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# An Act

HOUSE BILL 23-1190

BY REPRESENTATIVE(S) 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, Amabile, Herod, Story;  
also SENATOR(S) Winter F. and Jaquez Lewis, Cutter, Moreno.

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

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

**SECTION 1.** In Colorado Revised Statutes, **add** part 12 to article 4 of title 29 as follows:

PART 12  
RIGHT OF FIRST REFUSAL  
TO PURCHASE MULTIFAMILY HOUSING

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

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

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

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

(3) "LOCAL GOVERNMENT" MEANS:

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

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

(4) "LONG-TERM AFFORDABLE HOUSING" MEANS HOUSING FOR WHICH THE ANNUAL RENT FOR ANY UNIT IN THE QUALIFYING PROPERTY DOES NOT EXCEED THE RENT FOR HOUSEHOLDS OF A GIVEN SIZE AT THE APPLICABLE AREA MEDIAN INCOME, AS PUBLISHED ANNUALLY BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FOR A MINIMUM OF ONE HUNDRED YEARS AND WHERE THE LOCAL GOVERNMENT AGREES NOT TO RAISE RENT FOR ANY UNIT IN THE QUALIFYING PROPERTY BY MORE THAN THE RENT INCREASE CAP; EXCEPT THAT THE RENT INCREASE CAP SHALL NOT APPLY TO UNITS OF HOUSING REGULATED BY FAIR MARKET RENTS PUBLISHED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY OTHER FEDERAL OR STATE PROGRAMS THAT RESTRICT OR LIMIT ALLOWABLE RENTS.

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

ORGANIZATION IN SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

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

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

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

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

(b) THREE PERCENTAGE POINTS.

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

**29-4-1202. Right of first refusal - eligibility - process - notice - tolling.** (1) (a) (I) IN ACCORDANCE WITH THIS PART 12, THE LOCAL GOVERNMENT FOR THE JURISDICTION IN WHICH A QUALIFYING PROPERTY IS LOCATED HAS A RIGHT TO PURCHASE THE QUALIFYING PROPERTY FOR AN ECONOMICALLY SUBSTANTIALLY IDENTICAL OFFER TO ANOTHER OFFER THAT A RESIDENTIAL SELLER RECEIVES ON THE QUALIFYING PROPERTY. THE LOCAL GOVERNMENT'S RIGHT TO PURCHASE THE QUALIFYING PROPERTY IS LIMITED TO PRESERVING OR CONVERTING THE QUALIFYING PROPERTY FOR LONG-TERM AFFORDABLE HOUSING BY THE LOCAL GOVERNMENT OR ANOTHER PUBLIC OR PRIVATE ENTITY THAT THE LOCAL GOVERNMENT ASSIGNS ITS RIGHTS TO UNDER THIS PART 12, OR THAT THE LOCAL GOVERNMENT TRANSFERS THE QUALIFYING PROPERTY TO.

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

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

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

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

(A) THE TIME PERIOD FOR CLOSING;

(B) THE TYPE OF FINANCING OR PAYMENT METHOD;

(C) WHETHER OR NOT THE OFFER IS CONTINGENT ON FINANCING OR

PAYMENT METHOD; AND

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

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

(d) AT ANY TIME THE LOCAL GOVERNMENT MAY ASSIGN ITS RIGHTS REGARDING A QUALIFYING PROPERTY UNDER THIS PART 12 TO A HOUSING AUTHORITY THAT IS WITHIN THE LOCAL GOVERNMENT'S JURISDICTION, A REGIONAL HOUSING AUTHORITY THAT SERVES THE LOCAL GOVERNMENT'S JURISDICTION, OR THE COLORADO HOUSING AND FINANCE AUTHORITY, CREATED IN SECTION 29-4-704 (1), SUBJECT TO THE LIMITATIONS THAT THE QUALIFYING PROPERTY MUST BE USED TO PRESERVE OR BE CONVERTED FOR LONG-TERM AFFORDABLE HOUSING AND THAT ALL OTHER PROVISIONS OF THIS PART 12 ARE APPLICABLE TO THE ASSIGNEE. UPON ASSIGNMENT, THE ASSIGNEE ASSUMES ALL LIABILITY OF THE LOCAL GOVERNMENT REGARDING THE EXERCISE OF RIGHTS UNDER THIS PART 12 AND IS RESPONSIBLE FOR PERFORMING ALL REQUIREMENTS UNDER THIS PART 12 WITH RESPECT TO A QUALIFYING PROPERTY AS IF THE ASSIGNEE WERE THE LOCAL GOVERNMENT. THE ASSIGNEE MUST NOTIFY THE RESIDENTIAL SELLER OF THE ASSIGNMENT IF THE LOCAL GOVERNMENT HAS ALREADY SENT THE RESIDENTIAL SELLER NOTICE PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION.

