

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Winter F.

1 Amend the Local Government and Housing Committee Report, dated
2 April 25, 2024, as it appears in the Senate Journal, page 1081, strike lines
3 18 through 27 and substitute:

4 ""(10) (a) "MATCHED OFFER" MEANS AN OFFER OF PURCHASE FOR
5 A QUALIFYING PROPERTY, AS DEFINED IN SECTION 29-4-1202 (1), FOR A
6 PRICE AND WITH OTHER MATERIAL TERMS AND CONDITIONS THAT ARE AT
7 LEAST AS FAVORABLE TO THOSE IN AN ARM'S-LENGTH, THIRD-PARTY OFFER
8 THAT A RESIDENTIAL SELLER HAS RECEIVED AND IS WILLING TO ACCEPT
9 FOR THE SALE OF THE QUALIFYING PROPERTY; EXCEPT THAT, TO THE
10 EXTENT THAT THERE ARE ANY PROVISIONS IN THE ARMS-LENGTH, THIRD
11 PARTY OFFER THAT THE LOCAL GOVERNMENT IS PROHIBITED BY LAW FROM
12 CONTRACTING FOR, THE LOCAL GOVERNMENT IS NOT REQUIRED TO
13 INCLUDE SUCH PROVISIONS IN ITS OFFER FOR ITS OFFER TO BE A MATCHED
14 OFFER.

15 (b) "MATCHED OFFER" ALSO MEANS, IN THE ABSENCE OF AN
16 ARM'S-LENGTH, THIRD-PARTY OFFER, AN OFFER OF PURCHASE FOR A
17 QUALIFYING PROPERTY, AS DEFINED IN SECTION 29-4-1202 (1), FOR A
18 PRICE AND WITH OTHER MATERIAL TERMS AND CONDITIONS COMPARABLE
19 TO THOSE FOR WHICH THE RESIDENTIAL SELLER WOULD SELL, AND A
20 WILLING BUYER WOULD PURCHASE, THE QUALIFYING PROPERTY.

21 (11) "MATERIAL TERMS AND CONDITIONS" MEANS, GENERALLY,
22 SIGNIFICANT TERMS AND CONDITIONS OF A CONTRACT SUCH AS SALE
23 PRICE, EARNEST MONEY, REPRESENTATIONS, WARRANTIES, PROPERTY
24 DESCRIPTION, AND PERFORMANCE UNDER THE CONTRACT AND, IF A
25 RESIDENTIAL SELLER HAS RECEIVED AN OFFER FROM A THIRD-PARTY
26 BUYER THAT IS ENTIRELY A CASH OFFER FOR THE THIRD-PARTY TO
27 PURCHASE THE QUALIFYING PROPERTY, THE LOCAL GOVERNMENT, IN
28 ACCORDANCE WITH SECTION 29-4-1202 (5)(a)(II), MUST AGREE TO CLOSE
29 ON THE QUALIFYING PROPERTY WITHIN THE SAME TIME PERIOD AS SET
30 FORTH IN THE THIRD-PARTY BUYER'S OFFER FOR PURPOSES OF A MATCHED
31 OFFER. "MATERIAL TERMS AND CONDITIONS" EXCLUDES, BUT IS NOT
32 LIMITED TO EXCLUDING, THE TYPE OF FINANCING OR PAYMENT METHOD OR
33 THE PERIOD FOR CLOSING."."

34 Page 1081 of the Journal, after line 61 insert:

35 "Page 13 of the reengrossed bill, strike line 16 and substitute "A
36 TRIGGERING EVENT IS THE FIRST TO OCCUR OF ANY OF THE FOLLOWING
37 EVENTS WHEN THE RESIDENTIAL SELLER:".

