

## Legislation Text

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**File #:** 190860-A, **Version:** 21

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Amending Title 7 of The Philadelphia Code, entitled “Housing Code,” by adding a new Chapter 7-200, entitled “Preservation of Affordable Housing;” all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 7 of The Philadelphia Code is hereby amended to read as follows:

### TITLE 7. HOUSING CODE

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#### *CHAPTER 7-200. PRESERVATION OF AFFORDABLE HOUSING*

##### **§ 7-201. Purpose.**

The purpose of this Chapter 7-200 is to preserve and retain as a long-term resource, privately-owned, federally-assisted affordable rental housing for low- and moderate-income households.

##### **§ 7-202. Definitions.**

**In this Chapter 7-200, the following definitions apply:**

(1) **Affordable Housing Property.**

Any building or substantially-related buildings under common ownership containing 4 or more dwelling units leased or intended to be leased to households for occupancy as their primary residences, where one or more of the following conditions apply:

(a) Tenants receive a federal housing subsidy pursuant to 42 U.S.C. § 1437f that is not a tenant-based subsidy;

(b) A loan financing the property is insured or assisted under § 221(d)(3), § 202, or § 236(a) or (b) of the National Housing Act, 12 U.S.C. § 1701q, § 1715l(d)(3), or § 1715z-1, or § 515 of the Housing Act of 1949, 42 U.S.C. § 1485; 42 U.S.C. § 5301 et seq.; or 42 U.S.C. § 12722 et seq; or

(c) The property is subject to a Low-Income Housing Tax Credit use agreement pursuant to 26 U.S.C. § 42.

(2) **Bona-fide Offer.**

An offer evidenced by a purchase contract reflecting a sales price equal to or more than the appraised

value prepared by a certified appraiser, and an earnest money deposit equal to at least 5% of the sales price as identified in the purchase contract.

(3) Certified Appraiser.

A licensed real estate appraiser who is a Member of the Appraisal Institute or who meets standards comparable to those imposed by the Appraisal Institute; and who is experienced in determining the appraised value of multifamily real estate.

(4) Department.

The Department of Planning and Development.

(5) Eligible Party.

An entity that has met qualifications established by the Department or its designee. Such qualifications may include, but shall not be limited to, the ability to finance the purchase, improvements and long-term maintenance of the property without reliance on City-administered funds, consent to long-term affordability of the property upon purchase, development expertise, knowledge of development process.

(6) Long Term Affordability Indenture.

A deed restriction against the property, executed and recorded by the owner and approved as to form by the Law Department, which requires the property be maintained as affordable (using the same standard and remaining duration of affordability as the program under which the property qualifies as an Affordable Housing Property) and allows the City to inspect for, or demand proof of, continued compliance with this requirement. Where a property qualifies as an Affordable Housing Property under multiple programs, the terms of the program with the restrictions that are longest in duration shall be used for the Long Term Affordability Indenture.

(7) Matched Agreement of Sale.

An agreement of sale between an owner and an eligible party made to substantially match the terms of an offer from an entity other than an eligible party.

(8) Notice of Intent

A notice of intent to take a protected action as defined below; or to *sell, convey, or otherwise transfer an affordable housing property under the conditions of § 7-203(5).*

(9) Owner.

*A person or legal entity that holds legal title to an affordable housing property or any mortgagee in possession, receiver, trustee, or other person that may take a protected action.*

(10) Protected Action

*An action taken by an owner that includes one or more of the following:*

*(a) The prepayment in full before the maturity date of mortgage financing, if the prepayment would have the effect of removing the affordability restrictions applicable to the Affordable Housing Property, and the financing is:*

*(.1) Insured under § 221(d)(3) of the National Housing Act, 12 U.S.C. § 1715l(d)(3), and*

*assisted under either § 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. § 1701s, or under § 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f;*

*(.2) Insured under § 221(d)(3) of the National Housing Act, 12 U.S.C. § 1715l(d)(3), and bears interest at a rate determined under § 221(d)(5) of the National Housing Act;*

*(.3) Insured or assisted under § 202 or § 236(a) or (b) of the National Housing Act, 12 U.S.C. § 1701q or 12 U.S.C. § 1715z-1(a) or (b);*

*(.4) Insured or assisted under § 515 of the Housing Act of 1949, 42 U.S.C. § 1485; or*

*(.5) Held by the United States Department of Housing and Urban Development and either currently or formerly insured or assisted, as an affordable housing property.*

*(b) The expiration, termination before expiration, or failure to exercise any renewal option, under an agreement providing for project-based rental assistance for any units in an affordable housing property under § 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f; or*

*(c) The expiration or termination of affordability and use restrictions in the Low- Income Housing Tax Credit use agreement pursuant to 26 U.S.C. § 42.*

#### **§ 7-203. Notice Requirements.**

(1) Owners of affordable housing properties shall provide to each of the following at least 12-months' written notice of their intent to take a protected action to:

(a) The Director of Planning and Development;and

(b) The City Councilmember for the Council district in which the affordable housing property is located.

(2) This notice shall include:

(a) The address of the affordable housing property;

(b) The name, address, and phone number of the owner;

(c) The name, address, phone number, and email address of the owner's designated contact person; and

(d) A description of the protected action to be taken and its intended date.

(3) The notice shall be in writing and mailed by certified mail, return receipt requested.

(4) This notice shall be in addition to, and not in lieu of, any other notices required by law.

(5) Owners of affordable housing properties shall provide to each of the parties named in § 7-203(1) at least 130-days' written notice of their intent to sell, convey, or otherwise transfer an affordable housing property, except if

(a) The owner of the affordable housing property has already provided, within the previous 12 months, a notice of intent to take a protected action for that property; or

(b) The recipient of the property sale, conveyance, or transfer records a Long Term Affordability Indenture.

(6) Within two weeks of receipt of notice of intent to foreclose by a government or private lender, owners of Affordable Housing Properties shall provide to each of the parties named in § 7-203(1) notice that meets the conditions of § 7-203(2) and § 7-203(3).

#### **§ 7-204. Penalties.**

*(1) Any violation of this section shall result in the City recording a lis pendens against title, preventing sale until all applicable requirements of this Chapter are satisfied.*

*(2) Any owner who violates this section shall be fined not less than \$200 nor more than \$2,000 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.*

*(3) Any tenant or eligible applicant for tenancy, or the City, may enforce the provisions of this section by means of a civil action in which the court may provide injunctive relief and the plaintiff's court costs and reasonable attorney fees.*

*(4) The penalties and remedies provided in this section shall be in addition to any other penalty or remedy provided by law.*

SECTION 2. This Ordinance shall be effective July 1, 2020.