

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0020.01 Megan McCall x4215

HOUSE BILL 23-1190

HOUSE SPONSORSHIP

Boesenecker and Sirota, Bacon, Brown, deGruy Kennedy, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Jodeh, Joseph, Kipp, Lindsay, Mabrey, Mauro, McCormick, Michaelson Jenet, Parenti, Ricks, Sharbini, Titone, Vigil, Weissman, Willford, Woodrow

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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.

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 THE STATE,
20 ANY POLITICAL SUBDIVISION, ANY HOUSING AUTHORITY IN THE STATE, OR
21 THE COLORADO HOUSING AND FINANCE AUTHORITY, CREATED IN SECTION
22 29-4-704 (1), SUBJECT TO THE LIMITATIONS THAT THE QUALIFYING
23 PROPERTY MUST BE USED TO PRESERVE OR BE CONVERTED FOR LONG-TERM
24 AFFORDABLE HOUSING AND THAT ALL OTHER PROVISIONS OF THIS PART 12
25 ARE APPLICABLE TO THE ASSIGNEE. UPON ASSIGNMENT, THE ASSIGNEE
26 ASSUMES ALL LIABILITY OF THE LOCAL GOVERNMENT REGARDING THE
27 EXERCISE OF RIGHTS UNDER THIS PART 12 AND IS RESPONSIBLE FOR

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

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

14 (f) THE LOCAL GOVERNMENT MAY CREATE A RIGHT OF FIRST
15 REFUSAL OPPORTUNITY EVALUATION RUBRIC BASED ON LOCAL HOUSING
16 NEEDS TO DETERMINE WHEN IT MAY OR MAY NOT EXERCISE ITS RIGHT OF
17 FIRST REFUSAL UNDER THIS PART 12. SUCH A RUBRIC MAY CONSIDER
18 GEOGRAPHY, ACQUISITION COST, PROXIMITY TO AMENITIES, UNIT COUNT,
19 AND OTHER LOCAL PRIORITIES. FOR QUALIFYING PROPERTIES THAT DO NOT
20 ALIGN WITH THE LOCAL PRIORITIES IDENTIFIED IN THE RUBRIC, THE LOCAL
21 GOVERNMENT SHOULD EXPEDITIOUSLY WAIVE ITS RIGHT OF FIRST REFUSAL
22 TO SUCH QUALIFYING PROPERTIES.

23 (2) **Notice by residential seller.** (a) WITHIN FOURTEEN
24 **CALENDAR** DAYS OF A TRIGGERING EVENT DEMONSTRATING A
25 RESIDENTIAL SELLER'S INTENT TO SELL THE QUALIFYING PROPERTY, A
26 RESIDENTIAL SELLER SHALL PROVIDE NOTICE TO THE GOVERNING BODY OF
27 THE LOCAL GOVERNMENT IN WHICH THE QUALIFYING PROPERTY IS

1 LOCATED. THE NOTICE MUST BE GIVEN IN ACCORDANCE WITH SUBSECTION
2 (2)(d) OF THIS SECTION.

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

5 (I) SIGNS A CONTRACT WITH A REAL ESTATE BROKER OR
6 BROKERAGE FIRM TO LIST THE QUALIFYING PROPERTY FOR SALE OR TO
7 SELL OR TRANSFER THE QUALIFYING PROPERTY;

8 (II) SIGNS A LETTER OF INTENT, OPTION TO SELL OR BUY, OR OTHER
9 CONDITIONAL WRITTEN AGREEMENT WITH A POTENTIAL BUYER FOR THE
10 SALE OR TRANSFER OF THE QUALIFYING PROPERTY, WHICH INCLUDES THE
11 ESTIMATED PRICE, TERMS, AND CONDITIONS OF THE PROPOSED SALE OR
12 TRANSFER, EVEN IF THE PRICE, TERMS, OR CONDITIONS ARE SUBJECT TO
13 CHANGE;

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

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

19 (V) LISTS THE QUALIFYING PROPERTY FOR SALE;

