
Senate Committee on Government Affairs

This measure may be considered for action during today's work session.

SENATE BILL 12

Requires certain notices before the termination of a restriction relating to the affordability of certain housing. (BDR 25-372)

Sponsored By: Senate Committee on Government Affairs (On Behalf of the Advisory Committee on Housing)
Date Heard: March 8, 2021, and March 24, 2021
Fiscal Notes: Effect on Local Government: No.
Effect on the State: No.

Senate Bill 12 requires the owner of any housing that has been financed by the federal low-income housing tax credit or other money subject to affordability restrictions to provide certain written notice prior to terminating an affordability restriction. The bill requires the notice to be provided to each tenant, the Housing Division of the Department of Business and Industry, and certain other persons, at least 12 months before either: (1) the owner submits a request to the Division for a qualified contract; or (2) the date upon which the affordability restriction will expire. The bill also authorizes the Division to impose an administrative penalty upon an owner who fails to provide the required notice and prohibit an owner who terminates an affordability restriction from applying for an allocation of federal low-income tax credits for a period not to exceed five years.

Amendments:

1. At the initial hearing, an amendment was proposed by Senator Julia Ratti that provides:
 - An owner that will voluntarily maintain affordability restrictions on housing after the expiration shall provide written notice to the Division not less than 12 months before the expiration and, thereafter, submit an annual report to the Division for as long as the affordability restrictions are voluntarily maintained. The owner must provide written notice to the county, city, Division, and each tenant at least 12 months prior to ending the voluntary affordability restrictions; and
 - The provisions of the bill apply to every owner of housing that: (1) is subject to an affordability restriction on October 1, 2021; or (2) has voluntarily maintained affordability restrictions on October 1, 2021, after expiration of the restrictions.
2. Following the hearing, an additional amendment was proposed by Senator Julia Ratti to Section 4, subsection 2 as follows:

SB 12 Section 4, Subsection 2

The written notice required pursuant to subsection 1 must be provided by the owner not less than 12 months before the expiration of the affordability restriction. If the project is subject to affordability restrictions with different expiration dates, the written notice required pursuant to subsection 1 ~~be~~ must **be** provided not less than 12 months before the ~~latest~~ **latest** date on which an affordability restriction **for the largest percentage of the affordable units** expires.

The conceptual mock-up attached, prepared by the Legal Division, Legislative Counsel Bureau, includes all proposed amendments to the bill.

MOCK-UP

PROPOSED AMENDMENT 3134 TO SENATE BILL NO. 12

MARCH 15, 2021

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

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.

Legislative Counsel's Digest:

Existing federal law establishes a federal income tax credit in an amount equal to a certain percentage of the costs of constructing a low-income housing project. Under existing federal law, to be eligible for this credit, a certain percentage of the residential units in the project are required to be subject to certain affordability restrictions that set a limit on the income level of occupants of the units and restrict the amount of rent that may be charged to such occupants. An owner of property that is part of the low-income housing project that wishes to receive the federal low-income housing tax credit is required to enter into an agreement with a housing credit agency in which the owner commits to maintain the affordability restrictions on the property for a compliance period of 15 years and an additional period of time of at least 15 years following the compliance period. However, existing federal law authorizes an owner, after the 14th year of the compliance period, to request that the housing credit agency find a buyer to purchase the property. The housing credit agency then has 1 year to find a buyer for the property that will maintain the affordability restrictions. If the housing credit agency does not present the owner with a qualified contract for the acquisition of the property within the 1-year period, the affordability restrictions on the property terminate, subject to a 3-year period in which the owner is generally prohibited from 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** 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 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 affordability restrictions on housing after the expiration of the restrictions to provide written notice to the Division not less than 12 months before the expiration and, thereafter, submit an annual report to the Division for as long as the owner voluntarily maintains the affordability restrictions. Section 5 also requires the owner to provide written notice at least 12 months before ending the voluntary affordability restrictions to the county, 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 October 1, 2021; and (2) every owner of housing that on October 1, 2021, has voluntarily maintained affordability restrictions after the expiration of the affordability restrictions.

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 ~~the provisions set forth as sections 2 to 5, inclusive, of this act.~~ ~~the provisions set forth as sections 2 to 5, inclusive, of this act.~~ 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:

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.

1 5. "Qualified contract" has the meaning ascribed to it in 26 U.S.C.
2 § 42.