- 1 Page 13 of the bill, strike lines 21 through 23.
- 2 Reletter succeeding sub-subparagraphs accordingly.
- 3 Page 14 of the bill, strike lines 3 through 7.
- 4 Reletter succeeding sub-subparagraphs accordingly.
- 5 Page 14 of the bill, line 8, after "SALE;" insert "OR".
- 6 Page 14 of the bill, line 10, strike "PROPERTY;" and substitute
7 "PROPERTY."
- 8 Page 14 of the bill, strike lines 11 through 20."
- 9 Page 1081 of the Journal, after line 67 insert:
- 10 "Page 15 of the bill, strike lines 25 through 27 and substitute:
- 11 "(c) IF THE PRICE REQUIRED TO BE LISTED IN THE RESIDENTIAL
12 SELLER'S NOTICE PURSUANT TO SUBSECTION (3)(b)(II)(C) OF THIS SECTION
13 IS REDUCED BY FIVE PERCENT OR MORE OR THE TERMS OR CONDITIONS AS
14 REQUIRED TO BE PROVIDED IN THE RESIDENTIAL SELLER'S NOTICE
15 PURSUANT TO SUBSECTION (3)(b)(II)(D) OF THIS SECTION".
- 16 Page 1082 of the Journal, strike lines 1 through 7 and substitute:
- 17 "Page 16 of the bill, strike lines 14 through 27.
- 18 Page 17 of the bill, strike lines 1 and 2 and substitute:
- 19 "(e) THE LOCAL GOVERNMENT, EXCEPT AS OTHERWISE GOVERNED
20 BY LAW OR COURT ORDER, SHALL SIGN A NONDISCLOSURE AGREEMENT
21 WITH THE RESIDENTIAL SELLER AND, ONCE THE NONDISCLOSURE
22 AGREEMENT IS EXECUTED, MAY SHARE THE INFORMATION CONTAINED IN
23 THE NOTICES REQUIRED PURSUANT TO SUBSECTIONS (3)(b) AND (3)(c) OF
24 THIS SECTION WITH ITS OFFICERS AND EMPLOYEES. IF THE LOCAL
25 GOVERNMENT SHARES THE NOTICES REQUIRED PURSUANT TO SUBSECTIONS
26 (3)(b) AND (3)(c) OF THIS SECTION WITH PROSPECTIVE ENTITIES THAT THE
27 LOCAL GOVERNMENT PARTNERS WITH PURSUANT TO SUBSECTION (2)(e) OF
28 THIS SECTION OR PROSPECTIVE ASSIGNEES PURSUANT TO SUBSECTION
29 (2)(f) OF THIS SECTION FOR THE PURPOSES OF EVALUATING OR OBTAINING
30 FINANCING FOR THE PROSPECTIVE TRANSACTION, THOSE ENTITIES THAT

1 RECEIVE THE NOTICE MUST EACH SIGN A NONDISCLOSURE AGREEMENT FOR
2 THE RESPECTIVE ENTITY WITH THE RESIDENTIAL SELLER. AN ENTITY THAT
3 HAS EXECUTED A NONDISCLOSURE AGREEMENT PURSUANT TO THIS
4 SUBSECTION (3)(e), MAY SHARE THE INFORMATION CONTAINED IN THE
5 NOTICES REQUIRED PURSUANT TO SUBSECTIONS (3)(b) AND (3)(c) OF THIS
6 SECTION WITH ITS OFFICERS, EMPLOYEES, AND ATTORNEYS AND WITH ITS
7 ADVISORS AND PROSPECTIVE FINANCING PROVIDERS IF THE ADVISORS AND
8 PROSPECTIVE FINANCING PROVIDERS ARE BOUND BY THE NONDISCLOSURE
9 AGREEMENT OR BY A SIMILAR CONTRACTUAL, LEGAL, OR FIDUCIARY
10 OBLIGATION OF CONFIDENTIALITY FOR THE PURPOSES OF EVALUATING OR
11 OBTAINING FINANCING FOR THE PROSPECTIVE TRANSACTION. THE
12 INFORMATION CONTAINED IN THE NOTICES REQUIRED UNDER SUBSECTIONS
13 (3)(b) AND (3)(c) OF THIS SECTION, EXCEPT FOR THE PROPERTY ADDRESS
14 AND ANY INFORMATION THAT IS PUBLICLY RECORDED, IS CONFIDENTIAL
15 INFORMATION NOT SUBJECT TO PUBLIC DISCLOSURE."."

16 Page 1082 of the Journal, after line 24 insert:

17 "Page 20 of the bill, line 14, after "THE" insert "MATERIAL".

18 Page 20 of the bill, strike lines 17 through 21 and substitute
19 "SUBSEQUENTLY MADE OFFER BY THE LOCAL GOVERNMENT. THE
20 RESIDENTIAL SELLER SHALL HAVE FOURTEEN DAYS FROM THE DATE OF THE
21 LOCAL GOVERNMENT'S SUBSEQUENT OFFER TO EITHER ACCEPT OR REJECT
22 THE SUBSEQUENT OFFER, AND IF THE LOCAL GOVERNMENT'S SUBSEQUENT
23 OFFER IS REJECTED BY THE RESIDENTIAL SELLER, THE RESIDENTIAL SELLER
24 SHALL PROVIDE A WRITTEN EXPLANATION OF THE REJECTION AND THE
25 RESIDENTIAL SELLER'S REJECTION OF THE SUBSEQUENT OFFER
26 CONSTITUTES TERMINATION OF THE LOCAL GOVERNMENT'S RIGHT OF FIRST
27 REFUSAL TO PURCHASE THE QUALIFYING PROPERTY, SUBJECT TO THE
28 LOCAL GOVERNMENT'S RIGHT TO EXERCISE, OR RE-EXERCISE ITS RIGHT OF
29 FIRST REFUSAL PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION IF THE
30 CONDITION SET FORTH IN SUBSECTION (3)(c) OF THIS SECTION OCCURS."."

31 Page 1082 of the Journal, line 28, strike "UPON ACCEPTING A LOCAL
32 GOVERNMENT'S OFFER," and substitute "WITHIN SEVEN CALENDAR DAYS
33 OF CLOSING ON THE SALE OF THE QUALIFYING PROPERTY TO THE LOCAL
34 GOVERNMENT,".

35 Page 1082 of the Journal, lines 30 and 31, strike "THAT THE SALE OF THE
36 QUALIFYING PROPERTY TO THE LOCAL GOVERNMENT IS PENDING." and
37 substitute "OF THE SALE OF THE QUALIFYING PROPERTY TO THE LOCAL
38 GOVERNMENT.".

- 1 Page 1082 of the Journal, line 36, strike "IT'S" and substitute "ITS".
- 2 Page 1082 of the Journal, after line 45, insert:
- 3 "Page 22 of the bill, line 25, strike "**definition - repeal.**" and substitute
4 "**definition.**".
- 5 Page 1082 of the Journal, after line 49 insert:
- 6 "Page 28 of the bill, line 2, strike "EXECUTED;" and substitute "EXECUTED,
7 EXCEPT AS OTHERWISE GOVERNED BY LAW OR COURT ORDER;".
- 8 Page 29 of the bill, strike lines 8 through 10 and substitute "WITH ITS
9 OFFICERS AND EMPLOYEES FOR THE".
- 10 Page 29 of the bill, line 12, after "TRANSACTION." insert "AGENTS OF THE
11 LOCAL GOVERNMENT AND PROSPECTIVE ENTITIES THAT THE LOCAL
12 GOVERNMENT PARTNERS WITH PURSUANT TO SUBSECTION (2)(c) OF THIS
13 SECTION OR PROSPECTIVE ASSIGNEES PURSUANT TO SUBSECTION (2)(d) OF
14 THIS SECTION MUST EACH SIGN A NONDISCLOSURE AGREEMENT FOR THE
15 RESPECTIVE ENTITY. AN ENTITY THAT HAS EXECUTED A NONDISCLOSURE
16 AGREEMENT MAY SHARE THE INFORMATION CONTAINED IN THE NOTICES
17 REQUIRED PURSUANT TO THIS SUBSECTION (5) WITH ITS OFFICERS AND
18 EMPLOYEES FOR THE PURPOSES OF EVALUATING OR OBTAINING FINANCING
19 FOR THE PROSPECTIVE TRANSACTION."
- 20 Page 31 of the bill, strike lines 11 and 12.
- 21 Page 32 of the bill, line 17, strike "**Exemptions - repeal.**" and substitute
22 "**Exemptions.**".
- 23 Page 34 of the bill, line 1, strike "OR".
- 24 Page 34 of the bill, line 15, strike "APPLY." and substitute "APPLY;
25 (g) MADE TO A FAMILY MEMBER, AS DEFINED IN SECTION
26 8-13.3-503 (11), OF THE RESIDENTIAL SELLER;
27 (h) MADE TO A TRUST IF THE BENEFICIARY OF THE TRUST IS THE
28 SPOUSE, PARTNER IN A CIVIL UNION, LEGALLY RECOGNIZED CHILD, OR
29 OTHER FAMILY MEMBER OF THE RESIDENTIAL SELLER;
30 (i) MADE PURSUANT TO A WILL, DESCENT, OR INTESTATE
31 DISTRIBUTION; OR
32 (j) MADE PURSUANT TO AN ACTION IN EMINENT DOMAIN OR IN
33 RESPONSE TO A THREAT OF EMINENT DOMAIN."

