



CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

GUIDE TO AFFORDABLE HOUSING

PRESERVATION LAWS

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Guide to Affordable Housing Preservation Laws

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Purpose and Intent of Preservation Notice Law

1. The Need to Preserve Affordable Housing

Federal, state, and local governments have invested heavily in, and facilitated the development of, hundreds of thousands of affordable rental homes in California over many decades. These investments support capital development and operations, ensuring public benefit commensurate with the investments. The affordability of some of these homes is secured by deed-recorded rental restrictions requiring all current and future owners to rent to income-qualified households at affordable rents for a predetermined period of time, typically ranging from 20 to 55 years. In other cases, the affordability is secured by rental assistance contracts of determinate length. At the end of these terms, or in those cases where owners may opt out of affordability agreements or contracts early, absent other restrictions the owners may legally convert the homes to market rate rentals, which can result in significant rent increases and displacement of current tenants, as well as the loss of affordable housing opportunities for current and future low-income households in need. Homes approaching the end of their term of affordability are deemed “at risk” and in need of preservation.

Properties at risk is a national issue. The National Low Income Housing Coalition (NLIHC) reported in 2021 that an estimated 176,760 federally assisted homes could be lost from the affordable housing stock over the next five years if preservation efforts are not expanded. The report found that most federally assisted homes with income and affordability restrictions expiring in the next five years are supported by the Low-Income Housing Tax Credit (LIHTC) or the Department of Housing and Urban Development’s (HUD) project-based Section 8 program. In addition, 23 percent of public housing homes and four percent of homes assisted by Project-based Section 8 failed their last HUD Real Estate Assessment Center physical inspections, and approximately 143,456 homes awarded LIHTC subsidies since 1990 lost their affordability restrictions early.

The NLIHC report concludes that more financial resources and stronger preservation protections are needed to ensure the continued affordability and physical quality of the federally assisted housing stock. Historic investments in deeply targeted federal programs and strengthened preservation policies in the LIHTC program are especially needed.

According to the California Housing Partnership (the Partnership, a private nonprofit organization with a public mission created by the California Legislature), between 1997 and 2021, California lost 20,792 affordable rental homes due to owner decisions to opt-out of affordability contracts or otherwise allow their developments to convert to market rate by not renewing agreements to keep rents affordable. These properties have project-based rental assistance contracts and/or loans or other resources from federal, state, or local public entities. These federal and state resources include investments from U.S. Department of Housing and Urban

Development (HUD), the U.S. Department of Agriculture (USDA), the California Housing Finance Agency (CalHFA), and the California Department of Housing and Community Development (HCD), along with equity from LIHTC and resources from bonds, including California Debt Limit Allocation Committee (CDLAC). Local rental restrictions can also be secured by loans or grants, local housing trust funds, sale or lease of property at or below market rate, density bonuses, former redevelopment agency investments, and other incentives.

2. Summary of Preservation Notice Law

Preservation refers to maintaining the long-term affordability of housing developments subject to expiring rental restrictions or rental assistance contracts. One cornerstone of the state’s policy is Preservation Notice Law (PNL), which, among other things, facilitates and gives priority to the sale of affordable housing developments to entities that will maintain their long-term affordability. When the owner of a California rental housing development with rental assistance or rental restrictions imposed under the terms of a federal, state, or local subsidy or land use program, seeks to terminate the assistance or restrictions (including by expiration of a deed restriction or prepayment of a mortgage), the owner of the property is generally required to give three-year, 12-month and six-month notice to tenants, affected public entities, and potential buyers that are willing to maintain affordability.

Table 1 shows how PNL operates. This Guide is intended to assist with PNL compliance but does not describe all of its requirements. Government Code sections 65863.10, 65863.11, and 65863.13 contain the complete details on the requirements for compliance.

