

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

INTRODUCED

LLS NO. 23-0020.01 Megan McCall x4215

HOUSE BILL 23-1190

HOUSE SPONSORSHIP

Boesenecker and Sirota,

SENATE SPONSORSHIP

Winter F.,

House Committees

Transportation, Housing & Local Government

Senate Committees

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.

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.

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

12 (6) (a) "QUALIFYING PROPERTY" MEANS A MULTIFAMILY
13 RESIDENTIAL OR MIXED-USE PROPERTY CONSISTING OF FIVE OR MORE
14 UNITS IN URBAN COUNTIES AND THREE OR MORE UNITS IN RURAL OR RURAL
15 RESORT COUNTIES. THE CLASSIFICATION OF URBAN, RURAL, AND RURAL
16 RESORT COUNTIES IS THE DIVISION OF HOUSING'S MOST RECENT
17 CLASSIFICATION OF THE SAME PURSUANT TO SECTION 29-4-1107 (1)(d).

18 (b) "QUALIFYING PROPERTY" ALSO INCLUDES ANY PROPERTY
19 SUPPORTED WITH PUBLIC FUNDS THAT IS SUBJECT TO ONE OR MORE
20 RESTRICTED-USE COVENANTS, INCLUDING PROPERTIES RECEIVING FUNDING
21 FROM ANY OF THE FOLLOWING:

22 (I) A FEDERAL LOW-INCOME HOUSING TAX CREDIT PROVIDED BY
23 SECTION 42 OF THE "INTERNAL REVENUE CODE OF 1986";

24 (II) THE COLORADO AFFORDABLE HOUSING TAX CREDIT ALLOWED
25 IN SECTION 39-22-2102;

26 (III) THE UNITED STATES DEPARTMENT OF AGRICULTURE 515
27 RURAL RENTAL HOUSING LOAN PROGRAM;

1 (IV) A LOAN OR GRANT FROM THE DEPARTMENT OF LOCAL
2 AFFAIRS, THE DIVISION OF HOUSING CREATED IN SECTION 24-32-704 (1),
3 THE COLORADO HOUSING AND FINANCE AUTHORITY CREATED IN SECTION
4 29-4-704 (1), OR THE MIDDLE-INCOME HOUSING AUTHORITY CREATED IN
5 SECTION 29-4-1104 (1); OR

6 (V) ANY OF THE FOLLOWING PROGRAMS THROUGH THE UNITED
7 STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:

8 (A) SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY;

9 (B) SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH
10 DISABILITIES; OR

11 (C) SECTION 8 HOUSING ASSISTANCE PAYMENT.

12 (7) "RENT INCREASE CAP" MEANS THE GREATER OF:

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

18 (b) THREE PERCENTAGE POINTS OF THE CURRENT ANNUAL RENT.

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

21 **29-4-1202. Right of first refusal - eligibility - process - notice**

22 **- tolling.** (1) (a) (I) IN ACCORDANCE WITH THIS PART 12, THE LOCAL
23 GOVERNMENT FOR THE JURISDICTION IN WHICH A QUALIFYING PROPERTY
24 IS LOCATED HAS A RIGHT TO PURCHASE THE QUALIFYING PROPERTY FOR AN
25 ECONOMICALLY SUBSTANTIALLY IDENTICAL OFFER TO ANOTHER OFFER
26 THAT A RESIDENTIAL SELLER RECEIVES ON THE QUALIFYING PROPERTY.
27 THE LOCAL GOVERNMENT'S RIGHT TO PURCHASE THE QUALIFYING

1 PROPERTY IS LIMITED TO PRESERVING OR CONVERTING THE QUALIFYING
2 PROPERTY FOR LONG-TERM AFFORDABLE HOUSING BY THE LOCAL
3 GOVERNMENT OR ANOTHER PUBLIC OR PRIVATE ENTITY THAT THE LOCAL
4 GOVERNMENT ASSIGNS ITS RIGHTS TO UNDER THIS PART 12, OR THAT THE
5 LOCAL GOVERNMENT TRANSFERS THE QUALIFYING PROPERTY TO.

