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Legislation Text

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Committee on Housing

AFFORDABLE HOUSING PRESERVATION ACT ORDINANCE

WHEREAS, The City of Chicago (the "City") is a home rule unit of government pursuant to Article VI, Section 6(a) of the 1970 State of Illinois Constitution and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, The City has determined that a shortage of affordable housing available to low- and moderate-income households is harmful to the health, prosperity, economic stability and general welfare of the City; and

WHEREAS, The City's current Five-Year Housing Plan (2019-2023) recognizes that most of the City's existing affordable housing is in unsubsidized, naturally occurring housing, often in the form of older 2- and 4-flats and smaller multi-family residential buildings; and

WHEREAS, Protecting such naturally occurring affordable housing is critical to protecting vulnerable households from displacement; and

WHEREAS, Many areas in the City are experiencing high levels of gentrification and displacement of vulnerable households; and

WHEREAS, experts believe that there is a need for approximately 120,000 units of affordable housing making any loss of affordable housing catastrophic; and

WHEREAS, the area adjacent to the Red Line Modernization between Wilson and Bryn Mawr is experiencing a significant change due to a major public investment in transit infrastructure, and

WHEREAS, the community area of Pilsen, the area along 606 Trail, the Woodlawn Community Area, and the area around the Obama Center have been part of successful deconversion pilots

WHEREAS, It is in the public interest to protect vulnerable households throughout Chicago from displacement by assessing a surcharge on demolitions of dwelling units within the boundaries defined in Sections 17-7-580 and 17-7-590 of the Municipal Code of Chicago; and

WHEREAS, This surcharge is authorized under the City's home rule powers, as well as the Illinois Municipal Code, 65 ILCS 5/1 1-42-1, now, therefore,
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are incorporated herein and made a part of this ordinance, which shall be known as the Deconversion Vacancies Act.

SECTION 2. Chapter 2-44 of the Municipal Code of Chicago is hereby amended by inserting a new Section as follows:

Demolition Permit Surcharge Ordinance.

(a) Title. This section shall be known as the Citywide Demolition Permit Surcharge Ordinance. The surcharge imposed by this section shall be known as the Demolition Permit Surcharge and is imposed in addition to all other fees, surcharges and taxes imposed by the City of Chicago, the State of Illinois or any other municipal corporation or political subdivision of the State of Illinois.

(b) Definitions. As used in this section:

"Area Median Income" has the meaning ascribed to that term in Section 2-44-080(B).

"Building " has the meaning ascribed to that term in Section 17-17-0223.

"CCLT" means the Chicago Community Land Trust, as defined in Section 2-44-080(B).

"Demolition" means any activity requiring a permit pursuant to Section 14A-4-407.

"Demolition Permit Surcharge" or "surcharge" means the Demolition Permit Surcharge established under subsection (c) of this section. .

"Detached house " has the meaning ascribed to that term in Section 17-17-0246.

"Dwelling unit" has the meaning ascribed to that term in Section 17-17-0248.

"Multi-unit residential" has the meaning ascribed to that term in Section 17-17-0299.

"Permit" has the meaning ascribed to that term in Section 14A-2-202.

"Covered area" means all parcels within City Limits.

"Two-flat" has the meaning ascribed to that term in Section 17-17-021 84.

(g) The Affordable Housing Preservation Fund. The Department of Housing shall establish the Affordable Housing Preservation Fund (AHPF), supported by the fees and penalties collected under this Section and the Vacant Homes Penalty Ordinance. Funds deposited in the AHPF shall be used to provide financial support in the form of grants and zero-interest loans to tenant associations seeking to exercise their right of first refusal, under Section 4 (f) of the Tenant Opportunity To Purchase Ordinance. Third parties working in conjunction with a tenant association or to whom a tenant association has assigned its right of first refusal may submit applications for financial assistance to the AHPF.