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

22 (VII) TAKES ANY OTHER ACTION DEMONSTRATING AN INTENT TO
23 SELL THE QUALIFYING PROPERTY; EXCEPT THAT ANY ACTION TAKEN TO
24 ENGAGE WITH A POLITICAL SUBDIVISION OR A HOUSING AUTHORITY IN THE
25 STATE TO FACILITATE NEGOTIATIONS BETWEEN THE RESIDENTIAL SELLER
26 AND A THIRD-PARTY TO CREATE OR PRESERVE LONG-TERM AFFORDABLE
27 HOUSING FOR A QUALIFYING PROPERTY IS NOT CONSIDERED A TRIGGERING

1 EVENT UNTIL ANOTHER ACTION SET FORTH IN THIS SUBSECTION (2)(b)
2 OCCURS;

3 (VIII) RECEIVES A NOTICE OF ELECTION AND DEMAND OR LIS
4 PENDENS RELATED TO THE FORECLOSURE OF THE QUALIFYING PROPERTY
5 PURSUANT TO PART 1 OF ARTICLE 38 OF TITLE 38; EXCEPT THAT, NOTICE TO
6 THE LOCAL GOVERNMENT MUST BE PROVIDED AS SPECIFIED IN SUBSECTION
7 (7) OF THIS SECTION AND NOT AS SPECIFIED IN SUBSECTION (2)(a) OF THIS
8 SECTION;

9 (IX) RECEIVES A NOTICE THAT A CERTIFICATE OF LEVY HAS BEEN
10 FILED RELATED TO THE QUALIFYING PROPERTY PURSUANT TO SECTION
11 13-56-101; OR

12 (X) THE POTENTIAL SALE TO A THIRD-PARTY BUYER PURSUANT TO
13 SECTION 29-4-1203 (2)(b) TERMINATES.

14 (c) A RESIDENTIAL SELLER SHALL PROVIDE SUBSEQUENT NOTICE
15 TO THE LOCAL GOVERNMENT THAT RECEIVED NOTICE PURSUANT TO THIS
16 SUBSECTION (2) IF THE TERMS OF AN ACCEPTABLE SALE MATERIALLY
17 CHANGE.

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

24 (A) A GENERAL DESCRIPTION OF THE QUALIFYING PROPERTY TO BE
25 PURCHASED, INCLUDING THE ADDRESS AND NAME OF THE PROPERTY, IF
26 ANY, AND ANY ADDITIONAL DESCRIPTIONS OF THE QUALIFYING PROPERTY
27 ON FILE WITH THE OFFICE OF THE ASSESSOR IN THE COUNTY IN WHICH THE

1 QUALIFYING PROPERTY IS LOCATED;

2 (B) THE PRICE, TERMS, AND CONDITIONS OF AN ACCEPTABLE OFFER
3 THE RESIDENTIAL SELLER HAS RECEIVED TO SELL THE QUALIFYING
4 PROPERTY OR THE PRICE, TERMS, AND CONDITIONS FOR WHICH THE
5 RESIDENTIAL SELLER INTENDS TO SELL THE QUALIFYING PROPERTY;

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

10 (D) IF THE RESIDENTIAL SELLER HAS ENTERED INTO A CONTINGENT
11 PURCHASE AND SALE AGREEMENT WITH A PROSPECTIVE BUYER, A COPY OF
12 THE AGREEMENT;

13 (E) THE RESIDENTIAL SELLER'S ADDRESS AND, IF AVAILABLE,
14 ELECTRONIC MAILING ADDRESS TO RECEIVE NOTICES FROM THE LOCAL
15 GOVERNMENT; AND

16 (F) THE NAMES AND MAILING ADDRESSES THAT THE RESIDENTIAL
17 SELLER HAS ON RECORD FOR EVERY TENANT RESIDING IN THE QUALIFYING
18 PROPERTY.