Table 1. Parts of Preservation Notice Law

Preservation Notice Law (PNL)			
	Gov. Code, § 65863.10	Gov. Code, § 65863.11	Gov. Code, § 65863.13
Summary of Contents	Definitions Noticing Requirements Injunctive Relief Applicability of PNL	Definitions Owner Responsibilities Opportunity to Purchase Bona Fide Offer Process Annual Report to Legislature	Exemptions from PNL

Summary of Noticing Requirements	Notices to Tenants and Affected Entities of Expiring Affordability	Notice of Opportunity to Submit an Offer to Purchase Annual Owner Certification	
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Overview of Noticing

This section introduces the properties and parties that are subject to PNL and lists the types of properties subject to, and exempt from, PNL. Each notice has specific requirements and timelines.

1. Stakeholders Subject to Preservation Notice Law

The rights and responsibilities of the below stakeholders are subject to PNL. The following stakeholders are defined in Government Code sections 65863.10, subdivision (a), and 65863.11, subdivisions (d) and (e).

a. Owner

An individual, corporation, association, partnership, joint venture, or business entity that holds title to the land on which an Assisted Housing Development is located. In a leasehold situation, owner includes both the lessor and lessee of the land.

b. Affected Tenant

A tenant household residing in an Assisted Housing Development at the time notice is required and who benefits from the government assistance.

c. Qualified Entity

A stakeholder certified by HCD as capable of operating the housing and related facilities. A Qualified Entity (QE) can be a tenant association, a local nonprofit or public agency, a regional/national nonprofit or public agency, or a for-profit housing developer. Information on how to qualify as a QE is included in the following sections.

d. Affected Public Entities

A governmental stakeholder who does not hold an interest in the property but is entitled to notice. These include the mayor of the city, or the chair of the board of supervisors of the county; a local public housing authority, if any; and HCD.

e. California Department of Housing and Community Development

A department within the State of California that enforces PNL.

2. Properties Subject to Preservation Notice Law

PNL requirements apply to any Assisted Housing Development, which is defined as any multifamily rental housing development of five or more units that receives governmental assistance under any of the programs listed below (hereafter referred to as a Subject Development), unless it is exempt under Government Code section 65863.13.

Rental Properties Subject to Preservation Notice Law, (Gov. Code, § 65863.10, subd. (a)(3)):

- **Section 8 New Construction, Substantial Rehabilitation, Moderate Rehabilitation, Property Disposition and Loan Management Set-Aside programs**, or any other program providing project-based assistance under **Section 8 of the United States Housing Act of 1937**, as amended;
- **Section 221(d)(3) Below-Market-Interest-Rate Mortgage Insurance Program of the National Housing Act**;
- **Section 236 of the National Housing Act**;
- **Section 202 Direct Loans for Elderly and Handicapped Persons of the Housing Act of 1959**;
- **Section 811 of the Cranston-Gonzales National Affordable Housing Act**;
- **Section 101 Rent Supplement Programs of the Housing and Urban Development Act of 1965**, as amended;
- **Sections 514, 515, 516, 521, 533 and 538 of the Housing Act of 1949**, as amended;
- **Section 42 of the Internal Revenue Code** (low-income housing tax credits);
- **Section 142(d) of the Internal Revenue Code** or its predecessors (tax-exempt private activity mortgage revenue bonds);
- **Section 147 of the Internal Revenue Code** (Section 501(c)(3) bonds);
- **Title I of the Housing and Community Development Act of 1974**, as amended (Community Development Block Grant program);
- **Title II of the Cranston-Gonzales National Affordable Housing Act of 1990**, as amended (HOME Investment Partnership Program);
- **Titles IV and V of the McKinney-Vento Homeless Assistance Act of 1987**, as amended, including HUD's Supportive Housing Program, Shelter Plus Care program, and surplus federal property disposition program;
- **Grants and loans made by HCD**;
- **Grants and loans made by the California Housing Finance Agency** for rental housing;
- **Chapter 1138 of the California Statutes of 1987** (State Tax Credit Program);

- **Loans or grants provided using tax increment financing pursuant to the Community Redevelopment Law, Part 1** (commencing with Section 33000) of Division 24 of the Health and Safety Code);
- **Local housing trust funds**, as referred to in Health and Safety Code section 50843 relating to the Local Housing Trust Fund Matching Grant Program;
- **The sale or lease of public property by a city or county** at or below market rates; or
- **The granting of density bonuses, or concessions or incentives, including fee waivers, parking variances, or amendments to general plans, zoning, or redevelopment project area plans**, pursuant to State Density Bonus Law (Gov. Code, §§ 65915-65918).

Rental Properties Not Subject to Preservation Notice Law

Properties with four or fewer units, properties subject only to rent control or rent stabilization ordinances imposed by a city or county, and properties that maintain affordability via tenant-based Housing Choice Vouchers are not subject to PNL. Public housing that is not otherwise restricted/supported by operating subsidy may also be exempt.

Rental Properties With Multiple Rental Restrictions

If the Assisted Housing Development has other recorded agreements covering at least the same number of units, and the rent on those units is restricted to the same or lesser levels, then there is no “expiration of rental restrictions” as defined in 65863.10(a)(5). Therefore, PNL noticing is not required at this time. However, PNL still applies, and noticing will be required later, when there is an expiration of rental restrictions.

a. Exemptions from Preservation Notice Law

Specific sales and transfers may be exempt from PNL requirements. An owner of a Subject Development is exempt from PNL if the owner agrees to sell or otherwise transfer the property to a QE and complies with certain conditions during the escrow period, and upon sale records a regulatory agreement with a governmental entity binding successor owners to certain conditions for the remaining term of governmental assistance or for 30 years, whichever is greater. The conditions for

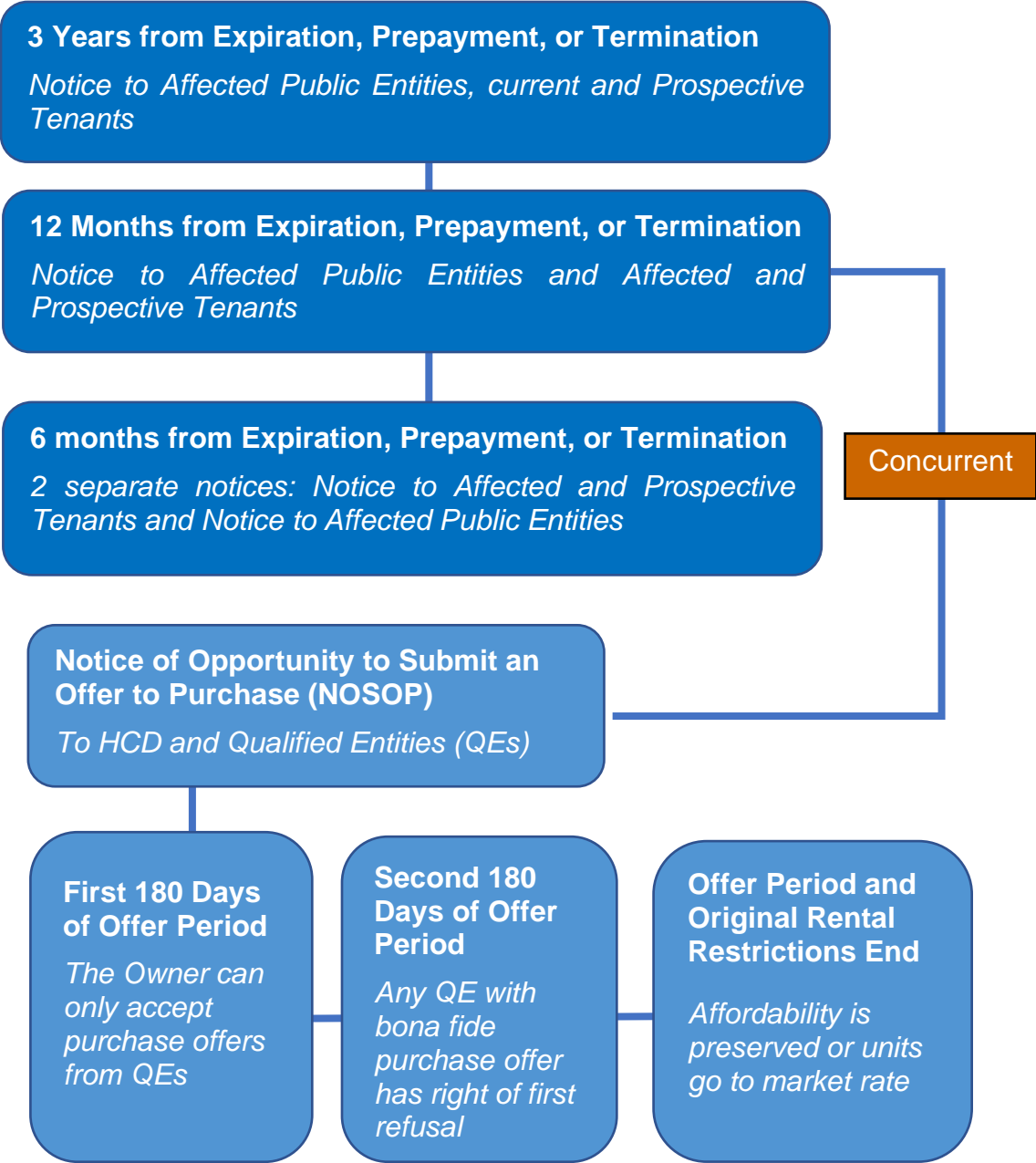
exemption are detailed in part 4 of the section below titled *Sales and Purchase of Properties with Expiring Affordability*.