6 (II) IN EXERCISING ITS RIGHT OF FIRST REFUSAL SET FORTH IN
7 SUBSECTION (1)(a)(I) OF THIS SECTION AND IN THIS PART 12, A LOCAL
8 GOVERNMENT MAY PARTNER WITH A NONPROFIT ENTITY TO CO-FINANCE,
9 LEASE, OR MANAGE THE QUALIFYING PROPERTY FOR THE PUBLIC PURPOSE
10 OF MAINTAINING THE QUALIFYING PROPERTY AS LONG-TERM AFFORDABLE
11 HOUSING IF THE LOCAL GOVERNMENT OR ITS ASSIGNEE MAINTAINS
12 OWNERSHIP OF THE QUALIFYING PROPERTY.

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

16 (c) (I) IF THE LOCAL GOVERNMENT PROVIDES NOTICE PURSUANT TO
17 SUBSECTION (3)(a)(I) OF THIS SECTION TO A RESIDENTIAL SELLER THAT
18 THE LOCAL GOVERNMENT MAY EXERCISE ITS RIGHTS UNDER THIS PART 12,
19 THE RESIDENTIAL SELLER SHALL NOT PROCEED WITH THE SALE OF THE
20 QUALIFYING PROPERTY TO ANY OTHER PARTY AND THE LOCAL
21 GOVERNMENT SHALL HAVE A RIGHT TO MAKE AN OFFER THAT IS
22 ECONOMICALLY SUBSTANTIALLY IDENTICAL TO AN ACCEPTABLE OFFER ON
23 THE QUALIFYING PROPERTY THAT IS IDENTIFIED BY THE RESIDENTIAL
24 SELLER AS REQUIRED BY SUBSECTION (2)(d)(I)(B) OF THIS SECTION.

25 (II) FOR THE PURPOSE OF DETERMINING WHETHER THE TERMS OF
26 AN OFFER BY A THIRD PARTY AND AN OFFER BY THE LOCAL GOVERNMENT
27 ARE ECONOMICALLY SUBSTANTIALLY IDENTICAL, IT IS IMMATERIAL HOW

1 THE OFFER WOULD BE FINANCED. FOR PURPOSES OF THIS PART 12, A
2 RESIDENTIAL SELLER SHALL NEGOTIATE IN GOOD FAITH WITH THE LOCAL
3 GOVERNMENT THAT MAKES AN OFFER THAT IS ECONOMICALLY
4 SUBSTANTIALLY IDENTICAL TO AN ACCEPTABLE OFFER ON THE QUALIFYING
5 PROPERTY THAT IS IDENTIFIED BY THE RESIDENTIAL SELLER AS REQUIRED
6 BY SUBSECTION (2)(d)(I)(B) OF THIS SECTION FOR THE SALE OF THE
7 QUALIFYING PROPERTY WHICH INCLUDES, BUT IS NOT LIMITED TO
8 EVALUATING AN OFFER FROM THE LOCAL GOVERNMENT OR ITS ASSIGNEE
9 WITHOUT CONSIDERATION OF:

10 (A) THE TIME PERIOD FOR CLOSING;

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

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

14 (D) WHETHER OR NOT THE OFFER IS CONTINGENT ON AN
15 APPRAISAL, INSPECTION, OR REVIEW OF TITLE, OBTAINING TITLE
16 INSURANCE, OR OTHER CUSTOMARY CONDITIONS FOR THE SALE OF SIMILAR
17 PROPERTY.

18 (III) IF THE RESIDENTIAL SELLER REJECTS THE OFFER MADE BY THE
19 LOCAL GOVERNMENT, THE RESIDENTIAL SELLER SHALL PROVIDE A
20 WRITTEN EXPLANATION OF THE REJECTION AND SHALL INVITE THE LOCAL
21 GOVERNMENT TO MAKE A SUBSEQUENT OFFER BY IDENTIFYING THE TERMS
22 AND CONDITIONS THAT MUST BE INCLUDED IN THE SUBSEQUENT OFFER FOR
23 THE RESIDENTIAL SELLER TO POTENTIALLY ACCEPT THE SUBSEQUENTLY
24 MADE OFFER BY THE LOCAL GOVERNMENT. A RESIDENTIAL SELLER IS
25 PROHIBITED FROM ENGAGING IN NEGOTIATIONS WITH THIRD-PARTY
26 POTENTIAL BUYERS THAT HAVE THE PRIMARY EFFECT OF THE THIRD PARTY
27 MAKING AN OFFER TO THE RESIDENTIAL SELLER TO PURCHASE THE

1 QUALIFYING PROPERTY THAT IS UNREASONABLY COST PROHIBITIVE OR
2 LEGALLY IMPOSSIBLE FOR THE LOCAL GOVERNMENT TO MATCH WITH AN
3 ECONOMICALLY SUBSTANTIALLY IDENTICAL OFFER.

4 (d) AT ANY TIME THE LOCAL GOVERNMENT MAY ASSIGN ITS RIGHTS
5 REGARDING A QUALIFYING PROPERTY UNDER THIS PART 12 TO THE STATE,
6 ANY POLITICAL SUBDIVISION, OR ANY HOUSING AUTHORITY IN THE STATE
7 SUBJECT TO THE LIMITATIONS THAT THE QUALIFYING PROPERTY MUST BE
8 USED TO PRESERVE OR BE CONVERTED FOR LONG-TERM AFFORDABLE
9 HOUSING AND THAT ALL OTHER PROVISIONS OF THIS PART 12 ARE
10 APPLICABLE TO THE ASSIGNEE. UPON ASSIGNMENT, THE ASSIGNEE
11 ASSUMES ALL LIABILITY OF THE LOCAL GOVERNMENT REGARDING THE
12 EXERCISE OF RIGHTS UNDER THIS PART 12 AND IS RESPONSIBLE FOR
13 PERFORMING ALL REQUIREMENTS UNDER THIS PART 12 WITH RESPECT TO
14 A QUALIFYING PROPERTY AS IF THE ASSIGNEE WERE THE LOCAL
15 GOVERNMENT. THE ASSIGNEE MUST NOTIFY THE RESIDENTIAL SELLER OF
16 THE ASSIGNMENT IF THE LOCAL GOVERNMENT HAS ALREADY SENT THE
17 RESIDENTIAL SELLER NOTICE PURSUANT TO SUBSECTION (3)(a) OF THIS
18 SECTION.

19 (e) IF A QUALIFYING PROPERTY IS CLASSIFIED AS MIXED-USE, THE
20 LOCAL GOVERNMENT'S RIGHTS UNDER THIS PART 12 SHALL ONLY EXTEND
21 TO THE PORTION OF THE QUALIFYING PROPERTY THAT IS RESIDENTIAL, BUT
22 NOTHING IN THIS PART 12 EXCLUDES THE LOCAL GOVERNMENT FROM
23 INCLUDING THE PURCHASE OF ANY COMMERCIAL PORTION OF THE
24 QUALIFYING PROPERTY BY THE LOCAL GOVERNMENT IN THE TERMS OF THE
25 SALE AT THE DISCRETION OF THE LOCAL GOVERNMENT.

26 (2) **Notice by residential seller.** (a) WITHIN FOURTEEN DAYS OF
27 A TRIGGERING EVENT DEMONSTRATING A RESIDENTIAL SELLER'S INTENT

1 TO SELL THE QUALIFYING PROPERTY, A RESIDENTIAL SELLER SHALL
2 PROVIDE NOTICE TO THE GOVERNING BODY OF THE LOCAL GOVERNMENT
3 IN WHICH THE QUALIFYING PROPERTY IS LOCATED. THE NOTICE MUST BE
4 GIVEN IN ACCORDANCE WITH SUBSECTION (2)(d) OF THIS SECTION.

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

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

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

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

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

21 (V) LISTS THE QUALIFYING PROPERTY FOR SALE;

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

24 (VII) TAKES ANY OTHER ACTION DEMONSTRATING AN INTENT TO
25 SELL THE QUALIFYING PROPERTY;

26 (VIII) RECEIVES A NOTICE OF ELECTION AND DEMAND OR LIS
27 PENDENS RELATED TO THE FORECLOSURE OF THE QUALIFYING PROPERTY

1 PURSUANT TO PART 1 OF ARTICLE 38 OF TITLE 38; EXCEPT THAT, NOTICE TO
2 THE LOCAL GOVERNMENT MUST BE PROVIDED AS SPECIFIED IN SUBSECTION
3 (7) OF THIS SECTION AND NOT AS SPECIFIED IN SUBSECTION (2)(a) OF THIS
4 SECTION;

5 (IX) RECEIVES A NOTICE THAT A CERTIFICATE OF LEVY HAS BEEN
6 FILED RELATED TO THE QUALIFYING PROPERTY PURSUANT TO SECTION
7 13-56-101; OR

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

10 (c) A RESIDENTIAL SELLER SHALL PROVIDE SUBSEQUENT NOTICE
11 TO THE LOCAL GOVERNMENT THAT RECEIVED NOTICE PURSUANT TO THIS
12 SUBSECTION (2) IF THE TERMS OF AN ACCEPTABLE SALE MATERIALLY
13 CHANGE.