(1) Transparency in Source and Use of Funds. The Department of Housing shall collect and make publicly available information about all deposits made into and any grants or loans dispersed out of the AHPF. The data collected pursuant to this section shall be made publicly available in the form of a searchable and exportable database.

a. The information collected from developers and property owners shall include, but is not limited to:

- i. The name of the property owner or developer paying the demolition permit surcharge or vacancy penalty;
 - ii. The address of the property subject to the demolition permit surcharge or vacancy penalty;
 - iii. The amount of the surcharge or penalty collected;
- b. The information collected from entities receiving AHPF grants and loans shall include, but is not limited to:
 - i. The name of the entity receiving the grant or loan;
 - ii. Whether the recipient is a tenant association, third-party working in conjunction with a tenant association, or a third-party assignee;
 - iii. The address of the property where the tenant association or third-party assignee is exercising its right of first refusal;
 - iv. The amount of the grant or loan;

(2) Rules. The Commissioner is authorized to promulgate rules necessary or appropriate to implement this section. The Commissioner shall develop and publish for public comment proposed regulations implementing this chapter within 90 days of enactment of this Ordinance. The public comment period shall last no more than 30 days. The Commissioner shall finalize the regulations implementing this chapter within 60 days of the end of the public comment period.

(3) Application of Uniform Revenue Procedures Ordinance. Whenever not inconsistent with the provisions of this section or whenever this section is silent, the provisions of the Uniform Revenue Procedures Ordinance, Chapter 3-4 of this Code shall apply and supplement this section.

SECTION 3. VACANCY PENALTY.

(a) Title. This section shall be known as the Citywide Vacant Homes Penalty Ordinance. The fee imposed by this section shall be known as the Vacancy Penalty and is imposed in addition to all other fees, surcharges and taxes imposed by the City of Chicago, the State of Illinois or any other municipal corporation or political subdivision of the State of Illinois.

(b) Definitions

(1) "Calendar Year" refers to the twelve-month period from January 1 through December 31 pursuant to which the City will determine whether any parcel, property, or unit is subject to the penalty.

(2) "City" means the City of Chicago.

(3) "Commission" means the Commission on Homelessness authorized by this Chapter.

(4) "County" means Cook County.

(5) "Very Low Income" means the owner's combined family income for the relevant calendar year is equal to or less than the United States Department of Housing and Urban Development "Very Low Income Limit" for the Oakland-Fremont, CA HUD Metro FMR Area.

(6) "Active Construction" means the owner held, for at least fifty (50) days during the relevant calendar

year, a valid and active building permit for the subject parcel.

- (7) "Active Building Permit Application" means during or previous to the relevant calendar year, the owner submitted a building permit application to the City and the total number of days during which the application was pending plus any number of days after the application was approved but before the end of the relevant calendar year was at least fifty (50) days.
- (8) "Low Income Seniors" means the owner is at least sixty-five (65) years of age or older and their combined family income for the relevant calendar year is equal to or less than the United States Department of Housing and Urban Development "Low Income Limit" for the Oakland-Fremont, CA HUD Metro FMR Area.
- (c) Demolition Permit Surcharge imposed. Pursuant to 65 ILCS 5/1 1-42-1, the following Demolition Permit Surcharge is hereby imposed on the issuance of any permit for demolition that includes one or more dwelling units located in either of the pilot areas, except as otherwise provided in subsection (e):
- (1) \$25,000 for the demolition of a detached house, townhouse, or two-flat;
 - (2) \$15,000 per dwelling unit for the demolition of a multi-unit residential building of 6 units or less; or
 - (3) \$10,000 per dwelling unit for the demolition of a multi-unit residential building of 6 units or more.
- (d) Payment. Prior to the issuance of any permit for demolition of any building subject to the Demolition Permit Surcharge, the applicant, who shall be a demolition contractor, shall pay to the Department of Finance an amount equal to the surcharge required under subsection (c) of this section. No permit for demolition of any building subject to such surcharge shall be issued by the Department of Buildings until: (i) the applicant for such permit provides the Department of Housing with a copy of the receipt of payment issued by the Department of Finance showing that the surcharge has been paid; and (ii) the Department of Housing provides written notification of such fact to the Department of Buildings.
- (e) Exemptions. The surcharge required under this section shall not apply if:
- (1) At least 50% of the dwelling units in any building replacing the building subject to subsection (c) will be restricted to households earning up to 60% of the Area Median Income, as evidenced by documentation required by the Department of Housing; or
 - (2) The building is a participant in and recommended for demolition by the Troubled Building Initiative (TBI) Program after having been deemed ineligible for Community Investment Corporation (CIC) or other rehabilitation funding.
- (f) Deposit and use of revenue. The revenue generated by the surcharge shall be deposited in a newly created Affordable Housing Preservation Fund (AHPF) described in Section 2-44-080(G) unless such revenue is required to be deposited into another fund pursuant to federal or state law. Such revenue shall be reserved and utilized to pay the administrative costs and expenses of implementing this section and, after subtracting such costs and expenses, transferred by the Department of Housing to the AHPF.
- (9) "Non-profit organization" means the Owner was, for at least one hundred and eighty (180) days during the relevant calendar year, a lawfully functioning organization pursuant to Internal Revenue Code Section 501(c)(3).

