, THE LOCAL GOVERNMENT OR ITS
14 ASSIGNEE SHALL:

15 (I) PROVIDE A NOTICE OF INTENT IN ACCORDANCE WITH
16 SUBSECTION (3)(a)(I) OF THIS SECTION; EXCEPT THAT THE NOTICE OF
17 INTENT DOES NOT NEED TO BE PROVIDED AGAIN IF THE LOCAL
18 GOVERNMENT OR ITS ASSIGNEE HAS PREVIOUSLY PROVIDED A NOTICE OF
19 INTENT;

20 (II) MAKE AN OFFER TO PURCHASE THE QUALIFYING PROPERTY
21 WITHIN TWENTY-ONE CALENDAR DAYS OF RECEIPT OF THE SUBSEQUENT
22 NOTICE; AND

23 (III) AGREE TO CLOSE ON THE QUALIFYING PROPERTY IN
24 ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.

25 (b) IF THE LOCAL GOVERNMENT OR ITS ASSIGNEE DOES NOT MAKE
26 AN OFFER WITHIN THE TIME PERIOD SET FORTH IN SUBSECTION (5)(a)(II) OF
27 THIS SECTION, THE RIGHTS UNDER THIS PART 12 EXPIRE.

1 (6) (a) THE PERIODS SET FORTH IN SUBSECTION (4) OF THIS SECTION
2 MAY BE EXTENDED AND ANY TERMS OR CONDITIONS OF SALE MAY BE
3 MODIFIED BY WRITTEN AGREEMENT BETWEEN THE LOCAL GOVERNMENT
4 AND THE RESIDENTIAL SELLER.

5 (b) THE LOCAL GOVERNMENT OR ITS ASSIGNEE IS ENTITLED TO
6 TOLLING OF THE PERIODS SET FORTH IN SUBSECTION (4) OF THIS SECTION
7 IN ANY OF THE FOLLOWING CIRCUMSTANCES:

8 (I) IF THERE IS A REASONABLE DELAY NOT WITHIN THE CONTROL
9 OF THE LOCAL GOVERNMENT OR ITS ASSIGNEE IN OBTAINING FINANCING OR
10 A REQUIRED INSPECTION OR SURVEY OF THE QUALIFYING PROPERTY, THE
11 PERIOD IS TOLLED FOR THE DURATION OF THE DELAY; AND

12 (II) IF THE LOCAL GOVERNMENT, ITS ASSIGNEE, THE ATTORNEY
13 GENERAL, OR A MISSION-DRIVEN ORGANIZATION FILES A NONFRIVOLOUS
14 CIVIL ACTION ALLEGING A VIOLATION OF THIS SECTION, THE PERIOD IS
15 TOLLED UNTIL THE ACTION REACHES FINAL RESOLUTION OR THE PARTIES
16 REACH A RESOLUTION, INCLUDING THE RESOLUTION OF ANY APPEALS, BY
17 SIGNING A SETTLEMENT AGREEMENT.

18 (7) ANY ACTION BY THE LOCAL GOVERNMENT REQUIRED OR
19 PERMITTED UNDER THIS PART 12 MAY BE PERFORMED BY, AS MAY BE
20 APPLICABLE AND TO THE EXTENT PERMITTED BY LAW, THE COUNTY
21 MANAGER OF A COUNTY, THE MAYOR OR CITY MANAGER OF A CITY OR
22 TOWN, OR ANOTHER OFFICER DESIGNATED BY THE GOVERNING BODY OF
23 THE LOCAL GOVERNMENT.

24 (8) ANY ACTIONS OF AN AGENT WORKING ON BEHALF OF A
25 RESIDENTIAL SELLER FOR PURPOSES OF THIS PART 12 ARE ATTRIBUTABLE
26 TO THE RESIDENTIAL SELLER. NOTWITHSTANDING ANY OTHER PROVISION
27 IN THIS PART 12 TO THE CONTRARY, A POLITICAL SUBDIVISION OR A

1 HOUSING AUTHORITY IN THE STATE THAT ENGAGES IN ACTIVITIES TO
2 CREATE OR PRESERVE LONG-TERM AFFORDABLE HOUSING FOR A
3 QUALIFYING PROPERTY IS NOT CONSIDERED AN AGENT WORKING ON
4 BEHALF OF A RESIDENTIAL SELLER FOR PURPOSES OF THIS PART 12.