3. Roadmap to Preservation Notice Process

There are four parts involved in preserving Assisted Housing Developments through PNL:

- Owner certification. First, owners of multifamily rental developments that receive government assistance under programs defined in Government Code section 65863.10, subdivision (a)(3) (see list on page 4) must register their properties and complete an annual owner certification.
- Notices. Second, owners of Assisted Housing Developments must provide specific notices to HCD, the local government where the property is located, and existing and prospective tenants at three years, 12 months, and six months prior to expiration of rental restrictions, termination of a subsidy contract, or prepayment of a mortgage.
- One-year offer period. Third, at least 12 months prior to prepayment of a mortgage, termination of a subsidy contract, or expiration of rental restrictions (or any time the owner contemplates a sale if the owner is eligible for termination within five years), the owner also must provide notice to QEs of the opportunity to submit an offer to purchase the development. This Notice of Opportunity to Submit an Offer to Purchase (NOSOP) also starts a one-year offer period, during which offers from QEs are prioritized.
- HCD tracking. Fourth and finally, HCD tracks the status of at-risk properties, assists stakeholders in complying with the law, and reports annually to the Legislature. HCD is obligated to refer instances of non-compliance to the Attorney General for appropriate enforcement.

Figure 1. Preservation Notice Law Process



Annual Owner Certification

PNL requires owners of multifamily rental developments that receive government assistance under programs defined in Government Code section 65863.10, subdivision (a)(3) (see list on page 4), register their properties and complete an annual owner certification using HCD's certification process.

1. Properties Subject to Annual Owner Certification

All owners of multifamily residential developments with five or more units in which at least 25 percent of the units are subject to affordability restrictions, or a rent or mortgage subsidy contract, must certify compliance annually, under penalty of perjury, with Government Code sections 65863.10, 65863.11, and 65863.13 to HCD at [HCD's Annual Owner Certification Portal](#). For new construction properties, registration should occur at the time of occupancy or as soon as possible after acquisition.

Prior to the close of escrow, an owner selling, leasing, or otherwise disposing of a Subject Development to a purchaser other than a QE must certify under penalty of perjury that it has complied with all provisions of Government Code sections 65863.10 and 65863.11. This certification must be recorded, contain a legal description of the property, and be indexed to the name of the owner as grantor.

2. Submittal Process and Timeline

To register properties subject to annual certification, owners must complete the annual online owner certification, which is located on the California Housing Preservation Portal ([CaHPP](#)) when logged into HCD's services site. Through that portal:

- Owners can certify up to 10 properties on each form.
- Owners with more than 10 properties must submit multiple certifications in order to certify all of their properties.
- Owners may monitor their certification status.
- Owners must certify compliance for each property annually regardless of when the affordability restrictions end.

If a property is operated under a ground lease or similar structure, the title holder and the lessee are mutually responsible for the completion of the certification.

