



Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 23-0020	Date:	February 21, 2023
Prime Sponsors:	Rep. Boesenecker; Sirota Sen. Winter F.	Bill Status:	House Trans.& Local Govt.
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Bill Topic: AFFORDABLE HOUSING RIGHT OF FIRST REFUSAL

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill creates the right of first refusal for local governments to purchase multi-unit residential properties for long-term affordable housing. The bill increases state and local expenditures beginning FY 2023-24.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill creates the right of first refusal, with certain exemptions, for local governments to purchase multi-unit residential properties for long-term affordable housing. Long-term affordable housing means that the annual rent for any unit will not exceed the rent for households of a given size at the applicable area median income for a minimum of 100 years, and the local government agrees not to raise rent for any unit by more than the bill's specified rent increase cap.

Local governments are given the right to purchase a qualifying property for an economically substantially identical offer to another offer that a residential seller receives. Any purchase or sale agreement for the conveyance of a qualifying property by a residential seller is contingent on the first refusal of the municipality or county where the property is located.

Qualifying properties include any multifamily or mixed-use property consisting of five or more residential units in urban counties, and three or more residential units in rural or resort counties, as those classifications are determined by the Division of Housing in the Department of Local Affairs. The right also applies to any property supported with state or federal funds, such as certain tax credits, government loans or grants, or federal support programs for individuals through the US Department of Housing and Urban Development (HUD).

A local government may partner with a nonprofit entity to co-finance, lease or manage the property as long-term affordable housing. At any time, the local government may assign its rights to the state, another political subdivision, or a housing authority so long as the property is used to preserve or be converted for long-term affordable housing.

The bill details the obligations of residential sellers of qualifying properties to provide notice to local governments when a seller demonstrates his or her intent to sell the property. Residential sellers must notify the local government of the price, terms, and conditions of an acceptable offer the seller has received, or for which the seller has entered into a contingent purchase and sale agreement with a prospective buyer. Local governments must provide notifications to residential sellers of any intent to exercise the right of first refusal, notify any tenants in qualifying properties, and hold a public meeting for residents to obtain information regarding a potential purchase by the local government.

The Department of Law must enforce the provisions of the bill, and the department may intervene in any action brought pursuant to disputes of the local government's right of first refusal. Courts may grant injunctive relief for violations, as well as award damages, attorney fees, and costs to a prevailing party.

State Expenditures

The bill may increase workload for the Department of Law to enforce the provisions of the bill and intervene in actions brought when disputes are raised against a local government's right of first refusal. The department will have discretion to bring civil actions to enforce the law, or intervene in other disputes. The department may also have increased workload to provide legal services if any local government partners with the state to take possession of long-term affordable housing properties. If there are additional funding requirements for these efforts, the department will seek resources during the annual budget process.

Local Government

Local governments that exercise the right of first refusal will have increased expenditures for property purchase and management, and for costs associated with required notifications and public meetings. These costs are not estimated and will depend on future local decisions and actions.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to all qualifying properties which are listed for sale but are not under contract on or after that date.

State and Local Government Contacts

Counties	Judicial	Law
Local Affairs	Secretary of State	