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

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

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

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

11 (b) The Division . ~~f~~

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

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

16 2. The written notice required pursuant to subsection 1 must be
17 provided ~~f~~

18 ~~—(a) If~~ by the owner ~~intends to submit a~~ not less than 12 months
19 before the owner submits the request to the Division to obtain a qualified
20 contract for the acquisition of the project . ~~f~~ not less than 12 months
21 before the owner submits such a request, or

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

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

29 (a) The program pursuant to which the owner is terminating the
30 affordability restriction;

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

32 (c) The anticipated date of the termination;

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

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

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

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

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

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

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

6 (a) The program pursuant to which the owner is terminating the
7 affordability restriction;

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

10 (c) The anticipated date of the termination;

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

13 (1) ~~[Whether]~~ That the project is required to be made available for
14 purchase; and

15 (2) ~~[If the project is not required to be made available for~~
16 ~~purchase, whether the owner intends to make the project available for~~
17 ~~purchase; and~~

18 ~~—(3) If applicable, the]~~ The time frame for the submission of offers
19 to purchase the project;

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

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

25 5. After providing the written notice required pursuant to subsection
26 1, ~~[an]~~ the owner who intends to terminate an affordability restriction
27 shall hold at least one meeting for tenants of the affected project to
28 discuss the information contained in the written notice and answer any
29 questions regarding the written notice. Notice of such meeting must be
30 provided to each tenant of the affected project not less than 5 business
31 days before the meeting.

32 6. ~~[An owner who fails to provide the written notice required~~
33 ~~pursuant to subsection 1 within the time specified in subsection 2 shall~~
34 ~~extend the affordability restrictions on the project until 12 months~~
35 ~~following the date upon which the owner ultimately provides such notice.~~
36 ~~—7.]~~ The Division may:

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

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

~~1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~32~~ ~~33~~ ~~34~~ ~~35~~ ~~36~~ ~~37~~ ~~38~~ ~~39~~ ~~40~~ ~~41~~ ~~42~~ ~~43~~ ~~44~~ ~~45~~

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

~~19. As used in this section:~~

~~(a) "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.~~

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

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

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

~~(1) 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; and~~

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

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

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

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

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

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

(c) Each tenant of the project.

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

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

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

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

(c) The anticipated date of the expiration;

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

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

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

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

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

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

14 4. The written notice required to be provided to a governing body of
15 the county, the city, the Division and an owner who has an ownership
16 interest in a qualified low-income housing project pursuant to subsection
17 1 must include, without limitation:

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

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

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

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

26 (1) Whether the owner intends to make the project available for
27 purchase; and

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

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

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

35 5. After providing the written notice required pursuant to subsection
36 1, an owner shall hold at least one meeting for tenants of the affected
37 project to discuss the information contained in the written notice and
38 answer any questions regarding the written notice. Notice of such
39 meeting must be provided to each tenant of the affected project not less
40 than 5 business days before the meeting.

41 6. The Division may impose an administrative fine of not more than
42 \$10,000 upon an owner who fails to provide the written notice required
43 pursuant to subsection 1. The Division may use not more than \$500 of
44 the money collected from the imposition of the fine to cover the costs of
45 collecting the fine.

1 7. The Division may adopt regulations to carry out the provisions of
2 this section.

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

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

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

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

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

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

23 (c) Each tenant of the project.

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

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

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

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

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

34 (e) A description of the protections for tenants and resources for
35 relocation set forth in the program pursuant to which the affordability
36 restriction is 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 a governing body of
43 the county, the city, the Division and an owner who has an ownership
44 interest in a qualified low-income housing project pursuant to subsection
45 1 must include, without limitation:

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

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

4 (c) Information regarding the disposition of the project after the
5 expiration of the affordability restriction, including, without limitation:

6 (1) Whether the owner intends to make the project available for
7 purchase; and

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

10 (d) An identification of whether the owner receives a property tax
11 exemption for the project pursuant to NRS 361.082 and whether the
12 owner intends to maintain the exemption after the expiration of the
13 affordability restriction; and

14 (e) The contact information of the owner of the project.

15 5. The Division may adopt regulations to carry out the provisions of
16 this section.

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

19 (a) Every owner of a project that is subject to an affordability
20 restriction on October 1, 2021; and

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

24 2 As used in this section:

25 (a) “Affordability restriction” has the meaning ascribed to it in
26 section 1 of this act.

27 (b) “Owner” has the meaning ascribed to it in section 1 of this act.

28 (c) “Project” has the meaning ascribed to it in section 1 of this act.
29

30

H