



This Fact Sheet is intended to help owners and buyers of affordable housing projects understand the 270-day offer period associated with Affordable Housing Preservation Laws.

Introduction and Overview

When the owner of a California rental housing development that has rental restrictions – known as an Assisted Housing Development – seeks to terminate these rental restrictions (including by expiration of a deed restriction, prepayment of a mortgage, or sale of the development), the owner is generally subject to the state's Affordable Housing Preservation Laws (AHPL).

In brief, AHPL gives, among other things, a right of first refusal to certain potential buyers that are determined to be a "Qualified Entity" (QE) by HCD and are willing to maintain the affordability of the property. AHPL does this by providing a 270-day offer period that gives QEs the exclusive opportunity to make an offer to purchase a property with expiring affordability. Non-QEs may only submit an offer after the 270-day period.

A **Qualified Entity (QE)** is a stakeholder certified by the California Department of Housing and Community Development (HCD) as capable of operating the housing and related facilities. A QE can be a tenant association, a local non-profit or public agency, a regional/national non-profit or public agency, or a for-profit housing developer that has obtained certification from HCD.

Note: Some foreclosures that terminate affordability restrictions may still trigger AHPL requirements, including notifying HCD with a notice of default. Check with HCD if you're unsure whether AHPL applies to your situation.

The stakeholders involved in the offer period include the seller (owner), the QE buyer, and the non-QE buyer. The 270-day offer period begins with the owner's issuance of the Notice of Opportunity to Submit an Offer to Purchase (NOSOP). A NOSOP must be issued at least one year before affordability ends or anytime the owner plans to sell the property within five years of the end of affordability.

270-Day Offer Period

A QE buyer may submit an offer to purchase the affordable project as described in the NOSOP.

During the 270 days triggered by the date included in the owner's NOSOP, the owner may only consider purchase offers received from QEs. If the owner receives a bona fide, market value offer from a QE in this period, then the owner must notify HCD within 90 days that they have received a purchase offer, and either:



- Accept one of the offers from a QE and execute a purchase agreement, or
- Record a new regulatory agreement with a term of at least 30 years, per Government Code section 65863.13, subdivision (a).

The market price is determined by negotiations between the parties as described in Government Code section 65863.11, subdivision (j).

In addition, if the owner receives any bona fide offers from a QE within 270 days, the owner must take all reasonable steps to renew any expiring housing assistance contracts or extend any available subsidies or use restrictions.

What Constitutes a Bona Fide Offer?

To qualify as a bona fide offer, the QE's offer must meet these requirements:

- Offer to purchase the development at the market value determined pursuant to Government Code section 65863.11, subdivision (k);
- Submit the offer within 270 days of the NOSOP;
- Identify whether the QE is a tenant association, nonprofit organization, public agency, or profit-motivated organization or individual; and
- Certify that it is a QE.

No Bona Fide Offer from a Qualified Entity Within 270 Days

If an owner does not receive a bona fide offer from one or more QEs within the 270-day offer period, or if after the 270-day offer period all bona fide offers are withdrawn, the owner may do any of the following:

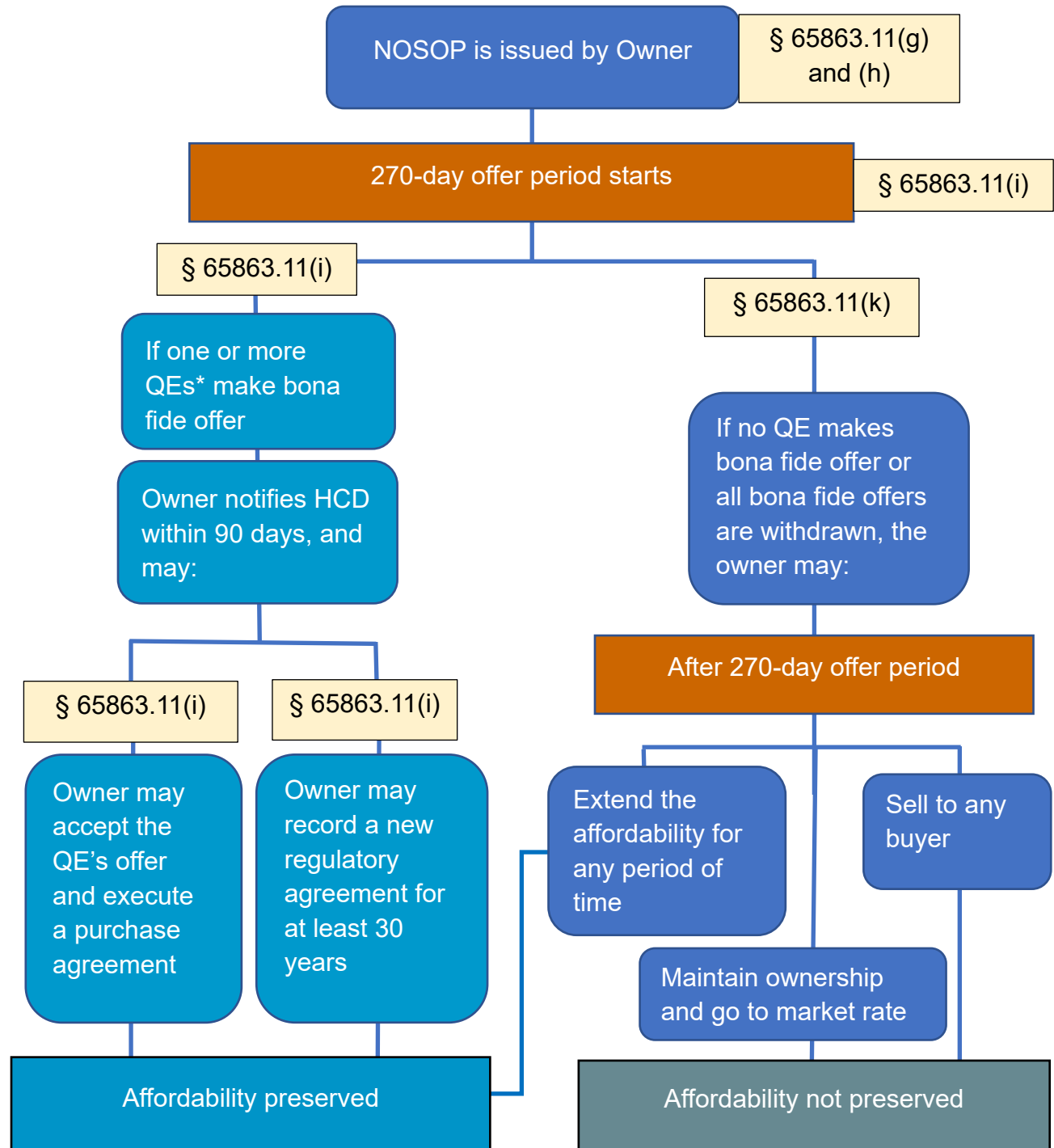
- Sell the property to any buyer. If the property is sold to a non-QE, the owner must record a compliance certification prior to the close of escrow. Contact HCD via the Affordable Housing Preservation Portal, available at [HCD's Preservation webpage](https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing),¹ for a copy of the compliance certification template.
- Extend the affordability restrictions for any period of time.
- Maintain ownership of the property and allow the expiration, termination, or prepayment to occur at the end of the notice periods specified in Section 65863.10.

If, after the 270-day offer period, the owner sells the property to a non-QE, the owner must, prior to the close of escrow, certify that they complied with AHPL and record the certification. The certification must contain the legal description of the property and must be indexed to the name of the owner as grantor.

¹ HCD's Preservation Webpage: <https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing>.



270-Day Offer Period Flowchart



*QE is Qualified Entity



Where Can I Find More Information?

This Fact Sheet is a broad overview intended to assist with implementation of AHPL. The content in this Fact Sheet is not legal advice and does not describe all of AHPL's requirements. Government Code sections [65863.10](#), [65863.11](#), and [65863.13](#) contain all of the requirements for compliance.

HCD has developed a webpage related to [Preserving Existing Affordable Housing](#)² that includes a detailed [Guide](#)³ on AHPL. Links to the law itself are provided in the header of this document.

For more information, contact HCD's Housing Accountability Unit via the Affordable Housing Preservation Portal, available at [HCD's Preservation webpage](#).⁴

² Preserving Existing Affordable Housing: <https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing>.

³ Guide to Affordable Housing Preservation Laws: <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/guide-to-affordable-housing-preservation-laws.pdf>.

⁴ Ibid.