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

SALE AT THE DISCRETION OF THE LOCAL GOVERNMENT.

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

(g) A LOCAL GOVERNMENT THAT HAS NOT FULLY DISCLAIMED ALL RIGHTS UNDER THIS PART 12 PURSUANT TO SECTION 29-4-1203 (3) SHALL POST A NOTICE IN A CONSPICUOUS LOCATION ON ITS WEBSITE THAT INFORMS RESIDENTIAL SELLERS THAT QUALIFYING PROPERTIES, IF SOLD, MAY BE SUBJECT TO A RIGHT OF FIRST REFUSAL FOR PURCHASE BY THE LOCAL GOVERNMENT AT A PRICE AGREED UPON BY THE RESIDENTIAL SELLER.

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

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

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

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

(II) SIGNS A LETTER OF INTENT, OPTION TO SELL OR BUY, OR OTHER CONDITIONAL WRITTEN AGREEMENT WITH A POTENTIAL BUYER FOR THE SALE OR TRANSFER OF THE QUALIFYING PROPERTY, WHICH INCLUDES THE

ESTIMATED PRICE, TERMS, AND CONDITIONS OF THE PROPOSED SALE OR TRANSFER, EVEN IF THE PRICE, TERMS, OR CONDITIONS ARE SUBJECT TO CHANGE;

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

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

(V) LISTS THE QUALIFYING PROPERTY FOR SALE;

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

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

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

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

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

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

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

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

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

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

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

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

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

PROPERTY.

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

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

(e) (I) PRIOR TO THE SALE OF A QUALIFYING PROPERTY, A RESIDENTIAL SELLER SHALL EXECUTE AND RECORD IN THE REAL PROPERTY RECORDS OF THE COUNTY IN WHICH THE QUALIFYING PROPERTY IS LOCATED AN AFFIDAVIT CERTIFYING UNDER PENALTY OF PERJURY THAT THE REQUIREMENTS OF THIS PART 12 HAVE BEEN SATISFIED, AND STATE WITH RESPECT TO SUCH SALE EITHER THAT:

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

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

(II) ANY PARTY THAT ACQUIRES AN INTEREST IN THE QUALIFYING PROPERTY AND A TITLE INSURANCE ENTITY AS DEFINED IN SECTION 10-11-102 (11) SHALL HAVE AN ABSOLUTE RIGHT TO RELY ON THE TRUTH

AND ACCURACY OF ALL STATEMENTS IN THE AFFIDAVIT MADE PURSUANT TO SUBSECTION (2)(e)(I) OF THIS SECTION AND SHALL NOT BE LIABLE IN LAW OR EQUITY, INCLUDING UNDER ANY POLICY OR AGREEMENT OF TITLE INSURANCE AS DEFINED IN SECTION 10-11-102 (8), FOR A RESIDENTIAL SELLER'S MISREPRESENTATION IN THE AFFIDAVIT.

(3) **Notice by the local government.** (a) (I) THE LOCAL GOVERNMENT SHALL PROVIDE NOTICE TO THE RESIDENTIAL SELLER WITHIN SEVEN CALENDAR DAYS OF RECEIPT OF THE NOTICE REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION OF THE LOCAL GOVERNMENT'S INTENT TO PRESERVE ITS RIGHTS UNDER THIS PART 12. IF THE LOCAL GOVERNMENT PLANS TO ASSIGN ITS RIGHTS UNDER THIS PART 12 IN ACCORDANCE WITH SUBSECTION (1)(d) OF THIS SECTION, THE LOCAL GOVERNMENT MUST DISCLOSE THE POTENTIAL ASSIGNEE IN THE NOTICE. THE NOTICE MUST BE DELIVERED BY ELECTRONIC MAIL DELIVERY; EXCEPT THAT, IF THE RESIDENTIAL SELLER HAS NOT PROVIDED AN ELECTRONIC MAILING ADDRESS, THEN BY HAND DELIVERY, UNITED STATES FIRST CLASS MAIL, OR OVERNIGHT DELIVERY TO THE ADDRESS PROVIDED BY THE RESIDENTIAL SELLER PURSUANT TO SUBSECTION (2)(d)(I)(E) OF THIS SECTION.

