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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO PROPERTY -- COMMUNITY OPPORTUNITY TO PURCHASE ACT

Introduced By: Representatives Speakman, Henries, Morales, and Felix

Date Introduced: February 15, 2024

Referred To: House Municipal Government & Housing

It is enacted by the General Assembly as follows:

1 SECTION 1. The general assembly hereby finds that:

2 (1) The state faces a severe and continuing housing crisis. Many state residents are unable
3 to obtain or retain affordable housing.

4 (2) This crisis has profoundly negative effects on the state. It causes dislocation, which
5 frays the social ties that bind our neighborhoods and communities together. It forces vulnerable
6 residents to leave their home, the state, for new communities where they are strangers. And it
7 contributes to homelessness, which is itself a severe and continuing crisis in the state.

8 (3) The state's housing crisis is caused, in large part, by a shortage of affordable rental
9 housing. The creation and preservation of such housing is therefore of paramount public concern.

10 (4) One obstacle to the creation and preservation of affordable rental housing is rapid
11 turnover in the state's real estate market. Nonprofit organizations seeking to create and preserve
12 affordable housing may be willing and able to pay market prices to purchase residential buildings
13 for sale, but nevertheless find themselves unable to purchase such buildings before they leave the
14 market. Nonprofit organizations serving the broader public interest must often move more
15 deliberately and borrow purchase money from non-traditional lenders in such real estate
16 transactions than private entities concerned solely with profit.

17 (5) The purpose of this chapter (which may be referred to as the "community opportunity
18 to purchase act") is to enhance nonprofit organizations' ability to purchase multi-family residential
19 buildings, at market prices, within a reasonable period of time and to thereby promote the creation

1 and preservation of affordable rental housing.

2 SECTION 2. Title 34 of the General Laws entitled "PROPERTY" is hereby amended by
3 adding thereto the following chapter:

4 CHAPTER 18.3

5 COMMUNITY OPPORTUNITY TO PURCHASE ACT

6 **34-18.3-1. Definitions.**

7 As used in this chapter:

8 (1) "Area median income" means the unadjusted area median income published by the U.S.
9 Department of Housing and Urban Development for the geographic area that includes the state.

10 (2) "Fee interest" means ownership of real property in fee simple absolute.

11 (3) "Multi-family residential building" or "building" means any privately-owned real
12 property in the state improved with five (5) or more residential rental units (whether or not the
13 property also includes non-residential uses).

14 (4) "Notice of special restrictions" means an agreement executed by a qualified nonprofit
15 and recorded against a multi-family residential building purchased by such qualified nonprofit
16 substantially in the form published by Rhode Island housing.

17 (5) "Purchase of a multi-family residential building," or "purchase," means to acquire any
18 interest that is transferred pursuant to the sale of a multi-family residential building.

19 (6) "Purchaser" means the individual, individuals, entity, or entities engaged or seeking to
20 engage, in the purchase of a multi-family residential building.

21 (7) "Rhode Island housing" means the Rhode Island housing and mortgage finance
22 corporation ("RIHMFC") created pursuant to chapter 55 of title 42.

23 (8) "Sale of a multi-family residential building," or "sale," means any of the following:

24 (i) The transfer, in exchange for money or any other thing of economic value, of a present
25 interest in the multi-family residential building, including beneficial use, where the value of the
26 present interest is the fee interest in the multi-family residential building, or substantially equal to
27 the value of that fee interest;

28 (ii) If an interest in the multi-family residential building is held by a trust, the transfer, in
29 exchange for money or any other thing of economic value, of a beneficial interest in the trust, where
30 the value of the beneficial interest in the trust is substantially equal to the value of the fee interest
31 of the multi-family residential building; or

32 (iii) If an interest substantially equal to the value of the fee interest of the multi-family
33 residential building is held by any kind of corporate entity or partnership (including, but not limited
34 to, a corporation, limited liability company, general partnership, limited partnership, or limited

1 liability partnership), and if that interest is substantially equal in value to the total value of assets
2 held by the corporate entity or partnership, the transfer in exchange for money or any other thing
3 of economic value, of a controlling interest in the corporate entity or partnership. For purposes of
4 this section, in any instance in which multiple entities (whether those entities are natural persons,
5 trusts, corporate entities, partnerships, or any other kind of entity, or any combination of different
6 kinds of entities) hold interests in a multi-family residential building, the transfer of multiple
7 interests by or in those entities shall be considered the transfer of a single interest, if the transfers
8 are made in connection with substantially the same transaction or set of transactions.

9 (iv) "Sale of a multi-family residential building," or "sale," does not include any of the
10 following:

11 (A) Any transfer made under a mortgage, deed of trust, or deed in lieu of foreclosure;

12 (B) Any transfer made in connection with any bankruptcy proceeding (including, but not
13 limited to, any transfer made by a bankruptcy trustee);

14 (C) Any transfer of an interest in real property held by the federal government, by the state
15 government, or by any special district created by state law (including, but not limited to, any
16 transfer of any such interest held because of a taxpayer's nonpayment of tax);

17 (D) Any transfer by devise or intestacy, or any other transfer made in connection with a
18 bona fide effort to pass an interest in real property to one's devisees or heirs (including, but not
19 limited to, such transfers made in connection with a living trust);

20 (E) Any transfer between or among spouses, domestic partners, siblings (including, but not
21 limited to, half-siblings, step-siblings, and adoptive siblings), parents (including, but not limited to,
22 step-parents and adoptive parents) or guardians and their children, grandparents and their
23 grandchildren, aunts or uncles and their nieces or nephews, great-aunts or great-uncles and their
24 grand-nieces or grand-nephews, or first or second cousins, or any combination thereof; or

25 (F) Any transfer of an interest in a multi-family residential building which is already
26 income restricted and shall remain income restricted upon transfer.

27 (9) "Sell," "sale," or "sold" means a transaction for the transfer of real estate from a seller
28 to a buyer, including, but not limited to, exchanges of real estate between the seller and buyer and
29 transactions involving the creation of a sales agreement.

30 (10) "Seller" means the individual, individuals, entity, or entities engaged, or seeking to
31 engage, in the sale of a multi-family residential building.

32 (11) "Qualified nonprofit housing development corporation" means a nonprofit
33 corporation, which has been approved under 26 U.S.C. § 501(c)(3) as a § 501(c)(3) corporation
34 with the Internal Revenue Service, and which is organized and operated with one of its principal

1 purposes being to provide housing for low- and moderate-income persons or a public housing
2 authority.

3 **34-18.3-2. Qualified nonprofits.**

4 (a) Annual selection of qualified nonprofits. Rhode Island housing shall establish a process
5 which interested qualified nonprofits may submit for consideration, on an annual basis, their
6 credentials for participation in this program. Nonprofit organizations that shall meet the following
7 criteria:

8 (1) The organization is a bona fide nonprofit as evidenced by the fact that it is exempt from
9 federal income tax under 26 USC § 501(c)(3);

10 (2) The organization has demonstrated a commitment to the provision of affordable
11 housing for low- and moderate-income residents, and to preventing the displacement of such
12 residents;

13 (3) The organization has demonstrated a commitment to community engagement as
14 evidenced by relationships with neighborhood-based organizations or tenant counseling
15 organizations;

16 (4) The organization has demonstrated the capacity (including, but not limited to, the legal
17 and financial capacity) to effectively acquire and manage residential real property at multiple
18 locations in the state; and

19 (5) A public housing authority having jurisdiction in a municipality in the State of Rhode
20 Island.

21 (b) Nonprofit organizations that Rhode Island housing certifies as having met these criteria
22 shall be known as "qualified nonprofits." An organization's certification as a qualified nonprofit
23 shall be valid for three (3) years. Rhode Island housing shall solicit new applications for qualified
24 nonprofit status at least once each calendar year, at which time existing qualified nonprofits shall
25 be eligible to apply for renewed certification as qualified nonprofits. In the absence of new
26 information raising doubts about whether the organization qualifies as a qualified nonprofit, an
27 existing qualified nonprofit's application for renewed certification as a qualified nonprofit shall be
28 routinely and swiftly granted.

29 **34-18.3-3. Existence and publication of qualified nonprofits list.**

30 RIHMFC shall publish on its website, and make available upon request, a list of qualified
31 nonprofits. In addition to such other information as RIHMFC may include, this list shall include
32 contact information for each qualified nonprofit. This contact information shall include, but need
33 not be limited to, a mailing address, an email address that the qualified nonprofit monitors regularly,
34 and a telephone number.

1 **34-18.3-4. Priority for Rhode Island nonprofits.**

2 Qualified Rhode Island nonprofits shall be given priority over qualified out-of-state non-
3 profits.

4 **34-18.3-5. General provisions - First right to purchase conferred.**

5 (a) This chapter shall be construed to confer upon each qualified nonprofit a first right to
6 purchase any multi-family residential building which was constructed more than twenty (20) years
7 prior for sale in the state. This first right to purchase shall consist only of a right of first offer.

8 (1) Qualified nonprofits shall have the right of first offer for a period of not more than sixty
9 (60) days; or

10 (2) If the qualified nonprofit elects to extend the right of first offer to a ninety (90) day
11 period, it shall make a payment equal to one-half of one percent (0.5%) of the asking price of the
12 multi-family residential building, which shall be fully creditable should the nonprofit proceed with
13 purchase, and non-refundable if they do not.

14 (b) Any person or entity holding property subject to this chapter shall be limited to an
15 asking price no more than twenty percent (20%) above fair market value as determined by a
16 licensed appraiser or realtor.

17 (c) Upon receiving an offer from a qualified nonprofit, the seller shall have no more than
18 ten (10) days to respond to the offer.

19 (d) Confidential information protected. Any information obtained from a seller by a
20 qualified nonprofit under this chapter including, but not limited to, disclosures made and terms and
21 conditions of an offer of sale made shall be kept confidential to the maximum extent permitted by
22 law, except that a qualified nonprofits may, if otherwise permitted by law, share such information
23 with other qualified nonprofits to facilitate qualified nonprofit exercise of the rights conferred by
24 this chapter. Nothing in this chapter permits or requires the disclosure of information where such
25 disclosure is otherwise prohibited by law.

26 (e) Preexisting rights unaffected. This chapter shall not be construed to impair any contract,
27 or affect any property interest held by anyone other than the seller of a multi-family residential
28 building (including, but not limited to, any interest held under a mortgage, deed of trust, or other
29 security interest; any option to purchase; or any right of first offer or right of first refusal), in
30 existence before the effective date of this chapter.

31 **34-18.3-6. State owned buildings.**

32 When any state-owned property, either land or buildings, is to be sold, the department of
33 housing shall be given the right of first offer lasting sixty (60) days to enter into an agreement to
34 purchase it at the appraised value. The municipality where the property is located shall be given

1 the right of second offer (lasting another sixty (60) days) to purchase, before the property goes on
2 the open market.

3 **34-18.3-7. Enforcement - Seller certification.**

4 (a) Every seller of a multi-family residential building in any city or town shall, within
5 fifteen (15) days of the sale of that building, submit to RIHMFC a signed declaration, under penalty
6 of perjury, affirming that the sale of that building substantially complied with the requirements of
7 this chapter. Each such declaration shall include the address of the relevant building and RIHMFC
8 shall publish all such addresses on its website at least once per week.

9 (b) Failure to file the declaration required by this section shall be an infraction punishable
10 by a fine not to exceed five thousand dollars (\$5,000).

11 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PROPERTY -- COMMUNITY OPPORTUNITY TO PURCHASE ACT

1 This act would grant a right of first offer to qualified nonprofits for the purchase of certain
2 multi-family residential properties at market prices, within a reasonable period of time to promote
3 the creation and preservation of affordable rental housing.

4 This act would take effect upon passage.

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