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

25 (III) THE LOCAL GOVERNMENT MAY SHARE THE INFORMATION
26 CONTAINED IN THE NOTICE WITH ITS OFFICERS, EMPLOYEES, AGENTS, AND
27 PROSPECTIVE ASSIGNEES OR A PROSPECTIVE ENTITY THE LOCAL

1 GOVERNMENT PARTNERS WITH PURSUANT TO SUBSECTION (1)(a)(II) OF
2 THIS SECTION FOR THE PURPOSES OF EVALUATING OR OBTAINING
3 FINANCING FOR THE PROSPECTIVE TRANSACTION. THE INFORMATION
4 CONTAINED IN THE NOTICE MUST BE KEPT CONFIDENTIAL IF THE
5 RESIDENTIAL SELLER SO REQUESTS AND IS CONFIDENTIAL INFORMATION
6 NOT SUBJECT TO PUBLIC DISCLOSURE; EXCEPT THAT THE OCCURRENCE OF
7 A TRIGGERING EVENT, THE LOCATION OF THE QUALIFYING PROPERTY, AND
8 THE IDENTITY OF THE RESIDENTIAL SELLER ARE NOT CONFIDENTIAL AND
9 ARE SUBJECT TO PUBLIC DISCLOSURE. NOTHING IN THIS SECTION REQUIRES
10 A LOCAL GOVERNMENT TO EXERCISE ITS RIGHTS UNDER THIS PART 12.

11 (e) (I) PRIOR TO THE SALE OF A QUALIFYING PROPERTY, A
12 RESIDENTIAL SELLER SHALL EXECUTE AND RECORD IN THE REAL PROPERTY
13 RECORDS OF THE COUNTY IN WHICH THE QUALIFYING PROPERTY IS
14 LOCATED AN AFFIDAVIT CERTIFYING UNDER PENALTY OF PERJURY THAT
15 THEY HAVE COMPLIED WITH THE REQUIREMENTS OF THIS PART 12.

16 (II) ANY PARTY THAT ACQUIRES AN INTEREST IN THE QUALIFYING
17 PROPERTY AND A TITLE INSURANCE ENTITY AS DEFINED IN SECTION
18 10-11-102 (11) SHALL HAVE AN ABSOLUTE RIGHT TO RELY ON THE TRUTH
19 AND ACCURACY OF ALL STATEMENTS IN THE AFFIDAVIT MADE PURSUANT
20 TO SUBSECTION (2)(e)(I) OF THIS SECTION AND SHALL NOT BE HELD LIABLE
21 OR RESPONSIBLE FOR ANY DAMAGES RELATED TO A RESIDENTIAL SELLER'S
22 MISREPRESENTATION IN THE AFFIDAVIT.

23 (3) **Notice by the local government.** (a) (I) THE LOCAL
24 GOVERNMENT SHALL PROVIDE NOTICE TO THE RESIDENTIAL SELLER WITHIN
25 SEVEN CALENDAR DAYS OF RECEIPT OF THE NOTICE REQUIRED PURSUANT
26 TO SUBSECTION (2) OF THIS SECTION OF THE LOCAL GOVERNMENT'S INTENT
27 TO PRESERVE ITS RIGHTS UNDER THIS PART 12. IF THE LOCAL GOVERNMENT

1 PLANS TO ASSIGN ITS RIGHTS UNDER THIS PART 12 IN ACCORDANCE WITH
2 SUBSECTION (1)(d) OF THIS SECTION, THE LOCAL GOVERNMENT MUST
3 DISCLOSE THE POTENTIAL ASSIGNEE IN THE NOTICE. THE NOTICE MUST BE
4 DELIVERED BY ELECTRONIC MAIL DELIVERY; EXCEPT THAT, IF THE
5 RESIDENTIAL SELLER HAS NOT PROVIDED AN ELECTRONIC MAILING
6 ADDRESS, THEN BY HAND DELIVERY, UNITED STATES FIRST CLASS MAIL,
7 OR OVERNIGHT DELIVERY TO THE ADDRESS PROVIDED BY THE RESIDENTIAL
8 SELLER PURSUANT TO SUBSECTION (2)(d)(I)(E) OF THIS SECTION.

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

11 (III) IF NO NOTICE IS GIVEN BY THE LOCAL GOVERNMENT, THE
12 RIGHTS UNDER THIS PART 12 EXPIRE AND THE RESIDENTIAL SELLER MAY
13 PROCEED WITH THE SALE OF THE QUALIFYING PROPERTY TO A BUYER OF
14 THEIR CHOOSING.

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

26 (II) THE LOCAL GOVERNMENT SHALL PROVIDE A SECOND NOTICE
27 TO THE RESIDENTS OF A QUALIFYING PROPERTY UPON THE EXECUTION OF

1 AN AGREEMENT FOR THE SALE AND PURCHASE OF THE QUALIFYING
2 PROPERTY PURSUANT TO SUBSECTION (4) OF THIS SECTION.

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

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

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

23 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5)(b) OF
24 THIS SECTION FOR ALLOWABLE TOLLING PERIODS, THE LOCAL
25 GOVERNMENT HAS THIRTY CALENDAR DAYS FROM PROVIDING NOTICE
26 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION TO MAKE AN OFFER TO
27 PURCHASE THE QUALIFYING PROPERTY AND SHALL AGREE TO CLOSE ON

1 THE QUALIFYING PROPERTY WITHIN SIXTY CALENDAR DAYS, TO THE
2 EXTENT PRACTICABLE, AND NOT MORE THAN NINETY CALENDAR DAYS OF
3 THE EXECUTION OF AN AGREEMENT FOR THE SALE AND PURCHASE OF THE
4 QUALIFYING PROPERTY.

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

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

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

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

22 (6) ANY ACTIONS OF AN AGENT WORKING ON BEHALF OF A
23 RESIDENTIAL SELLER FOR PURPOSES OF THIS PART 12 ARE ATTRIBUTABLE
24 TO THE RESIDENTIAL SELLER. NOTWITHSTANDING ANY OTHER PROVISION
25 IN THIS PART 12 TO THE CONTRARY, A POLITICAL SUBDIVISION OR A
26 HOUSING AUTHORITY IN THE STATE THAT ENGAGES IN ACTIVITIES TO
27 CREATE OR PRESERVE LONG-TERM AFFORDABLE HOUSING FOR A

1 QUALIFYING PROPERTY IS NOT CONSIDERED AN AGENT WORKING ON
2 BEHALF OF A RESIDENTIAL SELLER FOR PURPOSES OF THIS PART 12.

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

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

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

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

24 **29-4-1203. Exemptions - waiver of the local government's**
25 **right of first refusal.** (1) THIS PART 12 DOES NOT APPLY TO ANY SALE,
26 TRANSFER, OR CONVEYANCE OF QUALIFYING PROPERTY BY A RESIDENTIAL
27 SELLER:

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

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

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

9 (d) MADE PURSUANT TO A WILL, DESCENT, OR INTESTATE
10 DISTRIBUTION;

11 (e) MADE PURSUANT TO AN ACTION IN EMINENT DOMAIN;

12 (f) MADE TO THE STATE OR TO A LOCAL GOVERNMENT;

13 (g) MADE PURSUANT TO A COURT ORDER;

14 (h) MADE TO A NOT-FOR-PROFIT MISSION-DRIVEN AFFORDABLE
15 HOUSING PROVIDER WHO HAS PROVIDED NOTICE OF INTENT TO PURCHASE
16 THE QUALIFYING PROPERTY, HAS A HISTORY OF DEVELOPING AFFORDABLE
17 HOUSING, AND WHO COMMITS TO PROVIDING TO TENANTS A MAJORITY OF
18 UNITS BELOW MARKET RATE;

19 (i) MADE BETWEEN JOINT TENANTS OR TENANTS IN COMMON;

20 (j) IF, AT THE TIME OF THE EFFECTIVE DATE OF THIS PART 12, THE
21 QUALIFYING PROPERTY HAS A PREEXISTING AGREEMENT THAT BESTOWS
22 A RIGHT OF FIRST REFUSAL OR OTHER CONTINGENT PROPERTY RIGHT
23 REGARDING THE QUALIFYING PROPERTY TO A THIRD PARTY; EXCEPT THAT,
24 UPON EXPIRATION OF THE AGREEMENT, THE PROVISIONS OF THIS PART 12
25 APPLY TO ANY SALE, TRANSFER, OR CONVEYANCE OF THE QUALIFYING
26 PROPERTY BY THE RESIDENTIAL SELLER; OR