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

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

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

SECTION.

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

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

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

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

(4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5)(b) OF THIS SECTION FOR ALLOWABLE TOLLING PERIODS, THE LOCAL GOVERNMENT HAS THIRTY CALENDAR DAYS FROM PROVIDING NOTICE PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION TO MAKE AN OFFER TO PURCHASE THE QUALIFYING PROPERTY AND SHALL AGREE TO CLOSE ON THE QUALIFYING PROPERTY WITHIN SIXTY CALENDAR DAYS, TO THE EXTENT PRACTICABLE, AND NOT MORE THAN NINETY CALENDAR DAYS OF THE EXECUTION OF AN AGREEMENT FOR THE SALE AND PURCHASE OF THE QUALIFYING PROPERTY. THE AGREEMENT MAY INCLUDE, AT THE RESIDENTIAL SELLER'S OPTION, A PROVISION THAT REQUIRES THE LOCAL GOVERNMENT TO BE LIABLE TO THE RESIDENTIAL SELLER FOR THE FAIR MARKET VALUE OF ANY LOST BENEFIT OF

THE QUALIFYING PROPERTY THAT IS CAUSED BY THE LOCAL GOVERNMENT MATERIALLY BREACHING OR DEFAULTING ON THE AGREEMENT IN A MANNER THAT IS NOT CURED BY THE LOCAL GOVERNMENT UNDER THE TERMS OF THE AGREEMENT AND IN A MANNER THAT ALLOWS THE RESIDENTIAL SELLER TO TERMINATE THE AGREEMENT.

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

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

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

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

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

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

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

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

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

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

(8) ANY ACTIONS OF AN AGENT WORKING ON BEHALF OF A RESIDENTIAL SELLER FOR PURPOSES OF THIS PART 12 ARE ATTRIBUTABLE TO THE RESIDENTIAL SELLER. NOTWITHSTANDING ANY OTHER PROVISION IN THIS PART 12 TO THE CONTRARY, A POLITICAL SUBDIVISION OR A HOUSING AUTHORITY IN THE STATE THAT ENGAGES IN ACTIVITIES TO CREATE OR PRESERVE LONG-TERM AFFORDABLE HOUSING FOR A QUALIFYING PROPERTY IS NOT CONSIDERED AN AGENT WORKING ON BEHALF OF A RESIDENTIAL SELLER FOR PURPOSES OF THIS PART 12.

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

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

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

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

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

(a) MADE TO A FAMILY MEMBER, AS DEFINED IN SECTION 8-13.3-503 (11), OF THE RESIDENTIAL SELLER;

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

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

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

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

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

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

(h) MADE PURSUANT TO A COURT ORDER;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) IN ADDITION TO NOT RESPONDING TO A RESIDENTIAL SELLER'S NOTICE AS SET FORTH IN SECTION 29-4-1202 (3)(a)(III) AND THE WAIVER SET FORTH IN SUBSECTION (2) OF THIS SECTION, THE LOCAL GOVERNMENT MAY ALSO WAIVE ITS RIGHTS UNDER THIS PART 12 IF THE GOVERNING BODY OF THE LOCAL GOVERNMENT ELECTS TO DISCLAIM ANY RIGHTS PROVIDED UNDER THIS PART 12 WITH RESPECT TO ANY PROPOSED TRANSACTION OR FOR ANY DURATION OF TIME.

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

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

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

(c) THE LOCAL GOVERNMENT, ITS ASSIGNEE, OR A THIRD-PARTY

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

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

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

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

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

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

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

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

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

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

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

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

(5) THE REMEDIES PROVIDED IN THIS SECTION ARE INDEPENDENT OF AND DO NOT AFFECT ANY CIVIL ACTION AND REMEDIES OR THE RIGHT OF ANY

PARTY TO ANY TRANSACTION CONTEMPLATED UNDER THIS PART 12.

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

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

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

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Julie McCluskie  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Steve Fenberg  
PRESIDENT OF  
THE SENATE

---

Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_  
(Date and Time)

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Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO