

Amendment No. 99

Senate Amendment to Senate Bill No. 12	(BDR 25-372)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 12—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ADVISORY COMMITTEE ON HOUSING)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Government Affairs

SUMMARY—Requires certain notices before the termination , expiration or ending of a restriction relating to the affordability of certain housing. (BDR 25-372)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to housing; requiring an owner of certain housing that is financed by tax credits or other money provided by a government agency to provide certain notices before ~~terminating~~ the termination, expiration or ending of a restriction relating to the affordability of the housing; setting forth requirements for such notice; authorizing the Housing Division of the Department of Business and Industry to impose an administrative fine upon an owner who fails to provide ~~such~~ notice ~~of the termination or expiration of a restriction~~; authorizing the Division to prohibit an owner who terminates an affordability restriction from applying for certain tax credits; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law establishes a federal income tax credit in an amount equal to a
2 certain percentage of the costs of constructing a low-income housing project. Under existing
3 federal law, to be eligible for this credit, a certain percentage of the residential units in the
4 project are required to be subject to certain affordability restrictions that set a limit on the
5 income level of occupants of the units and restrict the amount of rent that may be charged to
6 such occupants. An owner of property that is part of the low-income housing project that
7 wishes to receive the federal low-income housing tax credit is required to enter into an
8 agreement with a housing credit agency in which the owner commits to maintain the
9 affordability restrictions on the property for a compliance period of 15 years and an additional
10 period of time of at least 15 years following the compliance period. However, existing federal
11 law authorizes an owner, after the 14th year of the compliance period, to request that the
12 housing credit agency find a buyer to purchase the property. The housing credit agency then
13 has 1 year to find a buyer for the property that will maintain the affordability restrictions. If
14 the housing credit agency does not present the owner with a qualified contract for the
15 acquisition of the property within the 1-year period, the affordability restrictions on the
16 property terminate, subject to a 3-year period in which the owner is generally prohibited from
17 raising certain rents and evicting existing tenants. (26 U.S.C. § 42) Existing state law

designates the Housing Division of the Department of Business and Industry as the housing credit agency for the State that allocates and distributes the federal low-income housing credit. (NRS 319.145)

~~[[This] Sections 3 and 4 of this bill [requires] require~~ the owner of any housing which has been financed by the federal low-income housing tax credit or any other money provided by a governmental agency and that is subject to affordability restrictions similar to those required for eligibility for the federal low-income housing tax credit to provide written notice before terminating an affordability restriction ~~[. This bill sets] or before the expiration of the affordability restriction, as applicable. Sections 3 and 4 also set~~ forth the contents for such a notice and ~~[requires] require~~ the notice to be provided to each tenant, the Division and certain other persons not less than: (1) twelve months before the owner submits a request to the Division for a qualified contract; or (2) if such a request is not applicable, 12 months before the date upon which the affordability restriction will ~~terminate. Under the provisions of this bill, an owner who fails to provide the required notice is required to extend the affordability restrictions until 12 months following the date upon which the owner does provide such notice. Additionally, this bill authorizes] expire. Sections 3 and 4 further authorize~~ the Division to: (1) impose an administrative penalty upon an owner who fails to provide the required notice; and (2) prohibit an owner who terminates an affordability restriction from applying to the Division for an allocation of federal low-income housing tax credits for a period not to exceed 5 years.

Section 5 of this bill requires an owner that will voluntarily maintain an affordability restriction on housing after the expiration of the affordability restriction to provide written notice to the Division not less than 12 months before the expiration of the affordability restriction and, thereafter, submit an annual report to the Division for as long as the owner voluntarily maintains the affordability restriction. Section 5 also requires the owner to provide written notice at least 12 months before ending the voluntary affordability restriction to the county, the city, the Division and each tenant.

Section 6 of this bill provides that the provisions of this bill apply to: (1) every owner of housing that is subject to an affordability restriction on or after October 1, 2021; and (2) every owner of housing that on October 1, 2021, has voluntarily maintained an affordability restriction after the expiration of the affordability restriction.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 319 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. As used in sections 2 to 5, inclusive, of this act, unless the context otherwise requires:

1. "Affordability restriction" means a limit on rent that an owner may charge for occupancy of a dwelling unit in a project or a limit on the income of tenants for persons or families seeking to qualify as tenants in a project.

2. "Federal low-income housing tax credit" has the meaning ascribed to it in NRS 360.863.

3. "Owner" means a person who has an ownership interest in a project.

4. "Project" means a residential housing development consisting of one or more dwelling units that:

(a) Has been financed in whole or in part by tax credits relating to low-income housing, including, without limitation, the federal low-income housing tax credit, or any other money provided by a governmental agency, for which compliance is administered by the Division; and

(b) Is subject to an affordability restriction.

5. "Qualified contract" has the meaning ascribed to it in 26 U.S.C. § 42.

1 6. "Qualified low-income housing project" has the meaning ascribed to it in
 2 26 U.S.C. § 42.

3 7. "Tenant" has the meaning ascribed to it in NRS 118A.170.

4 Sec. 3. 1. An owner who intends to terminate an affordability restriction
 5 ~~for~~ and submit a request to the Division to obtain a qualified contract for the
 6 acquisition of a project shall provide written notice to:

7 (a) The governing body of each ~~local government~~ county and, if applicable,
 8 city within which some or all of the project is located. ~~for~~

9 (b) The Division. ~~for~~

10 ~~(c) Each~~ Upon receipt of such notice, the Division shall provide written
 11 notice to each owner who has an ownership interest in a qualified low-income
 12 housing project in this State. ~~for and~~

13 ~~(d)~~ (c) Each tenant of the affected project.

14 2. The written notice required pursuant to subsection 1 must be provided ~~for~~
 15 ~~(a) If~~ by the owner ~~intends to submit a~~ not less than 12 months before the
 16 owner submits the request to the Division to obtain a qualified contract for the
 17 acquisition of the project. ~~for not less than 12 months before the owner submits~~
 18 ~~such a request or~~

19 ~~(b) If paragraph (a) is not applicable, not less than 12 months before the date~~
 20 ~~upon which the affordability restriction will be terminated, whether accomplished~~
 21 ~~by the expiration of any contract or other agreement with a governmental agency~~
 22 ~~or otherwise.~~

23 3. The written notice required to be provided to a tenant of the affected
 24 project pursuant to ~~paragraph (d) of~~ subsection 1 must include, without
 25 limitation:

26 (a) The program pursuant to which the owner is terminating the affordability
 27 restriction;

28 (b) The number of dwelling units affected by the termination;

29 (c) The anticipated date of the termination;

30 (d) A statement that the written notice is not a notice to vacate the dwelling
 31 unit and that the tenant is not required to vacate the dwelling unit;

32 (e) A description of the effects of the termination on the lease and future rent
 33 of the tenant;

34 (f) A description of the protections for tenants and resources for relocation
 35 set forth in the program pursuant to which the affordability restriction is being
 36 terminated;

37 (g) A description of the protections for tenants and the resources for
 38 relocation set forth in chapters 118, 118A and 118B of NRS;

39 (h) A description of the resources for ~~relocation~~ housing assistance in the
 40 local community; and

41 (i) The contact information of the owner of the project.

42 4. The written notice required to be provided to ~~the~~ the governing body of ~~the~~
 43 ~~local government,~~ each applicable county and city, the Division and ~~an~~ each
 44 owner who has an ownership interest in a qualified low-income housing project
 45 pursuant to ~~paragraphs (a), (b), and (c), respectively, of~~ subsection 1 must
 46 include, without limitation:

47 (a) The program pursuant to which the owner is terminating the affordability
 48 restriction;

49 (b) The number of dwelling units that will be affected by the termination;

50 (c) The anticipated date of the termination;

51 (d) Information regarding the disposition of the project after the termination
 52 of the affordability restriction, including, without limitation:

1 (1) ~~Whether~~ That the project is required to be made available for
 2 purchase; and

3 (2) ~~If the project is not required to be made available for purchase,~~
 4 ~~whether the owner intends to make the project available for purchase; and~~

5 ~~(3) If applicable, the~~ The time frame for the submission of offers to
 6 purchase the project;

7 (e) An identification of whether the owner receives a property tax exemption
 8 for the project pursuant to NRS 361.082 and whether the owner intends to
 9 maintain the exemption after the termination of the affordability restriction; and

10 (f) The contact information of the owner of the project.

11 5. After providing the written notice required pursuant to subsection 1, ~~an~~
 12 the owner who intends to terminate ~~an~~ the affordability restriction shall hold at
 13 least one meeting for tenants of the affected project to discuss the information
 14 contained in the written notice and answer any questions regarding the written
 15 notice. Notice of such meeting must be provided to each tenant of the affected
 16 project not less than 5 business days before the meeting.