- 1 Page 34 of the bill, line 16, strike "(a)".
- 2 Page 34 of the bill, strike lines 20 through 27.
- 3 Page 35 of the bill, strike line 1.
- 4 Page 35 of the bill, line 2, strike "(V)" and substitute "(a)".
- 5 Page 35 of the bill, line 3, strike "(VI)" and substitute "(b)".
- 6 Page 35 of the bill, line 4, strike "(VII)" and substitute "(c)".
- 7 Page 35 of the bill, line 8, strike "(VIII)" and substitute "(d)".
- 8 Page 35 of the bill, line 13, strike "(IX)" and substitute "(e)".
- 9 Page 35 of the bill, line 16, strike "(X)" and substitute "(f)".
- 10 Page 35 of the bill, strike lines 18 and 19.
- 11 Page 36 of the bill, line 23, strike "**offer**. THE RIGHT OF".
- 12 Page 36 of the bill, strike lines 24 and 25, and substitute "**refusal and**
- 13 **right of first offer**. THE RIGHTS OF FIRST REFUSAL AND FIRST OFFER
- 14 ESTABLISHED IN THIS PART 12 TERMINATE ON DECEMBER 31, 2029. A
- 15 RESIDENTIAL SELLER IS NOT REQUIRED TO PROVIDE NOTICES REQUIRED
- 16 PURSUANT TO THIS PART 12 AFTER DECEMBER 31, 2029, AND A LOCAL
- 17 GOVERNMENT SHALL NOT EXERCISE THE RIGHT OF FIRST REFUSAL OR THE
- 18 RIGHT OF FIRST OFFER PURSUANT TO THIS PART 12 AFTER DECEMBER 31,
- 19 2029; EXCEPT THAT, IF THE LOCAL GOVERNMENT OR ITS ASSIGNEE, HAS
- 20 EXERCISED THE RIGHT OF FIRST REFUSAL OR THE RIGHT OF FIRST OFFER
- 21 PURSUANT TO THIS PART 12 BEFORE DECEMBER 31, 2029, AND THE
- 22 PROCESS HAS NOT CONCLUDED, THEN THE PROCESS SHALL CONTINUE
- 23 UNTIL IT CONCLUDES IN ACCORDANCE WITH THIS PART 12
- 24 NOTWITHSTANDING THE TERMINATION DATE SET FORTH IN THIS SECTION.
- 25 **29-4-1208. Repeal of part.** THIS PART 12 IS REPEALED EFFECTIVE
- 26 JULY 1, 2031."."

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