Notices to Tenants and Affected Public Entities with Expiring Affordability

PNL requires owners of Assisted Housing Developments to provide specified notices to HCD, the local government, and existing and prospective tenants beginning three

years prior to expiration of rental restrictions, termination of a subsidy contract, or prepayment of a federally insured or federally held mortgage.

Table 2. Timing and Recipients of Notices (Gov. Code, § 65863.10.)

Type of Notice	When to Notice	Parties
Three-Year Notice of Intent to Prepay, Terminate, or Expiration of Subsidies	At least three years prior to a scheduled expiration of rental restrictions, or termination of a subsidy contract, and at time of interview to Prospective Tenants	Affected Public Entities, Affected Tenants via posting, Prospective Tenants
Twelve-Month Notice of Intent to Prepay, Terminate, or Expiration of Subsidies	At least 12 months prior to expiration of rental restrictions, termination of a subsidy contract, or prepayment, and at time of interview to Prospective Tenants	Affected Public Entities, Affected Tenants, Prospective Tenants
Notice of Opportunity to Submit an Offer to Purchase	At least 12 months prior to expiration of rental restrictions, termination of a subsidy contract, prepayment, or sale	Qualified Entities via certified mail, HCD, Tenants via posting
Six-Month Notice of Intent to Prepay or Terminate, or Expiration of Subsidies	Six months prior to expiration of rental restrictions, termination of a subsidy contract, or prepayment, and at time of interview to Prospective Tenants	Affected Public Entities, Affected Tenants, Prospective Tenants
Notice to Affected Public Entities	Six months prior to expiration of rental restrictions	Affected Public Entities
Notice of Significant Changes	After the six-month notice, within seven business days of significant change	Affected Public Entities, Affected Tenants

Please note that the parties to be noticed are different for the various types of notices.

1. Property Owner Obligations

The person or entity that holds title to the land on which an Assisted Housing Development is located is responsible for compliance. If the development is on leased land, both the owner of the land and the owner of the leasehold interest in the development are jointly responsible for compliance. The owner and leaseholder should coordinate on noticing to avoid duplicative and confusing notices.

Prior to the date of prepayment, termination, or expiration of subsidy or rental restrictions on an Assisted Housing Development, owners are required, unless exempt under Government Code section 65863.13, to notify affected tenant households and Affected Public Entities of the owner's intent to engage in or allow any of the following (65863.10(a)):

- Prepayment of an assisted mortgage;
- Voluntary termination of mortgage insurance;
- Termination of rent subsidies; or
- The expiration of rental restrictions unless the development has other recorded agreements restricting the rent to the same or lesser levels for at least 50 percent of the units.

Owners must also provide a copy of any notices issued to existing tenants, and to any *prospective* tenant at the time the prospective tenant is interviewed for eligibility. All notices must be provided on an HCD-approved form.

Note: An owner is not required to obtain or acquire additional information that is not contained in the existing tenant and project records or to update any information in their records. The owner is not liable for any inaccuracies contained in these records or from other sources, nor is the owner liable to any party for providing this information.

A **Qualified Entity (QE)** is a stakeholder certified by HCD as capable of operating the housing and related facilities. A QE can be a tenant association, a local nonprofit or public agency, a regional/national nonprofit or public agency, or a for-profit housing developer that has obtained certification from HCD. Information on how to qualify as a QE is included in the *Sales and Purchases of Properties with Expiring Affordability* section below. In contrast, an **Affected Public Entity** is a stakeholder who does not hold an interest in the property but is entitled to notice. Affected Public Entities are the mayor of the city or the chair of the board of supervisors of the county, a local public housing authority, and HCD.

Example: Noticing Timeline for Main Street Apartments

Main Street Apartments is a hypothetical Assisted Housing Development subject to PNL. With the upcoming affordability expiration date of December 31, 2027, the owner is obligated to provide the following notices by the listed dates. For additional support, the owner may contact HCD in advance of each deadline to request technical assistance.