14 (d) (I) THE NOTICE GIVEN PURSUANT TO THIS SUBSECTION (2) MUST
15 BE DELIVERED TO THE CLERK OF THE GOVERNING BODY OF THE LOCAL
16 GOVERNMENT BY HAND DELIVERY, UNITED STATES FIRST CLASS MAIL, OR
17 OVERNIGHT DELIVERY AND MUST INCLUDE:

18 (A) A GENERAL DESCRIPTION OF THE QUALIFYING PROPERTY TO BE
19 PURCHASED, INCLUDING THE ADDRESS AND NAME OF THE PROPERTY, IF
20 ANY, AND ANY ADDITIONAL DESCRIPTIONS OF THE QUALIFYING PROPERTY
21 ON FILE WITH THE OFFICE OF THE ASSESSOR IN THE COUNTY IN WHICH THE
22 QUALIFYING PROPERTY IS LOCATED;

23 (B) THE PRICE, TERMS, AND CONDITIONS OF AN ACCEPTABLE OFFER
24 THE RESIDENTIAL SELLER HAS RECEIVED TO SELL THE QUALIFYING
25 PROPERTY OR THE PRICE, TERMS, AND CONDITIONS FOR WHICH THE
26 RESIDENTIAL SELLER INTENDS TO SELL THE QUALIFYING PROPERTY;

27 (C) ANY TERMS OR CONDITIONS WHICH, IF NOT MET, WOULD BE

1 SUFFICIENT GROUNDS, IN THE RESIDENTIAL SELLER'S DISCRETION AND IN
2 COMPLIANCE WITH THIS PART 12 AND ANY OTHER APPLICABLE LAW, TO
3 REJECT AN OFFER;

4 (D) IF THE RESIDENTIAL SELLER HAS ENTERED INTO A CONTINGENT
5 PURCHASE AND SALE AGREEMENT WITH A PROSPECTIVE BUYER, A COPY OF
6 THE AGREEMENT;

7 (E) THE RESIDENTIAL SELLER'S ADDRESS TO RECEIVE NOTICES
8 FROM THE LOCAL GOVERNMENT; AND

9 (F) THE NAMES AND MAILING ADDRESSES THAT THE RESIDENTIAL
10 SELLER HAS ON RECORD FOR EVERY TENANT RESIDING IN THE QUALIFYING
11 PROPERTY.

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

18 (III) THE LOCAL GOVERNMENT MAY SHARE THE INFORMATION
19 CONTAINED IN THE NOTICE WITH ITS OFFICERS, EMPLOYEES, AGENTS, AND
20 PROSPECTIVE ASSIGNEES FOR THE PURPOSES OF EVALUATING OR
21 OBTAINING FINANCING FOR THE PROSPECTIVE TRANSACTION. THE
22 INFORMATION CONTAINED IN THE NOTICE MUST BE KEPT CONFIDENTIAL IF
23 THE RESIDENTIAL SELLER SO REQUESTS AND IS CONFIDENTIAL
24 INFORMATION NOT SUBJECT TO PUBLIC DISCLOSURE; EXCEPT THAT THE
25 OCCURRENCE OF A TRIGGERING EVENT, THE LOCATION OF THE QUALIFYING
26 PROPERTY, AND THE IDENTITY OF THE RESIDENTIAL SELLER ARE NOT
27 CONFIDENTIAL AND ARE SUBJECT TO PUBLIC DISCLOSURE. NOTHING IN THIS