- (10) "Substantially Complete Application for Planning Approvals" means the owner held a notice from the City stating that an application for planning approvals with respect to the subject property was complete and such application remained pending for at least fifty (50) days during the relevant calendar year. After an application for planning approvals is approved for a subject parcel, the owner may apply for an administrative two-year exemption, exempting the subject property from being deemed vacant for the calendar year during which the application for planning approvals was approved and for the following calendar year.
- (11) "Owner" means the owner or owners of the real property located within the City of Chicago as of the first day of January following the calendar year pursuant to which a property is deemed to be vacant or not vacant. For the purposes of applying any exemptions defined in subsection (h), the owner shall not be exempt from the penalty unless each person or entity that owns a portion of the real property can separately demonstrate that they are entitled to an exemption.
- (12) "Parcel" shall mean a unit of real property in the City of Chicago as shown on the most current official assessment role of the Cook County Assessor.
- (13) "Residential Parcel" means all parcels that are improved with one (1) or more residential units; or undeveloped parcels that are zoned for residential use.
- (14) "Residential Unit" means a building or structure, or portion thereof, designed for or occupied exclusively by one (1) household, including related persons who live together and maintain a common household.
- (15) "Single-family residential parcel" means all parcels which are improved with only (1) residential unit.
- (c) Determination of vacancy.

(1) For the purposes of this Section, a parcel of residential real property shall be deemed "vacant" and subject to the fee imposed by Section 3(d) below if the parcel is any of the following:

- a. A residential parcel of land, whether undeveloped or improved with one (1) or more residential units, including multifamily residential units, that is in use for less than fifty (50) days during the calendar year.
 - i. For residential parcels with multiple units, the parcel is not vacant if any unit on it is not vacant.
- b. A condominium or townhouse unit, under separate ownership, that is in use less than fifty (50) days during a calendar year.
- c. A mixed-use parcel, whether undeveloped or improved with at least one (1) residential unit, that is in use for less than fifty (50) days during the calendar year.

(d) "In Use" Determinations.

(1) For the purpose of making a determination of vacancy pursuant to Section 3(c), the following functions or operations are considered "in use:"

- a. Physical occupancy of a residential parcel, condominium, or townhouse unit by a lawful inhabitant.
- b. Maintenance of an undeveloped parcel that is contiguous or within five hundred (500) feet of

an occupied residential parcel owned by the same owner.

- c. Ingress or egress of persons or vehicles across substantially all of the parcel.
- d. Other functions or operations as the Department of Housing may deem appropriate.

(e) Method for identifying vacancy status.

- (1) Initial Determination. The Department of Housing may develop administrative methods appropriate to identify, based on objective, available data, properties that are most likely to be vacant, and not exempt from the fee, pursuant to Section 3(c). The Department of Housing may send initial determination notices for the properties that it determines are most likely to be vacant.
- (2) Petition of Vacancy. Upon receiving an initial determination notice pursuant to Subsection 3(e)(1), an owner may, within sixty (60) days of service of the notice, file a petition of vacancy. The petition of vacancy must be submitted in a form and manner determined by the Department of Housing and include appropriate evidence demonstrating that the property was not vacant pursuant to Section 3(c) or was entitled to an exemption. Such evidence may include sworn statements, pictures, utility records, and any records necessary to demonstrate entitlement to an exemption.
- (3) Decision on Vacancy. Upon receiving a petition of vacancy pursuant to Subsection 3(e)(2), the Department of Housing may request further evidence or clarification and shall issue a decision.
- (4) No Waiver. Nothing in the section may be interpreted as waiving an owner's obligation to pay the penalty if they do not receive a notice pursuant to this Section.