5 == ==
6 (9) (a) THE LOCAL GOVERNMENT OR ITS ASSIGNEE SHALL
7 DETERMINE TENANT QUALIFICATIONS AT ITS DISCRETION, SO LONG AS
8 SUCH DETERMINATIONS ARE IN FURTHERANCE OF PROVIDING LONG-TERM
9 AFFORDABLE HOUSING FOR COMMUNITY MEMBERS AT OR BELOW THE
10 APPLICABLE AREA MEDIAN INCOME.

11 (b) NOTWITHSTANDING SECTION 29-4-1201 (4), RESIDENTS AT THE
12 QUALIFYING PROPERTY AT THE TIME IT IS ACQUIRED BY THE LOCAL
13 GOVERNMENT PURSUANT TO THIS SECTION MAY CONTINUE TO RESIDE AT
14 THE QUALIFYING PROPERTY IRRESPECTIVE OF THEIR INCOME LEVEL FOR AT
15 LEAST THE DURATION OF THEIR TENANCY AGREEMENT UNDER THE
16 TENANCY AGREEMENT'S TERMS IN EFFECT AT THE TIME THE LOCAL
17 GOVERNMENT ACQUIRES THE QUALIFYING PROPERTY.

18 (c) A RESIDENT'S INCOME MAY ONLY EXCEED THE APPLICABLE
19 AREA MEDIAN INCOME IF THAT RESIDENT HAS A PRE-EXISTING TENANCY
20 AGREEMENT IN ACCORDANCE WITH SUBSECTION (8)(b) OF THIS SECTION.

21 (d) ONLY IN ACCORDANCE WITH SUBSECTION (8)(c) OF THIS
22 SECTION MAY THE LOCAL GOVERNMENT DECLINE TO RENEW A RESIDENT'S
23 PRE-EXISTING TENANCY AGREEMENT ONCE IT ENDS IN ORDER TO BRING
24 THE QUALIFYING PROPERTY INTO COMPLIANCE WITH SUBSECTION (8)(a) OF
25 THIS SECTION.

26 **29-4-1203. Exemptions - waiver of the local government's**
27 **right of first refusal.** (1) THIS PART 12 DOES NOT APPLY TO ANY SALE,

1 TRANSFER, OR CONVEYANCE OF QUALIFYING PROPERTY BY A RESIDENTIAL
2 SELLER:

3 (a) MADE TO A SPOUSE, A PARTNER IN A CIVIL UNION, OR A
4 PARENT, SIBLING, AUNT, UNCLE, FIRST COUSIN, OR LEGALLY RECOGNIZED
5 CHILD OF THE RESIDENTIAL SELLER;

6 (b) MADE TO A TRUST IF THE BENEFICIARIES OF THE TRUST ARE
7 THE SPOUSE, PARTNER IN A CIVIL UNION, OR LEGALLY RECOGNIZED CHILD
8 OF THE RESIDENTIAL SELLER;

9 (c) MADE TO, IF WHOLLY OWNED BY THE RESIDENTIAL SELLER, A
10 PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION;

11 (d) MADE PURSUANT TO A WILL, DESCENT, OR INTESTATE
12 DISTRIBUTION;

13 (e) MADE FOR TAX OR ESTATE PURPOSES BETWEEN CLOSELY HELD
14 PARTNERS, FAMILY MEMBERS, OR CORPORATIONS;

15 (f) MADE PURSUANT TO AN ACTION IN EMINENT DOMAIN;

16 (g) MADE TO THE STATE, A LOCAL GOVERNMENT, THE COLORADO
17 HOUSING AND FINANCE AUTHORITY, CREATED IN SECTION 29-4-704 (1),
18 THE COLORADO MIDDLE INCOME HOUSING AUTHORITY, CREATED IN
19 SECTION 29-4-1104 (1), AND ANY OTHER POLITICAL SUBDIVISION OF THE
20 STATE;

21 (h) MADE PURSUANT TO A COURT ORDER;

22 (i) MADE TO A NOT-FOR-PROFIT MISSION-DRIVEN AFFORDABLE
23 HOUSING PROVIDER WHO HAS PROVIDED NOTICE OF INTENT TO PURCHASE
24 THE QUALIFYING PROPERTY, HAS A HISTORY OF DEVELOPING AFFORDABLE
25 HOUSING, AND WHO COMMITS TO PROVIDING TO TENANTS A MAJORITY OF
26 UNITS BELOW MARKET RATE;