1 SECTION REQUIRES A LOCAL GOVERNMENT TO EXERCISE ITS RIGHTS UNDER
2 THIS PART 12.

3 (3) **Notice by the local government.** (a) (I) THE LOCAL
4 GOVERNMENT SHALL PROVIDE NOTICE TO THE RESIDENTIAL SELLER WITHIN
5 FOURTEEN BUSINESS DAYS OF RECEIPT OF THE NOTICE REQUIRED
6 PURSUANT TO SUBSECTION (2) OF THIS SECTION OF THE LOCAL
7 GOVERNMENT'S INTENT TO PRESERVE ITS RIGHTS UNDER THIS PART 12. IF
8 THE LOCAL GOVERNMENT PLANS TO ASSIGN ITS RIGHTS UNDER THIS PART
9 12 IN ACCORDANCE WITH SUBSECTION (1)(d) OF THIS SECTION, THE LOCAL
10 GOVERNMENT MUST DISCLOSE THE POTENTIAL ASSIGNEE IN THE NOTICE.
11 THE NOTICE MUST BE DELIVERED BY HAND DELIVERY, UNITED STATES
12 FIRST CLASS MAIL, OR OVERNIGHT DELIVERY TO THE ADDRESS PROVIDED
13 BY THE RESIDENTIAL SELLER PURSUANT TO SUBSECTION (2)(d)(I)(E) OF
14 THIS SECTION.

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

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

21 (b) (I) UPON GIVING NOTICE TO A RESIDENTIAL SELLER PURSUANT
22 TO SUBSECTION (3)(a) OF THIS SECTION, THE LOCAL GOVERNMENT SHALL
23 PROVIDE NOTICE TO EACH RESIDENT OF THE QUALIFYING PROPERTY WHO
24 IS IDENTIFIED IN THE SELLER'S NOTICE PROVIDED IN SUBSECTION
25 (2)(d)(I)(F) OF THIS SECTION INFORMING THE RESIDENT THAT THERE IS
26 INTEREST BY THE LOCAL GOVERNMENT OR AN ASSIGNEE IN PURCHASING
27 THE QUALIFYING PROPERTY AND PROVIDING A DATE, TIME, AND LOCATION

1 THAT THE LOCAL GOVERNMENT WILL HOLD A MEETING FOR RESIDENTS TO
2 ATTEND FOR INFORMATION REGARDING A POTENTIAL PURCHASE OF THE
3 PROPERTY BY THE LOCAL GOVERNMENT IN ACCORDANCE WITH
4 SUBSECTION (3)(d) OF THIS SECTION.

5 (II) THE LOCAL GOVERNMENT SHALL PROVIDE A SECOND NOTICE
6 TO THE RESIDENTS OF A QUALIFYING PROPERTY UPON THE EXECUTION OF
7 AN AGREEMENT FOR THE SALE AND PURCHASE OF THE QUALIFYING
8 PROPERTY PURSUANT TO SUBSECTION (4) OF THIS SECTION.

9 (III) THE LOCAL GOVERNMENT SHALL PROVIDE A THIRD NOTICE TO
10 THE RESIDENTS OF A QUALIFYING PROPERTY UPON THE CLOSING OF A SALE
11 FOR THE QUALIFYING PROPERTY BY THE LOCAL GOVERNMENT PURSUANT
12 TO SUBSECTION (4) OF THIS SECTION. THE NOTICE MUST INCLUDE CONTACT
13 INFORMATION FOR THE ENTITY THAT WILL PROVIDE MANAGEMENT
14 SERVICES TO THE QUALIFYING PROPERTY.

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

24 (d) THE MEETING HELD BY THE LOCAL GOVERNMENT AS REQUIRED
25 BY SUBSECTION (3)(b)(I) OF THIS SECTION MUST BE IN AN ACCESSIBLE
26 SPACE, AND SPANISH TRANSLATION SERVICES AND, IF AVAILABLE,
27 VIRTUAL MEETING OPTIONS MUST BE PROVIDED AT NO COST TO THE

1 RESIDENTS.

2 (4) THE LOCAL GOVERNMENT HAS NINETY BUSINESS DAYS FROM
3 PROVIDING NOTICE PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION TO
4 MAKE AN OFFER TO PURCHASE THE QUALIFYING PROPERTY AND SHALL
5 AGREE TO CLOSE ON THE QUALIFYING PROPERTY WITHIN ONE HUNDRED
6 EIGHTY BUSINESS DAYS OF THE EXECUTION OF AN AGREEMENT FOR THE
7 SALE AND PURCHASE OF THE QUALIFYING PROPERTY.

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

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

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

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

25 (6) ANY ACTIONS OF AN AGENT WORKING ON BEHALF OF A
26 RESIDENTIAL SELLER FOR PURPOSES OF THIS PART 12 ARE ATTRIBUTABLE
27 TO THE RESIDENTIAL SELLER.