27 (k) ANY QUALIFYING PROPERTIES FOR WHICH THE FIRST

1 CERTIFICATE OF OCCUPANCY WAS ISSUED WITHIN THIRTY YEARS
2 PRECEDING THE DATE OF A TRIGGERING EVENT.

3 (2) IN ADDITION TO NOT RESPONDING TO A RESIDENTIAL SELLER'S
4 NOTICE AS SET FORTH IN SECTION 29-4-1202 (3)(a)(III), THE LOCAL
5 GOVERNMENT MAY ALSO WAIVE ITS RIGHTS UNDER THIS PART 12 IF:

6 (a) THE GOVERNING BODY OF THE LOCAL GOVERNMENT ELECTS TO
7 DISCLAIM ANY RIGHTS PROVIDED UNDER THIS PART 12 WITH RESPECT TO
8 ANY PROPOSED TRANSACTION OR FOR ANY DURATION OF TIME; OR

9 (b) (I) THE LOCAL GOVERNMENT MAKES THE DETERMINATION
10 THAT A PROPOSED SALE TO A THIRD-PARTY BUYER WILL ENSURE THE
11 EQUIVALENT PRESERVATION OR CONVERSION OF THE QUALIFYING
12 PROPERTY FOR LONG-TERM AFFORDABLE HOUSING IN THE SAME MANNER
13 IN WHICH IT WOULD BE PRESERVED OR CONVERTED IF THE LOCAL
14 GOVERNMENT WERE TO EXERCISE ITS RIGHTS UNDER THIS PART 12.

15 (II) FOR THE REQUIREMENTS OF SUBSECTION (2)(b)(I) OF THIS
16 SECTION TO BE MET:

17 (A) THE RESIDENTIAL SELLER MUST PROVIDE NOTICE TO THE
18 LOCAL GOVERNMENT PRIOR TO THE LOCAL GOVERNMENT MAKING AN
19 OFFER UNDER SECTION 29-4-1202 THAT THE THIRD-PARTY BUYER HAS
20 MADE AN OFFER ON THE QUALIFYING PROPERTY AND IS COMMITTED TO
21 PRESERVING OR CONVERTING THE QUALIFYING PROPERTY FOR LONG-TERM
22 AFFORDABLE HOUSING IF THE TRANSACTION OCCURS FOR THE SALE AND
23 PURCHASE OF THE QUALIFYING PROPERTY; ■

24 (B) THE THIRD-PARTY BUYER SHALL ENTER INTO AN AGREEMENT
25 WITH THE LOCAL GOVERNMENT THAT THE THIRD-PARTY BUYER SHALL
26 PRESERVE OR CONVERT THE QUALIFYING PROPERTY FOR LONG-TERM
27 AFFORDABLE HOUSING IF THE TRANSACTION OCCURS FOR THE SALE AND

1 PURCHASE OF THE QUALIFYING PROPERTY AND FOR ANY OTHER TERMS TO
2 WHICH THE THIRD-PARTY BUYER AND THE LOCAL GOVERNMENT AGREE. IF,
3 AFTER THE SALE OF THE QUALIFYING PROPERTY TO THE THIRD-PARTY
4 BUYER, THE THIRD-PARTY BUYER FAILS TO COMPLY WITH THE TERMS OF
5 THE AGREEMENT ENTERED INTO WITH THE LOCAL GOVERNMENT, THE
6 THIRD-PARTY BUYER SHALL BE HELD LIABLE AND SUBJECT TO ANY
7 REMEDIES AND ENFORCEMENT UNDER THE AGREEMENT, UNDER SECTION
8 29-4-1205, OR UNDER ANY OTHER APPLICABLE LAW; AND

9 (C) THE THIRD-PARTY BUYER SHALL CERTIFY ITS COMPLIANCE
10 WITH SUBSECTION (2)(b)(II)(B) OF THIS SECTION AT LEAST ONCE EVERY
11 TWO YEARS BY SUBMITTING DOCUMENTATION TO THE LOCAL
12 GOVERNMENT IN A FORM AND MANNER DEEMED ACCEPTABLE BY THE
13 LOCAL GOVERNMENT.