17 6. ~~An owner who fails to provide the written notice required pursuant to~~
 18 ~~subsection 1 within the time specified in subsection 2 shall extend the~~
 19 ~~affordability restrictions on the project until 12 months following the date upon~~
 20 ~~which the owner ultimately provides such notice.~~

21 ~~7.~~ 7. The Division may:

22 (a) Prohibit an owner who has terminated an affordability restriction from
 23 applying to the Division to obtain an allocation of federal low-income housing
 24 tax credits for a period not to exceed 5 years.

25 (b) Impose an administrative fine of not more than \$10,000 upon an owner
 26 who fails to provide the written notice required pursuant to subsection 1. The
 27 Division may use not more than \$500 of the money collected from the imposition
 28 of the fine to cover the costs of collecting the fine.

29 ~~8.~~ 7. The Division may adopt regulations to carry out the provisions of
 30 this section.

31 ~~9. As used in this section:~~

32 ~~(a) "Affordability restriction" means a limit on rent that an owner may~~
 33 ~~charge for occupancy of a dwelling unit in a project or a limit on the income of~~
 34 ~~tenants for persons or families seeking to qualify as tenants in a project.~~

35 ~~(b) "Federal low income housing tax credit" has the meaning ascribed to it~~
 36 ~~in NRS 360.863.~~

37 ~~(c) "Owner" means a person who has an ownership interest in a project.~~

38 ~~(d) "Project" means a housing facility for residential use consisting of one or~~
 39 ~~more dwelling units that:~~

40 ~~(1) Has been financed in whole or in part by tax credits relating to low~~
 41 ~~income housing, including, without limitation, the federal low income housing~~
 42 ~~tax credit, or any other money provided by a governmental agency; and~~

43 ~~(2) Is subject to an affordability restriction.~~

44 ~~(e) "Qualified contract" has the meaning ascribed to it in 26 U.S.C. § 42.~~

45 ~~(f) "Qualified low income housing project" has the meaning ascribed to it in~~
 46 ~~26 U.S.C. § 42.~~

47 Sec. 4. 1. An owner who intends to end the affordability restriction on a
 48 project upon the expiration of the affordability restriction shall provide written
 49 notice to:

50 (a) The governing body of each county and, if applicable, city within which
 51 some or all of the project is located.

1 (b) The Division. Upon receipt of such notice, the Division shall provide
2 written notice to each owner who has an ownership interest in a qualified low-
3 income housing project in this State.

4 (c) Each tenant of the affected project.

5 2. The written notice required pursuant to subsection 1 must be provided by
6 the owner not less than 12 months before the expiration of the affordability
7 restriction. If the project is subject to affordability restrictions with different
8 expiration dates, the written notice required pursuant to subsection 1 must be
9 provided not less than 12 months before the expiration date of the affordability
10 restriction that applies to the largest percentage of dwelling units in the project
11 that are subject to affordability restrictions.

12 3. The written notice required to be provided to a tenant of the affected
13 project pursuant to subsection 1 must include, without limitation:

14 (a) The program pursuant to which the affordability restriction is expiring;

15 (b) The number of dwelling units affected by the expiration;

16 (c) The anticipated date of the expiration;

17 (d) A statement that the written notice is not a notice to vacate the dwelling
18 unit and that the tenant is not required to vacate the dwelling unit;

19 (e) A description of the effects of the expiration on the lease and future rent
20 of the tenant;

21 (f) A description of the protections for tenants and resources for relocation
22 set forth in the program pursuant to which the affordability restriction is
23 expiring;

24 (g) A description of the protections for tenants and the resources for
25 relocation set forth in chapters 118, 118A and 118B of NRS;

26 (h) A description of the resources for housing assistance in the local
27 community; and

28 (i) The contact information of the owner of the project.

29 4. The written notice required to be provided to the governing body of each
30 applicable county and city, the Division and each owner who has an ownership
31 interest in a qualified low-income housing project pursuant to subsection 1 must
32 include, without limitation:

33 (a) The program pursuant to which the affordability restriction is expiring;

34 (b) The number of dwelling units that will be affected by the expiration;

35 (c) The anticipated date of the expiration of the affordability restriction;

36 (d) Information regarding the disposition of the project after the expiration
37 of the affordability restriction, including, without limitation:

38 (1) Whether the owner intends to make the project available for
39 purchase; and

40 (2) If applicable, the time frame for the submission of offers to purchase
41 the project;

42 (e) An identification of whether the owner receives a property tax exemption
43 for the project pursuant to NRS 361.082 and whether the owner intends to
44 maintain the exemption after the expiration of the affordability restriction; and

45 (f) The contact information of the owner of the project.