Expiration of Affordability	December 31, 2027
3-Year Notice Due	December 31, 2024
12-Month Notice Due	December 31, 2026
NOSOP Due	December 31, 2026 or before
6-Month Notice Due	June 30, 2027

a. Three-Year Notice

Three years before a scheduled expiration of rental restrictions, the prepayment of a federally insured or held mortgage, or the anticipated date of the termination of a subsidy contract, the owner of an Assisted Housing Development must provide notice using the [HCD-approved form](#). Notice must be given to (1) any prospective tenant at the time the prospective tenant is interviewed for eligibility, and (2) to existing tenants by posting the notice in an accessible location on the property.

The notice must also be provided to Affected Public Entities, which include the mayor of the city in which the Assisted Housing Development is located, or, if located in an unincorporated area, the chair of the board of supervisors of the county; the appropriate local public housing authority, if any; and HCD.

b. Twelve-Month Notice

At least one year before the anticipated date of the termination of a subsidy contract, the expiration of rental restrictions, or prepayment of a mortgage, the owner of the Assisted Housing Development must provide a written notice using the [HCD-approved form](#) to each prospective tenant and affected tenant household in the property. The owner must send a copy of the 12-month notice to the Affected Public Entities, which are HCD, the local housing authority, mayor of the city or chair of the board of supervisors of the county for an unincorporated area).

i. Contents of 12-Month Notice

These Notice forms include all of the following (Gov. Code, § 65863.10, subd. (b)):

- (1) In the event of termination, a statement of the owner's intent to terminate the subsidy contract or rent restrictions upon expiration, or the expiration date of any contract extension;
- (2) In the event of the expiration of rental restrictions, a statement that the restrictions will expire, and in the event of prepayment, termination, or the expiration of rental restrictions, whether the owner intends to increase rents during the 12 months following prepayment, termination, or the expiration of rental restrictions to a level greater than permitted under Section 42 of the Internal Revenue Code;
- (3) In the event of prepayment, a statement that the owner intends to pay in full or refinance the federally insured or federally held mortgage indebtedness prior to its original maturity date, or voluntarily cancel the mortgage insurance;
- (4) The anticipated date of the termination, prepayment of the federal or other program or expiration of rental restrictions, and the identity of the federal or other program described in the list on page 4;
- (5) A statement that the proposed change would have the effect of removing the current low-income affordability restrictions in the applicable contract or regulatory agreement;
- (6) A statement whether or not the applicable program allows the owner to elect to keep the housing in the program after the proposed termination or prepayment date and, if so, a statement as to whether the owner expects to elect to keep the housing in the program after such date if allowed;
- (7) A statement whether other governmental assistance will be provided to tenants residing in the development at the time of the termination of the subsidy contract or prepayment;
- (8) A statement that a subsequent notice of the proposed change, including anticipated changes in rents, if any, for the development will be provided at least six months prior to the anticipated date of termination of the subsidy contract, expiration of rental restrictions, or prepayment; and
- (9) A statement that the NOSOP has been sent to QEs, is attached to or included in the notice, and is posted in the common area of the development, as required in Section 65863.11.

Note: If an owner provides a copy of a federally required notice of termination of a subsidy contract or prepayment, HCD will deem an owner to be compliant with the state 12-month notice to tenants requirement if the notice was:

- provided to each affected tenant household 12 months prior to the proposed change;
- sent to those tenants residing in the Assisted Housing Development at the time the notice is provided to the Affected Public Entities; and
- in compliance with all other federal laws.

However, all other state notice requirements described in this Guide continue to apply. (Gov. Code § 65863.10, subd. (b)(2).)

c. Notice of Opportunity to Submit an Offer to Purchase (NOSOP)

An owner must provide a NOSOP to QEs along with the 12-month notice or anytime the owner plans to sell the property within five years of the end of affordability. The NOSOP gives QEs one year to potentially buy the Assisted Housing Development to keep it affordable. A complete description of the contents of the NOSOP and one-year offer period is given in the *Sales and Purchase of Properties with Expiring Affordability* section below.

d. Six-Month Notice

As with the 12-month notice to tenants, owners are required to notify affected tenant households and Affected Public Entities (in separate notices) six months prior to the expiration of the anticipated date of termination of a subsidy contract, expiration of rental restrictions, or prepayment on an Assisted Housing Development. Owners must also provide a copy of any notices issued to existing tenants to any *prospective* tenant at the time the prospective tenant is interviewed for eligibility. All notices must be provided on the [HCD-provided form – Tenants](#) and the [HCD-provided form – Affected Public Entities](#).