(f) Imposition of vacancy penalty on vacant residential property.

- (1) A fee in the amounts set forth below is hereby imposed on every vacant residential parcel of real property within the City, other than those exempted, as described in subsection (h) below.
- (2) Fee Schedule.
 - a. Undeveloped Vacant lot: 1% of assessed value.
 - b. Condominium or townhouse unit, under separate ownership: 1% of assessed value.
 - c. Mixed-use parcel with one or more residential units: 1% of assessed value.
 - d. Residential parcel with 2-4 Units: 3% of assessed value.
 - e. Residential parcel with 5-10 Units: 3% of assessed value.
 - f. Residential parcel with 10-50 Units: 5% of assessed value.
 - g. Residential parcel with more than 50 Units: 7% of assessed value.

(g) Deposit and use of revenue.

- (1) The revenue generated by the vacancy fee shall be deposited in a newly created Affordable Housing Preservation Fund (AHPF) described in Section 2(g) unless such revenue is required to be deposited into another fund pursuant to federal or state law. Such revenue shall be reserved and utilized to pay the administrative costs and expenses of implementing this section and, after subtracting such costs and expenses, transferred by the Department of Housing to the AHPF.

(h) Exemptions.

(1) The following owners and units shall be exempt from the fee imposed by this Section:

- a. An owner who qualifies as very low income, as the term "very low income" as defined by the United States Department of Housing and Urban Development.
- b. An owner who can demonstrate physical or legal limitations that prevent the owner from building on the property.
- c. An owner:
 - i. Who is sixty-five (65) years of age or older; and
 - ii. Who qualifies as "low income," as the term "low income" is defined by the United States Department of Housing and Urban Development.
- d. An owner who, regardless of age:
 - i. Receives supplemental security income for a disability; or
 - ii. Social security disability insurance benefits, regardless of age and whose yearly income does not exceed two hundred fifty (250) percent of the 2012 federal poverty guidelines issued by the United States Department of Health and Human Services.
- e. An owner that is a non-profit organization or entity owned or controlled by a non-profit organization.
- f. An owner of a property that is under active construction or renovation. To qualify for this exemption, an owner must call for inspections of the construction with sufficient frequency to keep the building permit or permits active.
- g. An owner of property for which an active building permit application is being processed by the City.
- h. An owner of a parcel included in a substantially complete application for planning approvals that has not yet received approval. An owner of a parcel for which a project with development entitlements have been approved but needing time for completion may apply for and receive an administrative two-year exemption.
- i. An owner who is in the process of ownership transfer.
- j. An owner who is actively marketing the unit in good faith for lease or sale.
- k. An owner who is recently deceased, in a hospital or supportive care facility, in the military or a service program, or taking an extended vacation but has demonstrated an intent to return to the residence.

(2) The Department of Housing or its Designee shall establish the procedures and guidelines for owners to apply for, and be granted, the exemptions identified in this Section. Owners who claim an exemption may be required to submit information annually to substantiate their continuing qualification for the exemption.

(i) Appeal process.

- (1) Request for Hearing. Following the issuance of a decision on vacancy pursuant to Section 3(e)(3), an owner may, within twenty (20) days of service of such decision on vacancy, file a petition and request an appeal hearing before a hearing officer. Upon such request, the Department of Housing shall appoint an independent hearing officer.
 - (2) Pre-Hearing Procedure. Prior to the hearing, the hearing officer may receive supplemental materials and evidence from the petitioner and the City. As soon as practical, the hearing officer shall set a deadline to receive any supplemental materials and evidence and shall set a hearing date.
 - (3) Hearing Procedure. Formal rules of evidence shall not apply to the conduct of the hearing. The hearing officer shall have the authority and discretion to permit examination of witnesses. Any party to a hearing may be assisted by a representative, including an attorney.
 - (4) Decision Following Hearing. As soon as practical following the hearing, the hearing officer shall issue a written decision regarding the vacancy status of the subject property. In the discretion of the hearing officer, the decision may, but is not required to, include findings of fact. The hearing officer's decision shall be considered final on the day it is executed by the hearing officer.
 - (5) Further Action. After the hearing officer issues a final decision, any party may seek further appropriate relief from the circuit court. Any person whose complaint, claim, or petition may be resolved by employing the administrative remedies provided in Sections Section 3(e)(3), or Section 3(i), must exhaust those remedies before filing any suit.
- (j) Administrative regulations and delegation.
- (1) The Department of Housing is authorized to adopt rules and regulations consistent with this Section as needed to implement this Chapter, subject to the review and approval of the Law Department, and to develop all related forms and/or other materials and take other steps as needed to implement this Section, and make such interpretations of this Section as they may consider necessary to achieve the purposes of this Section.
 - (2) The Department of Housing may delegate any authority within their discretion pursuant to this Section as the deem reasonably necessary.