27 (j) MADE BETWEEN JOINT TENANTS OR TENANTS IN COMMON; ==

1 (k) IF, AT THE TIME OF THE EFFECTIVE DATE OF THIS PART 12, THE
2 QUALIFYING PROPERTY HAS A PREEXISTING AGREEMENT THAT BESTOWS
3 A RIGHT OF FIRST REFUSAL OR OTHER CONTINGENT PROPERTY RIGHT
4 REGARDING THE QUALIFYING PROPERTY TO A THIRD PARTY; EXCEPT THAT,
5 UPON EXPIRATION OF THE AGREEMENT, THE PROVISIONS OF THIS PART 12
6 APPLY TO ANY SALE, TRANSFER, OR CONVEYANCE OF THE QUALIFYING
7 PROPERTY BY THE RESIDENTIAL SELLER;

8 (l) IF THE FIRST CERTIFICATE OF OCCUPANCY FOR THE QUALIFYING
9 PROPERTY WAS ISSUED WITHIN THIRTY YEARS PRECEDING THE DATE OF A
10 TRIGGERING EVENT THAT IS SET FORTH IN SECTION 29-4-1202 (2)(b);

11 (m) IF THE QUALIFYING PROPERTY IS THE SUBJECT OF A
12 FORECLOSURE ACTION OR IS ACQUIRED BY A FORECLOSING LENDER IN A
13 FORECLOSURE ACTION OR BY A DEED IN LIEU OF FORECLOSURE;

14 (n) MADE TO ANY ORGANIZATION THAT PROVIDES NOTICE TO THE
15 LOCAL GOVERNMENT, THAT AGREES TO RESYNDICATE THE QUALIFYING
16 PROPERTY PURSUANT TO 26 U.S.C. SEC. 42, AND THAT MAINTAINS
17 AFFORDABILITY FOR AT LEAST THIRTY YEARS FROM THE DATE OF THE
18 RESYNDICATION THROUGH A LAND USE RESTRICTIVE AGREEMENT ON THE
19 QUALIFYING PROPERTY. AS USED IN THIS SUBSECTION (1)(m),
20 "AFFORDABILITY" MEANS THAT RENT FOR ANY UNIT IN THE QUALIFYING
21 PROPERTY DOES NOT EXCEED THE RENT FOR HOUSEHOLDS OF A GIVEN SIZE
22 AT THE APPLICABLE AREA MEDIAN INCOME, AS PUBLISHED ANNUALLY BY
23 THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
24 DEVELOPMENT; OR

25 (o) IF THE QUALIFYING PROPERTY WILL BE SOLD AND PURCHASED
26 FOR THE CONTINUED PROVISION OF, OR WILL BE CONVERTED TO PROVIDE,
27 MEDICAL SERVICES, SOCIAL SERVICES, OR HALFWAY HOUSING.

1 (2) (a) IN ADDITION TO NOT RESPONDING TO A
2 RESIDENTIAL SELLER'S NOTICE AS SET FORTH IN SECTION 29-4-1202
3 (3)(a)(III), THE LOCAL GOVERNMENT MAY ALSO WAIVE ITS RIGHTS UNDER
4 THIS PART 12 IF THE LOCAL GOVERNMENT MAKES THE DETERMINATION
5 THAT A PROPOSED SALE TO A THIRD-PARTY BUYER WILL ENSURE THAT:

6 (I) THE THIRD-PARTY BUYER AGREES THAT AT LEAST TEN PERCENT
7 OF THE DWELLING UNITS IN THE QUALIFYING PROPERTY WILL NOT EXCEED
8 FIFTY PERCENT OF THE AREA MEDIAN INCOME FOR A PERIOD OF FIFTEEN
9 YEARS;

10 (II) THE THIRD-PARTY BUYER AGREES THAT AT LEAST TEN
11 PERCENT OF THE DWELLING UNITS IN THE QUALIFYING PROPERTY WILL NOT
12 EXCEED SIXTY PERCENT OF THE AREA MEDIAN INCOME FOR A PERIOD OF
13 TWENTY YEARS; OR

14 (III) THE THIRD-PARTY BUYER AGREES THAT AT LEAST TEN
15 PERCENT OF THE DWELLING UNITS IN THE QUALIFYING PROPERTY WILL NOT
16 EXCEED EIGHTY PERCENT OF THE AREA MEDIAN INCOME FOR A PERIOD
17 THIRTY YEARS.