i. Contents of the Six-Month Notice to Tenants

The owner must send to the affected tenant households and prospective tenants (with a copy to HCD), a six-month notice of intent to tenants using the HCD-approved form Six Month Notice to Tenants of Owners Intent to Pay or Terminate that includes all of the following, as provided in Government Code section 65863.10, subdivision (c):

- (1) The anticipated date of termination or prepayment of the federal or other program, or the expiration of rental restrictions, and the identity of the federal or other program (see the list of programs beginning on page 4);
- (2) The current rent and rent anticipated for the unit during the 12 months immediately following the date of prepayment or termination of the federal or other program (see the list of programs beginning on page 4), or expiration of rental restrictions;
- (3) A statement that a copy of the notice will be sent to the city or the county where the Assisted Housing Development is located, to the local housing authority (if any), and to HCD;

- (4) A statement of the possibility that the housing may remain in the federal or other program after the proposed date of subsidy termination or prepayment if the owner elects to do so under the terms of the federal government's or other program administrator's offer or that a rent increase may not take place due to the expiration of rental restrictions;
- (5) A statement of the owner's intent to participate in any current replacement subsidy program made available to the affected tenants; and
- (6) The name and telephone number of the city, county, or city and county, the appropriate local public housing authority, if any, HCD, and a legal services organization, that can be contacted to request additional written information about an owner's responsibilities and the rights and options of an affected tenant. (See [Tenant Resources](#) and [Tenant Advisory](#)).

ii. Contents of the Six-Month Notice to Affected Public Entities

The owner must also provide a six-month notice to Affected Public Entities using the HCD-approved form: [Six Month Letter to Affected Public Entities](#). Affected Public Entities include the mayor of the city in which the Assisted Housing Development is located, or, if located in an unincorporated area, the chair of the board of supervisors of the county; the appropriate local public housing authority, if any; and HCD. The six-month notice to Affected Public Entities must include copies of the six-month notices provided to affected tenants.

The Six-Month Notice to Affected Public Entities must include all of the following, as provided in Government Code section 65863.10, subdivision (c)(3):

- (1) Number of affected tenants in the project,
- (2) Number of government-assisted units and the type of assistance,
- (3) Number of units that are not government-assisted,
- (4) Number of bedrooms in each government-assisted unit,
- (5) The age and income of all affected tenants,
- (6) A brief description of the owner's plans for the project, including:
 - Any timetable or deadline for actions to be taken,
 - Any governmental actions (e.g., renewal of Section 8) or approvals that must be obtained,
 - The reason for termination or prepayment, and
 - Any contacts the owner has made or is making with governmental agencies or interested parties in connection with the notice.
- (7) Copies of any federally required notice of termination of the subsidy contract or prepayment that was provided at least six months prior to the proposed change.

iii. Owner's Notice of Significant Change to Tenants (7-Day Clause)

Owners must notify each affected tenant household and the Affected Public Entities *within seven business days* of any significant change in the information required in the six-month notice to tenants unless they qualify for exemption pursuant to Government Code section 65863.13. The law defines "significant change" to include, but not be limited to, any change to the date of termination, prepayment, or expiration or any change in the anticipated new rent.

e. Requirements to Serve Notice

The Notice of Intent, Notice to Affected Public Entities, and Notice of Significant Change must be served by *first-class mail with prepaid postage* to each affected tenant household and each public agency. An owner may send a notice to a public agency electronically if the public entity has provided an email address for that purpose. (Gov. Code, § 65863.10, subd. (g).)

The owner must send the NOSOP to QEs by registered or certified mail, return receipt requested. The owner must also post a copy of the notice in a conspicuous place in the common area of the development. (Gov. Code, § 65863.11, subd. (g).)

2. Tenants' Rights and Remedies

a. Notice Requirements

Preservation Notice Law requires that owners provide notices to tenants of expiring affordability. If notices are not properly given, the tenants (among other parties) may seek injunctive relief and obtain attorney's fees and costs.