SECTION 4. TENANT OPPORTUNITY TO PURCHASE

- (a) Title, purpose and scope. This chapter shall be known and may be cited as the "Tenant Opportunity to Purchase Ordinance," and shall be liberally construed and applied to promote its purposes and policies. It is the purpose of this chapter and the policy of the city, in order to protect and promote the public health, safety and welfare of its residents, to empower tenants to purchase multi-family rental properties, at market prices, within a reasonable period of time and to thereby minimize tenant displacement, stabilize households facing displacement pressures and promote the preservation of affordable rental housing in neighborhoods at risk of gentrification.
- (b) Definitions. For purposes of this chapter, the following definitions apply:

"Affordability preservation agreement" means an agreement between the owner and a tenant association (i) in which the tenant association agrees to maintain the rental property in a manner that preserves the property's existing affordability restrictions, or (ii) that would qualify the property as affordable housing, and (iii) in which the affordability restrictions set forth in the agreement are memorialized in covenants running with the land, in a form approved by the commissioner, enforceable by the city as a third party beneficiary. The affordability

restrictions in each affordability preservation agreement shall extend for a period of not less than thirty (30) years from the sale, subject to such exceptions as the commissioner may provide for by rule issued hereunder.

"Affordability restrictions" means limits on rents and income for persons or families seeking to qualify as tenants in the rental property.

"Affordable housing" means that the mean value of all rents paid by tenants in the rental property shall not exceed 60% of area median income, and that the gross household income of new tenants in the rental property shall not exceed 80% of area median income.

"Commissioner" means the commissioner of the department.

"Department" means the department of housing or any successor agency.

"Rental unit" or "unit" means a room or suite of rooms designed, occupied or intended for occupancy as a separate living quarter with cooking, sleeping and sanitary facilities provided within the unit for the exclusive use of the occupants of the unit.

"Just cause eviction" means any eviction for serious or repeated violations of the terms and conditions of a lease or occupancy agreement, or for violation of applicable federal, state or local laws or for other good cause.

"Owner" means the person(s), firm, partnership, corporation, trust, organization, limited liability company or other entity, or its successors or assigns, that holds title to a rental property.

"Purchaser" means a party who has entered into a purchase contract with an owner and who will, upon performance of the purchase contract, become the new owner of the rental property.

"Rental property" means any occupied residential rental building, or a group of residential rental buildings operated as one entity, within the City of Chicago, with a total of 10 or more dwelling units. Rental property does not include:

- (1) "assisted housing" or an "assisted housing development" or a "development," as those terms are defined in the City of Chicago Affordable Housing Preservation Ordinance;
- (2) housing accommodations in any hospital, convent, monastery, extended care facility, asylum or not-for-profit home for the aged, temporary overnight shelter, transitional shelter, or in a dormitory owned and operated by an elementary school, high school or institution of higher learning; student housing accommodations wherein a housing agreement or housing contract is entered into between the student and an institution of higher learning or student housing wherein the institution exercises control or supervision of the students; or student housing owned and operated by a tax exempt organization affiliated with an institution of higher learning;
- (3) public housing units managed by the Chicago Housing Authority;
- (4) owner-occupied buildings containing 9 units or less.

"Sale" or "sell" means an act by which an owner conveys, transfers or disposes of rental property by deed or otherwise, whether through a single transaction or a series of transactions, including: (i) transfer of title to rental property; (ii) transfer of a majority interest in owner; or (iii) lease of rental property for more than 7 years.