18 (b) IN ORDER FOR THE REQUIREMENTS OF SUBSECTION (2)(a) OF
19 THIS SECTION TO BE MET:

20 (I) THE RESIDENTIAL SELLER MUST PROVIDE NOTICE TO THE LOCAL
21 GOVERNMENT PRIOR TO THE LOCAL GOVERNMENT MAKING AN OFFER TO
22 PURCHASE THE QUALIFYING PROPERTY UNDER SECTION 29-4-1202 THAT
23 THE THIRD-PARTY BUYER HAS MADE AN OFFER ON THE QUALIFYING
24 PROPERTY AND IS COMMITTED TO PRESERVING OR CONVERTING THE
25 QUALIFYING PROPERTY AS AFFORDABLE HOUSING UNDER EITHER
26 SUBSECTION (2)(a)(I), (2)(a)(II), OR (2)(a)(III) OF THIS SECTION IF THE
27 QUALIFYING PROPERTY IS SOLD TO THE THIRD-PARTY BUYER;

1 (II) THE THIRD-PARTY BUYER SHALL ENTER INTO AN AGREEMENT
2 WITH THE LOCAL GOVERNMENT THAT THE THIRD-PARTY BUYER SHALL
3 PRESERVE OR CONVERT THE QUALIFYING PROPERTY AS AFFORDABLE
4 HOUSING UNDER EITHER SUBSECTION (2)(a)(I), (2)(a)(II), OR (2)(a)(III) OF
5 THIS SECTION IF THE QUALIFYING PROPERTY IS SOLD TO THE THIRD-PARTY
6 BUYER AND FOR ANY OTHER TERMS TO WHICH THE THIRD-PARTY BUYER
7 AND THE LOCAL GOVERNMENT AGREE. IF, AFTER THE SALE OF THE
8 QUALIFYING PROPERTY TO THE THIRD-PARTY BUYER, THE THIRD-PARTY
9 BUYER FAILS TO COMPLY WITH THE TERMS OF THE AGREEMENT, THE
10 THIRD-PARTY BUYER SHALL BE HELD LIABLE AND SUBJECT TO ANY
11 REMEDIES AND ENFORCEMENT UNDER THE AGREEMENT PURSUANT TO
12 SECTION 29-4-1205 OR UNDER ANY OTHER APPLICABLE LAW.

13 (III) THE THIRD-PARTY BUYER SHALL CERTIFY ITS COMPLIANCE
14 WITH THIS SUBSECTION (2) AT LEAST ONCE EVERY TWO YEARS BY
15 SUBMITTING DOCUMENTATION TO THE LOCAL GOVERNMENT IN A FORM
16 AND MANNER DEEMED ACCEPTABLE BY THE LOCAL GOVERNMENT.

17 (c) THE WAIVER PROVIDED UNDER THIS SUBSECTION (2) IS ONLY
18 EFFECTIVE FOR THE SALE TO THE THIRD-PARTY BUYER IDENTIFIED IN THE
19 NOTICE REQUIRED BY SUBSECTION (2)(b)(I) OF THIS SECTION, AND IF THE
20 SALE TO THE THIRD-PARTY BUYER DOES NOT OCCUR THEN THE WAIVER IS
21 VOID AND THE LOCAL GOVERNMENT IS ENTITLED TO ALL THE RIGHTS
22 PROVIDED UNDER THIS PART 12.

23 **29-4-1204. Conversion of qualifying property purchased by**
24 **the local government.** (1) THE LOCAL GOVERNMENT, ITS ASSIGNEE, OR
25 A THIRD-PARTY BUYER PURSUANT TO SECTION 29-4-1203 (2), SUBSEQUENT
26 TO ACQUIRING A QUALIFYING PROPERTY PURSUANT TO THIS PART 12, MAY
27 CONVERT THE PROPERTY TO A DIFFERENT USE IF:

1 (a) THE QUALIFYING PROPERTY HAS BEEN MAINTAINED AS
2 LONG-TERM AFFORDABLE HOUSING FOR A DURATION OF AT LEAST FIFTY
3 YEARS;