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

20 **29-4-1204. Conversion of qualifying property purchased by**
21 **the local government.** (1) THE LOCAL GOVERNMENT, ITS ASSIGNEE, OR
22 A THIRD-PARTY BUYER PURSUANT TO SECTION 29-4-1203 (2), SUBSEQUENT
23 TO ACQUIRING A QUALIFYING PROPERTY PURSUANT TO THIS PART 12, MAY
24 CONVERT THE PROPERTY TO A DIFFERENT USE IF:

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

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

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

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

22 **29-4-1205. Remedies for noncompliance - definitions.**

23 (1) (a) (I) NOTWITHSTANDING SUBSECTION (1)(c) OF THIS SECTION AND
24 SUBJECT TO AVAILABILITY OF RESOURCES, IT IS THE RESPONSIBILITY OF
25 THE ATTORNEY GENERAL'S OFFICE TO ENFORCE THE PROVISIONS OF THIS
26 PART 12, AND THE ATTORNEY GENERAL MAY INTERVENE IN ANY ACTION
27 BROUGHT PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION. ANY TITLE

1 TRANSFERRED SUBSEQUENT TO THE TRIGGERING EVENTS SET FORTH IN
2 SECTION 29-4-1202 (2)(b) IS DEFECTIVE UNLESS THE PROPERTY INTERESTS
3 OF THE LOCAL GOVERNMENT IN A QUALIFYING PROPERTY AS SET FORTH IN
4 SUBSECTION (1)(b) OF THIS SECTION ARE SECURED OR UNTIL AN
5 EQUITABLE REMEDY HAS BEEN PROVIDED.

6 (II) NOTWITHSTANDING SUBSECTION (1)(a)(I) OF THIS SECTION,
7 AND IN ADDITION TO THE REMEDIES SET FORTH IN SUBSECTION (3) OF THIS
8 SECTION, IF A COURT FINDS THAT A RESIDENTIAL SELLER HAS MADE A
9 MISREPRESENTATION IN AN AFFIDAVIT MADE IN ACCORDANCE WITH
10 SECTION 29-4-1202 (2)(e), THE SOLE REMEDY AVAILABLE IS AGAINST THE
11 RESIDENTIAL SELLER. THE INTEREST IN THE QUALIFYING PROPERTY
12 TRANSFERRED IN RELIANCE ON THE AFFIDAVIT SHALL NOT BE TREATED AS
13 DEFECTIVE OR AFFECTED IN ANY OTHER WAY.

14 (b) THE RIGHTS ACCORDED BY THIS PART 12 TO THE LOCAL
15 GOVERNMENT WITH RESPECT TO A QUALIFYING PROPERTY ARE
16 PROPERTY INTERESTS.

17 (c) THE ATTORNEY GENERAL'S OFFICE, THE LOCAL GOVERNMENT
18 IN THE JURISDICTION THE QUALIFYING PROPERTY IS LOCATED, THE LOCAL
19 GOVERNMENT'S ASSIGNEE, OR A MISSION-DRIVEN ORGANIZATION ON
20 BEHALF OF THE STATE MAY BRING A CIVIL ACTION AGAINST A RESIDENTIAL
21 SELLER OR A PERSON CLAIMING AN INTEREST IN A QUALIFYING PROPERTY
22 THROUGH A RESIDENTIAL SELLER FOR ANY VIOLATION OF THIS PART 12.

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

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

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

20 (5) THE REMEDIES PROVIDED IN THIS SECTION ARE INDEPENDENT
21 OF AND DO NOT AFFECT ANY CIVIL ACTION AND REMEDIES OR THE RIGHT
22 OF ANY PARTY TO ANY TRANSACTION CONTEMPLATED UNDER THIS PART
23 12.

24
25 **29-4-1206. Repeal of part. THIS PART 12 IS REPEALED, EFFECTIVE**
26 **AUGUST 1, 2028.**

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

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

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