"Tenant" means a natural person entitled by written or oral agreement or by sufferance to occupy a rental unit to the exclusion of others, and who is residing in a rental unit at the time of a notification under Section 4(f)(1). If more than one tenant is listed on a lease any such tenants may exercise the rights granted under this chapter.

"Tenant association" means an association of tenants, whether incorporated or not, for which written consent to

forming a tenant association has been given by tenants representing more than 50% of the occupied units in the rental property, and which association notifies the owner of the rental property and the department of its existence or establishment prior to the expiration of the 90-day period stated in subsection Section 4(f)(2) and has provided to the owner and the 10 department the names, addresses and telephone numbers of at least two of the officers or representatives of such association. The percentage shall be calculated based on the number of occupied rental units in a rental property rather than the number of individuals listed on leases as tenants. Tenants agreeing to participate in a tenant association shall signify their consent to form a tenant association by signing a form provided by the department. Any reference to a "tenant association" in this chapter shall be deemed to include any third party or assignee under section 4(h).

"Third party purchase agreement" means an arm's length third-party agreement whereby an owner agrees to sell a rental property, including, without limitation, a purchase and sale agreement, contract of sale, purchase option or other similar instrument.

"Title" means a legal or equitable ownership interest in a rental property; or a legal, equitable, or beneficial interest in a partnership, limited partnership, corporation, trust or other entity that has a legal or equitable ownership interest in a rental property.

- (c) Right of First Refusal Conferred. This chapter shall be construed to confer upon each tenant association a right of first refusal to purchase any rental property for sale in the City of Chicago upon the terms set forth herein.
- (d) Exceptions. The requirements of this chapter shall not apply to the transfers identified below, but shall apply to any subsequent transfer to a non-exempt party:
- (1) a transfer of legal title or an interest in an entity holding legal title to a rental property pursuant to a deed of trust or mortgage, and thereafter any transfer by foreclosure sale or deed in lieu of foreclosure pursuant to a deed of trust or mortgage to an entity not affiliated with the owner; or
 - (2) a transfer made in connection with any bankruptcy proceeding (including, but not limited to, any transfer made by a bankruptcy trustee); or
 - (3) a tax sale or transfer pursuant to tax foreclosure; or
 - (4) a transfer by devise or intestacy, or any other transfer made in connection with a bona fide effort to pass an interest in real property to one's devisees or heirs (including, but not limited to, such transfers made in connection with a living trust); or
 - (5) a transfer between or among spouses, domestic partners, siblings (including, but not limited to, half-siblings, step-siblings, and adoptive siblings), parents (including, but not limited to, step-parents and adoptive parents) or guardians and their children, grandparents and their grandchildren, aunts or uncles and their nieces or nephews, great-aunts or great-uncles and their grand-nieces or grand-nephews, or first cousins, or any combination thereof; or
 - (6) a transfer of bare legal title into a revocable trust, without actual consideration for the transfer, where the transferor is the current beneficiary of the trust; or
 - (7) a transfer to a named beneficiary of a revocable trust by reason of the death of the grantor of the revocable trust; or
 - (8) a transfer by the trustee of a revocable trust if the transfer would otherwise be excluded under this chapter if made by the grantor of the revocable trust; or
 - (9) a transfer pursuant to court order or court-approved settlement; or
 - (10) a transfer by eminent domain or negotiated purchase under threat of eminent domain; or

- (11) a transfer directly caused by a change in the form of the entity owning the rental property, provided that the transfer is without consideration.

(e) Notice of Intent to Sell.

- (1) Notice Prior to Listing Required. No less than 30 days prior to listing or otherwise offering a rental property for sale, the owner shall provide notice to the tenant association, or if no tenant association exists, to each tenant, and to the department, of the owner's intent to sell. The notice required by this subsection shall be delivered in person or mailed, by certified or registered mail, return receipt requested, on a form provided by the department, and shall contain the following information:

- a. the name, address and telephone number of each owner of the rental property;
- b. the address of the rental property;
- c. a description of the rental property, including the number of units and the number of bedrooms within each unit;
- d. the proposed asking price for the rental property;
- e. a statement that the owner intends to sell the rental property; and
- f. a summary of tenant rights under this chapter.