4 (b) AT LEAST ONE HUNDRED TWENTY CALENDAR DAYS BEFORE
5 THE CONVERSION, NOTICE OF THE CONVERSION IS GIVEN TO THE RESIDENTS
6 AT THE QUALIFYING PROPERTY AND ANY RESIDENT WHO WILL BE
7 DISPLACED BY THE CONVERSION OF THE QUALIFYING PROPERTY IS
8 PROVIDED WITH RELOCATION COMPENSATION THAT EQUALS TWELVE
9 MONTHS OF THE RESIDENT'S CURRENT RENT OR TWELVE MONTHS MARKET
10 RENT FOR THE COUNTY IN WHICH THE QUALIFYING PROPERTY IS LOCATED,
11 WHICHEVER IS GREATER; AND

12 (c) THE LOCAL GOVERNMENT, ITS ASSIGNEE, OR A THIRD-PARTY
13 BUYER PURSUANT TO SECTION 29-4-1203 (2), GUARANTEES THE
14 DEVELOPMENT OR CONVERSION OF AN EQUAL OR GREATER AMOUNT OF
15 UNITS WITHIN THE LOCAL GOVERNMENT IN WHICH THE QUALIFYING
16 PROPERTY IS LOCATED FOR DESIGNATED LONG-TERM AFFORDABLE
17 HOUSING AS SET FORTH UNDER THIS PART 12 AND GUARANTEES THAT THE
18 UNITS WILL BE OFFERED TO ANY RESIDENT WHO WILL BE DISPLACED BY
19 THE CONVERSION OF THE QUALIFYING PROPERTY BEFORE THE UNITS ARE
20 MADE AVAILABLE TO THE GENERAL PUBLIC.

21 (2) NOTHING WITHIN THIS PART 12 LIMITS THE LOCAL
22 GOVERNMENT'S ABILITY TO CONDEMN A QUALIFYING PROPERTY ACQUIRED
23 PURSUANT TO THIS PART 12 TO THE EXTENT PERMITTED BY APPLICABLE
24 LAW.

25 **29-4-1205. Remedies for noncompliance - definitions.**

26 (1) (a) (I) NOTWITHSTANDING SUBSECTION (1)(c) OF THIS SECTION AND
27 SUBJECT TO AVAILABILITY OF RESOURCES, IT IS THE RESPONSIBILITY OF

1 THE ATTORNEY GENERAL'S OFFICE TO ENFORCE THE PROVISIONS OF THIS
2 PART 12, AND THE ATTORNEY GENERAL MAY INTERVENE IN ANY ACTION
3 BROUGHT PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION. ANY TITLE
4 TRANSFERRED SUBSEQUENT TO THE TRIGGERING EVENTS SET FORTH IN
5 SECTION 29-4-1202 (2)(b) REMAINS SUBJECT TO THE PROPERTY INTERESTS
6 OF THE LOCAL GOVERNMENT IN A QUALIFYING PROPERTY AS SET FORTH IN
7 SUBSECTION (1)(b) OF THIS SECTION, UNLESS SUCH PROPERTY INTERESTS
8 HAVE EXPIRED, ARE RELEASED OR WAIVED, OR UNTIL AN EQUITABLE
9 REMEDY HAS BEEN PROVIDED.

10 (II) NOTWITHSTANDING SUBSECTION (1)(a)(I) OF THIS SECTION OR
11 ANY OTHER PROVISION OF THIS PART 12:

12 (A) IN ADDITION TO THE REMEDIES SET FORTH IN SUBSECTION (3)
13 OF THIS SECTION, IF A COURT FINDS THAT A RESIDENTIAL SELLER HAS
14 MADE A MISREPRESENTATION IN AN AFFIDAVIT MADE IN ACCORDANCE
15 WITH SECTION 29-4-1202 (2)(e), THE SOLE REMEDY AVAILABLE IS AGAINST
16 THE RESIDENTIAL SELLER; AND

17 (B) THE INTEREST IN A QUALIFYING PROPERTY TRANSFERRED IN
18 RELIANCE ON AN AFFIDAVIT MADE IN ACCORDANCE WITH SECTION
19 29-4-1202 (2)(e) IS NOT SUBJECT TO THE PROPERTY INTERESTS OF THE
20 LOCAL GOVERNMENT IN THE QUALIFYING PROPERTY.

21 (b) THE RIGHTS ACCORDED BY THIS PART 12 TO THE LOCAL
22 GOVERNMENT WITH RESPECT TO A QUALIFYING PROPERTY ARE
23 PROPERTY INTERESTS.