46 5. After providing the written notice required pursuant to subsection 1, an
47 owner shall hold at least one meeting for tenants of the affected project to discuss
48 the information contained in the written notice and answer any questions
49 regarding the written notice. Notice of such meeting must be provided to each
50 tenant of the affected project not less than 5 business days before the meeting.

51 6. The Division may impose an administrative fine of not more than
52 \$10,000 upon an owner who fails to provide the written notice required pursuant

1 to subsection 1. The Division may use not more than \$500 of the money collected
2 from the imposition of the fine to cover the costs of collecting the fine.

3 7. The Division may adopt regulations to carry out the provisions of this
4 section.

5 Sec. 5. 1. If an owner of a project intends to maintain an affordability
6 restriction on a project after the expiration of the affordability restriction, the
7 owner must:

8 (a) Provide written notice to the Division not less than 12 months before the
9 expiration of the affordability restriction that the owner will voluntarily maintain
10 the affordability restriction after the date of expiration; and

11 (b) Submit an annual report to the Division for as long as the owner
12 voluntarily maintains the affordability restriction on the project. The annual
13 report must include, without limitation, the number of dwelling units in the
14 project on which the owner has voluntarily maintained the affordability
15 restriction.

16 2. The owner of a project that has voluntarily maintained an affordability
17 restriction on a project must provide written notice at least 12 months before
18 ending the affordability restriction to:

19 (a) The governing body of each county and, if applicable, city within which
20 some or all of the project is located.

21 (b) The Division. Upon receipt of such notice, the Division shall provide
22 written notice to each owner who has an ownership interest in a qualified low-
23 income housing project in this State.

24 (c) Each tenant of the affected project.

25 3. The written notice required to be provided to a tenant of the project
26 pursuant to subsection 2 must include, without limitation:

27 (a) The number of dwelling units affected by the owner ending the
28 affordability restriction;

29 (b) The anticipated date that the affordability restriction will end;

30 (c) A statement that the written notice is not a notice to vacate the dwelling
31 unit and that the tenant is not required to vacate the dwelling unit;

32 (d) A description of the effects of ending the affordability restriction on the
33 lease and future rent of the tenant;

34 (e) A description of the protections for tenants and resources for relocation
35 set forth in the program pursuant to which the affordability restriction is
36 expiring;

37 (f) A description of the protections for tenants and the resources for
38 relocation set forth in chapters 118, 118A and 118B of NRS;

39 (g) A description of the resources for housing assistance in the local
40 community; and

41 (h) The contact information of the owner of the project.

42 4. The written notice required to be provided to the governing body of each
43 applicable county and city, the Division and each owner who has an ownership
44 interest in a qualified low-income housing project pursuant to subsection 2 must
45 include, without limitation:

46 (a) The number of dwelling units that will be affected by the expiration;

47 (b) The anticipated date that the affordability restriction will end;

48 (c) Information regarding the disposition of the project after the ending of
49 the affordability restriction, including, without limitation:

50 (1) Whether the owner intends to make the project available for
51 purchase; and

52 (2) If applicable, the time frame for the submission of offers to purchase
53 the project;

1 (d) An identification of whether the owner receives a property tax exemption
2 for the project pursuant to NRS 361.082 and whether the owner intends to
3 maintain the exemption ending the affordability restriction; and

4 (e) The contact information of the owner of the project.
5 5. The Division may adopt regulations to carry out the provisions of this
6 section.

7 Sec. 6. 1. The provisions of sections 2 to 5, inclusive, of this act apply
8 to:

9 (a) Every owner of a project that is subject to an affordability restriction
10 on or after October 1, 2021; and

11 (b) Every owner of a project that on October 1, 2021, has voluntarily
12 maintained an affordability restriction after the expiration of the affordability
13 restriction.

14 2. As used in this section:

15 (a) "Affordability restriction" has the meaning ascribed to it in section 2
16 of this act.

17 (b) "Owner" has the meaning ascribed to it in section 2 of this act.

18 (c) "Project" has the meaning ascribed to it in section 2 of this act.