- (2) The owner shall also post a notice of intent to sell in a form provided by the department at all public entrances to the rental property. The owner shall keep all return receipts required by subsection 4(e)(1) for a period of three years after the sale of the rental property, and make such receipts available for inspection by the commissioner at all times during the owner's business hours.

- (3) Additional Disclosures. The tenant association, or if no tenant association exists, any tenant in the rental property, or the department, may in writing, at any time after receipt of the owner's notice of intent to sell, request the following additional information:

- a. the most recent rent roll, including each unit number and the monthly rent charged for each unit;
- b. a list of vacant apartments, and a statement of the rental property's vacancy rate during the preceding 12 months;
- c. the income and expense report for the twelve-month period prior to the notice, including capital improvements, real property taxes and other municipal charges; and
- d. any other information the commissioner may specify by rule. The owner shall have a period of 30 calendar days from receipt of such request to provide the information.

(f) Right of First Refusal.

- (1) Notice of Offer. If the owner receives and accepts a bona fide offer from a third party to purchase the rental property, then the owner shall promptly provide written notice of such offer ("Notice of Sale"), to the tenant association, or if no tenant association exists, to each tenant in the rental property, and to the department. Any such third-party purchase agreement shall be contingent upon the right of first refusal set forth in this chapter. The Notice of Sale must include an executed duplicate original of the third-party purchase agreement, and the disclosures set forth in section 4(e)(3), unless the owner has previously made such disclosures and the disclosures remain accurate and complete.

- (2) Time for Tenants to Form Organization and Exercise Right of First Refusal. The tenants of the rental property shall have a period of 90 calendar days from receipt of the Notice of Sale to form a tenant association and exercise their right of first refusal to purchase the rental property. The tenant association shall exercise its right of first refusal by delivering written notice to the owner prior to the expiration of the 90-day period that the

tenant association elects to purchase the rental property pursuant to this chapter. Any such notice from the tenant association shall be accompanied by any earnest money required under the terms of the third-party purchase agreement, subject to the cap set forth in section 4(g). The contract formed

by exercise of the right of first refusal shall be on the same terms and conditions as those set forth in the third-party purchase agreement, as modified by the terms of this chapter. Notwithstanding this general requirement or any term of the third-party purchase agreement, any such acceptance shall be presumed to be contingent upon the tenant association's ability to conduct due diligence and secure financing before the deadline in subsection 4(f)(3) for completing the sale. Nothing in this subsection shall be construed to require any owner to extend any form of owner financing to a tenant association.

- (3) **Time for Closing.** If the tenant association exercises its right of first refusal in accordance with subsection 4(f)(2), the tenant association shall have a period of 120 calendar days from the date of such notice to conduct due diligence and secure financing, unless the owner and the tenant association have expressly agreed otherwise in writing. The owner must give the tenant association any information about the rental property that the tenant association reasonably requests, such as architectural and engineering plans and specifications (if available), and access to the rental property to inspect the same and conduct reasonable tests at reasonable times after reasonable notice. At the end of this 120-day period (or any other period to which the owner and the tenant association have expressly agreed in writing), the owner shall sell the rental property to the tenant association upon those terms. If the 120-day period (or any other period to which the owner and the tenant association have expressly agreed in writing) ends on a Saturday, Sunday or other legal holiday in the city of Chicago, then the closing shall occur on the first business day thereafter. If the rental property is conveyed to the tenant association under this right of first refusal, any prepaid rent shall be apportioned as of the closing date and applied on account of the purchase price.
- (4) **Tenant Association's Rejection of Offer.** If the tenant association fails to exercise its right of first refusal on or before the deadline set forth in subsection 4(f)(2) or terminates the contract pursuant to its terms, or defaults (unless there is a mutual default), then such right will be deemed waived and the owner may sell the rental property to the third party purchaser identified in the third party purchase agreement on the terms specified therein. If the sale to such third-party purchaser fails for any reason to close, or if there is any material change in the terms of sale from those set forth in the third-party purchase agreement, then the tenant association's right of first refusal under this chapter shall be reinstated. Any sale of the rental property by the owner to a different party or on any materially different terms shall be null and void.
- (5) **Third Party Rights.** The right of a third party to purchase a rental property is subject to the right of first refusal conferred by this chapter. Upon exercise of the right of first refusal, the third-party purchase agreement between the owner and the third party purchaser shall automatically terminate, and neither the owner nor the tenant association nor the rental building shall be bound or in any way affected by any such agreement and such third party purchaser shall not have any interest in the contract between the owner and the tenant association formed by exercise of the right of first refusal. Without limiting the generality of the foregoing, the owner and the tenant association may freely modify the terms and conditions on which the sale from the owner to the tenant association may be made. For example, the time periods for exercising the right of first refusal under subsection (b) and for closing under subsection (c) are minimum periods, and the owner may grant the tenants a reasonable extension of such period, without liability under a third-party agreement. Third party purchasers are presumed to act with full knowledge of tenant rights and public policy under this chapter.
- (6) **Continuing Right.** The right of first refusal is a continuing right and shall apply as often as the owner (including but not limited to any owner which acquired its interest in a sale to which the right of first