24 (c) THE ATTORNEY GENERAL'S OFFICE, THE LOCAL GOVERNMENT
25 IN THE JURISDICTION THE QUALIFYING PROPERTY IS LOCATED, THE LOCAL
26 GOVERNMENT'S ASSIGNEE, OR A MISSION-DRIVEN ORGANIZATION ON
27 BEHALF OF THE STATE MAY BRING A CIVIL ACTION AGAINST A RESIDENTIAL

1 SELLER OR A PERSON CLAIMING AN INTEREST IN A QUALIFYING PROPERTY
2 THROUGH A RESIDENTIAL SELLER FOR ANY VIOLATION OF THIS PART 12.

3 (2) A COURT MAY GRANT INJUNCTIVE RELIEF FOR ANY VIOLATIONS
4 OF THIS PART 12 BY A RESIDENTIAL SELLER OR A PERSON CLAIMING AN
5 INTEREST IN A QUALIFYING PROPERTY THROUGH A RESIDENTIAL SELLER
6 OCCURRING AFTER A TRIGGERING EVENT PURSUANT TO SECTION 29-4-1202
7 (2)(b).

8 (3) IF A COURT FINDS THAT A RESIDENTIAL SELLER, OR A
9 THIRD-PARTY BUYER THAT HAS ENTERED INTO AN AGREEMENT WITH THE
10 LOCAL GOVERNMENT PURSUANT TO SECTION 29-4-1203 (2), IS IN
11 MATERIAL VIOLATION OF THIS PART 12, IN ADDITION TO ANY OTHER
12 AVAILABLE REMEDY, THE COURT SHALL AWARD A STATUTORY PENALTY
13 OF NOT LESS THAN FIFTY THOUSAND DOLLARS OR AN AMOUNT EQUAL TO
14 THIRTY PERCENT OF THE PURCHASE OR LISTING PRICE OF THE QUALIFYING
15 PROPERTY, WHICHEVER AMOUNT IS GREATER.

16 (4) A COURT MAY ALSO AWARD DAMAGES, REASONABLE
17 ATTORNEY FEES, AND COSTS TO A PREVAILING PARTY; EXCEPT THAT, IN AN
18 ACTION BROUGHT OR JOINED BY THE ATTORNEY GENERAL'S OFFICE, THE
19 LOCAL GOVERNMENT, THE LOCAL GOVERNMENT'S ASSIGNEE, OR A
20 MISSION-DRIVEN ORGANIZATION, A COURT SHALL NOT AWARD ATTORNEY
21 FEES TO A RESIDENTIAL SELLER OR PERSON CLAIMING AN INTEREST IN A
22 QUALIFYING PROPERTY THROUGH A RESIDENTIAL SELLER UNLESS THE
23 COURT FINDS THAT THE COMPLAINT FILED BY THE ATTORNEY GENERAL'S
24 OFFICE, THE LOCAL GOVERNMENT, THE LOCAL GOVERNMENT'S ASSIGNEE,
25 OR A MISSION-DRIVEN ORGANIZATION WAS FRIVOLOUS,
26 NOTWITHSTANDING ANY AGREEMENT TO THE CONTRARY.

27 (5) THE REMEDIES PROVIDED IN THIS SECTION ARE INDEPENDENT

1 OF AND DO NOT AFFECT ANY CIVIL ACTION AND REMEDIES OR THE RIGHT
2 OF ANY PARTY TO ANY TRANSACTION CONTEMPLATED UNDER THIS PART
3 12.

4

5 **29-4-1206. Repeal of part. THIS PART 12 IS REPEALED, EFFECTIVE**
6 **AUGUST 1, 2028.**

7 **SECTION 2. Act subject to petition - effective date -**

8 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
9 the expiration of the ninety-day period after final adjournment of the
10 general assembly; except that, if a referendum petition is filed pursuant
11 to section 1 (3) of article V of the state constitution against this act or an
12 item, section, or part of this act within such period, then the act, item,
13 section, or part will not take effect unless approved by the people at the
14 general election to be held in November 2024 and, in such case, will take
15 effect on the date of the official declaration of the vote thereon by the
16 governor.

17 (2) This act applies to all qualifying properties which are listed for
18 sale but are not under contract on or after the applicable effective date of
19 this act.