1 (7) IF THE SALE OF THE QUALIFYING PROPERTY IS PURSUANT TO AN
2 ACTION IN FORECLOSURE, THEN THE PUBLIC TRUSTEE SHALL PROVIDE THE
3 NOTICE REQUIRED UNDER SUBSECTION (2) OF THIS SECTION TO THE LOCAL
4 GOVERNMENT WITHIN FOURTEEN DAYS AFTER THE FORECLOSURE
5 AUCTION, AND THE LOCAL GOVERNMENT SHALL PROVIDE THE NOTICES
6 REQUIRED UNDER SUBSECTION (3)(a) OF THIS SECTION TO THE PUBLIC
7 TRUSTEE. NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, THE
8 LOCAL GOVERNMENT HAS NINETY DAYS TO SUBMIT AN OFFER THAT IS
9 ECONOMICALLY SUBSTANTIALLY SIMILAR TO THE WINNING OFFER MADE
10 AT THE FORECLOSURE AUCTION. THE PUBLIC TRUSTEE IS SUBJECT TO ALL
11 OTHER REQUIREMENTS THAT THE RESIDENTIAL SELLER IS OTHERWISE
12 SUBJECT TO UNDER THIS PART 12.

13 (8) (a) THE LOCAL GOVERNMENT OR ITS ASSIGNEE SHALL
14 DETERMINE TENANT QUALIFICATIONS AT ITS DISCRETION, SO LONG AS
15 SUCH DETERMINATIONS ARE IN FURTHERANCE OF PROVIDING LONG-TERM
16 AFFORDABLE HOUSING FOR COMMUNITY MEMBERS AT OR BELOW THE
17 APPLICABLE AREA MEDIAN INCOME; EXCEPT THAT RESIDENTS AT THE
18 QUALIFYING PROPERTY AT THE TIME IT IS ACQUIRED BY THE LOCAL
19 GOVERNMENT PURSUANT TO THIS SECTION MAY CONTINUE TO RESIDE AT
20 THE QUALIFYING PROPERTY IRRESPECTIVE OF THEIR INCOME LEVEL FOR AT
21 LEAST THE DURATION OF THEIR LEASE UNDER THE LEASE TERMS IN EFFECT
22 AT THE TIME THE LOCAL GOVERNMENT ACQUIRES THE QUALIFYING
23 PROPERTY.

24 (b) NOTWITHSTANDING SECTION 29-4-1201 (4), THE RENT OF A
25 RESIDENT RESIDING IN A UNIT AT THE QUALIFYING PROPERTY IN
26 ACCORDANCE WITH SUBSECTION (8)(a) OF THIS SECTION MAY EXCEED THE
27 RENT FOR HOUSEHOLDS OF THE SAME SIZE AT THE APPLICABLE AREA

1 MEDIAN INCOME WITHOUT AFFECTING THE STATUS OF THE QUALIFYING
2 PROPERTY AS LONG-TERM AFFORDABLE HOUSING. HOWEVER, THE RENT
3 FOR THE UNIT IS SUBJECT TO THE RENT INCREASE CAP.

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

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

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

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

16 (d) MADE PURSUANT TO A WILL, DESCENT, OR INTESTATE
17 DISTRIBUTION;

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

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

20 (g) MADE PURSUANT TO A COURT ORDER;

21 (h) MADE BETWEEN JOINT TENANTS OR TENANTS IN COMMON; OR

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

1 (2) THE LOCAL GOVERNMENT MAY WAIVE ITS RIGHTS UNDER THIS
2 PART 12 IF:

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

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

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

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

21 (B) THE THIRD-PARTY BUYER SHALL ENTER INTO AN AGREEMENT
22 WITH THE LOCAL GOVERNMENT THAT THE THIRD-PARTY BUYER SHALL
23 PRESERVE OR CONVERT THE QUALIFYING PROPERTY FOR LONG-TERM
24 AFFORDABLE HOUSING IF THE TRANSACTION OCCURS FOR THE SALE AND
25 PURCHASE OF THE QUALIFYING PROPERTY AND FOR ANY OTHER TERMS TO
26 WHICH THE THIRD-PARTY BUYER AND THE LOCAL GOVERNMENT AGREE. IF,
27 AFTER THE SALE OF THE QUALIFYING PROPERTY TO THE THIRD-PARTY

1 BUYER, THE THIRD-PARTY BUYER FAILS TO COMPLY WITH THE TERMS OF
2 THE AGREEMENT ENTERED INTO WITH THE LOCAL GOVERNMENT, THE
3 THIRD-PARTY BUYER SHALL BE HELD LIABLE AND SUBJECT TO ANY
4 REMEDIES AND ENFORCEMENT UNDER THE AGREEMENT, UNDER SECTION
5 29-4-1205, OR UNDER ANY OTHER APPLICABLE LAW.