refusal applied but was not exercised) shall sell the rental property.

- (g) **Financial Assurances; Deposit.** The owner may not require the tenant association to prove financial ability to perform as a prerequisite to entering into a contract. The owner shall not require the tenant association to pay a deposit of more than 5% of the contract sales price in order to make a contract. The owner must refund the deposit in the event of a good faith failure of the tenant association to perform under the contract.
- (h) **Exercise or Assignment of Rights.** A tenant association may exercise the rights established under this chapter in conjunction with a third party or by assigning those rights to any party, whether private or governmental. Such an exercise or assignment may occur at any time in the process provided in this chapter and may be structured in any way the tenant association, in the tenant association's sole discretion, finds acceptable. The tenant association shall give the owner written notice of such third party or assignee within ten (10) business days of entering into a written agreement. Any rights conferred upon tenant associations under this chapter shall extend to any such third parties or assignees, and, upon receipt of notice of such third parties or assignees under this section 4(h), owners shall treat such third parties or assignees in the same manner as tenant associations under this chapter.
- (i) **Waiver of Rights.** An owner shall not request, and a tenant may not grant, a waiver of the right of first refusal conferred by this chapter. An owner shall not require waiver of any other right under this chapter.
- (j) **Notice.** Any notice required by this chapter shall be deemed to have been provided when delivered in person or mailed by certified or registered mail, return receipt requested, to the party to whom notice is required.
- (k) **Preservation as Rent-Restricted Affordable Housing.** Any rental property purchased by a tenant association under the right of first refusal conferred by this chapter shall be maintained as rent-restricted affordable housing for no less than 30 years. The commissioner shall establish procedures to ensure that each rental property acquired under this chapter is subject to an affordability preservation agreement that sets forth the manner in which the rental property shall be preserved as rent-restricted affordable housing.
- (l) **Duties of Owner Relative to Existing Tenancies.** No owner shall disturb any tenancy, other than for a just cause eviction, during the time periods set forth in this chapter.
- (m) **Sale of Property to Third Party Purchaser.** If the tenant association waives its right of first refusal, and the owner sells the rental property to a bona fide third-party purchaser, such purchaser shall allow the current tenants to remain in their respective dwelling units for the longer of six months from the effective date of the sale or until each tenant's lease expires, at the same terms and conditions as before such sale. Such purchaser may, with the agreement of the tenants, relocate such tenants to comparable units with comparable rents in accordance with procedures to be established by the rules of the department.
- (n) **Rules.** The commissioner shall have the authority to promulgate rules necessary to implement the requirements of this chapter.
- (o) **Penalties.** Any person who violates this chapter shall be fined not less than \$200.00 nor more than \$1,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.
- (p) **Private Right of Action.** Any aggrieved person, including but not limited to any tenant or tenant association, may enforce the provisions of this chapter by means of a civil action in which the court may provide injunctive relief or

award treble damages and the plaintiffs' court costs and reasonable attorneys' fees.

(q) Remedies Cumulative. The penalties and remedies provided in this chapter shall be in addition to any other penalty or remedy provided by law.

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