6 (III) THE WAIVER PROVIDED UNDER SUBSECTION (2)(b)(I) OF THIS
7 SECTION IS ONLY EFFECTIVE FOR THE SALE TO THE THIRD-PARTY BUYER
8 IDENTIFIED IN THE NOTICE REQUIRED IN SUBSECTION (2)(b)(II) OF THIS
9 SECTION, AND IF THE SALE TO THE THIRD-PARTY BUYER DOES NOT OCCUR
10 THEN THE WAIVER IS VOID AND THE LOCAL GOVERNMENT IS ENTITLED TO
11 ALL THE RIGHTS PROVIDED UNDER THIS PART 12.

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

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

20 (b) AT LEAST ONE HUNDRED TWENTY DAYS BEFORE THE
21 CONVERSION, NOTICE OF THE CONVERSION IS GIVEN TO THE RESIDENTS AT
22 THE QUALIFYING PROPERTY AND ANY RESIDENT WHO WILL BE DISPLACED
23 BY THE CONVERSION OF THE QUALIFYING PROPERTY IS PROVIDED WITH
24 RELOCATION COMPENSATION THAT EQUALS TWELVE MONTHS OF THE
25 RESIDENT'S CURRENT RENT OR TWELVE MONTHS MARKET RENT FOR THE
26 COUNTY IN WHICH THE QUALIFYING PROPERTY IS LOCATED, WHICHEVER IS
27 GREATER; AND

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

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

14 **29-4-1205. Remedies for noncompliance - definitions.**

15 (1) (a) NOTWITHSTANDING SUBSECTION (1)(c) OF THIS SECTION AND
16 SUBJECT TO AVAILABILITY OF RESOURCES, IT IS THE RESPONSIBILITY OF
17 THE ATTORNEY GENERAL'S OFFICE TO ENFORCE THE PROVISIONS OF THIS
18 PART 12, AND THE ATTORNEY GENERAL MAY INTERVENE IN ANY ACTION
19 BROUGHT PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION. ANY TITLE
20 TRANSFERRED SUBSEQUENT TO THE TRIGGERING EVENTS SET FORTH IN
21 SECTION 29-4-1202 (2)(b) IS DEFECTIVE UNLESS THE PROPERTY INTERESTS
22 OF THE LOCAL GOVERNMENT IN A QUALIFYING PROPERTY AS SET FORTH IN
23 SUBSECTION (1)(b) OF THIS SECTION ARE SECURED OR UNTIL AN
24 EQUITABLE REMEDY HAS BEEN PROVIDED.

25 (b) THE RIGHTS ACCORDED TO THE LOCAL GOVERNMENT OF A
26 QUALIFYING PROPERTY IN THIS SECTION ARE PROPERTY INTERESTS.

27 (c) THE ATTORNEY GENERAL'S OFFICE, THE LOCAL GOVERNMENT

1 IN THE JURISDICTION THE QUALIFYING PROPERTY IS LOCATED, THE LOCAL
2 GOVERNMENT'S ASSIGNEE, OR A MISSION-DRIVEN ORGANIZATION ON
3 BEHALF OF THE STATE MAY BRING A CIVIL ACTION AGAINST A RESIDENTIAL
4 SELLER OR A PERSON CLAIMING AN INTEREST IN A QUALIFYING PROPERTY
5 THROUGH A RESIDENTIAL SELLER FOR ANY VIOLATION OF THIS PART 12.

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

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

22 (4) THE REMEDIES PROVIDED IN THIS SECTION ARE INDEPENDENT
23 OF AND DO NOT AFFECT ANY CIVIL ACTION AND REMEDIES OR THE RIGHT
24 OF ANY PARTY TO ANY TRANSACTION CONTEMPLATED UNDER THIS PART
25 12.

26 **SECTION 2. Applicability.** This act applies to all qualifying
27 properties which are listed for sale but are not under contract on or after

1 the effective date of this act.

2 **SECTION 3. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.