Three years, one year, and six months prior to (1) the expiration of rental restrictions, (2) the prepayment of a federally insured or held mortgage, or (3) the anticipated date of the termination of a subsidy contract, the property owner must provide notice to HCD, the local government, the local housing authority, and existing and prospective tenants. Owner requirements for each of the notices are highlighted in the section above titled *Notices to Tenants and Affected Public Entities with Expiring Affordability*.

Proper tenant notices provide tenants with crucial information about potential changes in the affordability of their homes so that, among other things, action can be taken to preserve affordability, tenants can act on accurate information, and any required tenant protections can be implemented. Noticing of the local government and HCD helps these entities verify compliance with tenant noticing and provide assistance.

Note: A list of notices received by HCD can be found at the [Preserving Existing Affordable Housing website](#).

b. Tenant Resources Provided by the Owner

Owners are required to inform tenants of the resources available to them six months prior to prepayment of a mortgage, termination of a subsidy contract, or expiration of rental restrictions. The section entitled *Notices to Tenants and Affected Public Entities with Expiring Affordability* details the contents of the Tenant Resources and Tenant Advisory notices. If a tenant believes that the owner has not complied with all the requirements of the law, tenants can contact any of the entities listed in the Tenant Resources, or HCD.

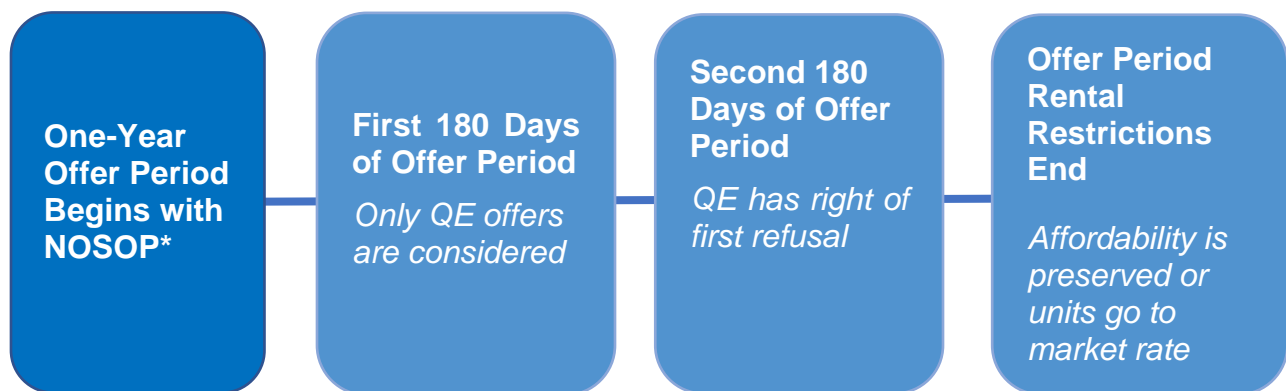
Sales and Purchase of Properties with Expiring Affordability

When the owner of an Assisted Housing Development subject to Preservation Notice Law issues a Notice of Opportunity to Submit an Offer to Purchase (NOSOP), a one-year period of preferential status begins for certain potential buyers who commit to maintaining affordability (Qualified Entities or QEs).

The owner must issue the NOSOP prior to or concurrent with the 12-month notice to tenants and Affected Public Entities (or any time the owner contemplates a sale if the owner is eligible for termination within five years). This NOSOP gives QEs the opportunity to submit an offer to purchase the development. The NOSOP must be issued to QEs whether or not the owner intends or chooses to sell the property. (Gov. Code, § 65863.11, subds. (g) and (i).)

During the first six months of the one-year offer period, the owner may only accept purchase offers from a QE. During the last six months of the one-year offer period, the owner must allow any QE that submitted a bona fide purchase offer in the first 180 days a right of first refusal on any offer from a non-QE. (Gov. Code, § 65863.11.)

Figure 2. Timeline for One-Year Offer Period



*Before or concurrent with 12-month Notice to Tenants

1. Qualified Entity Requirements and Certification Process

Potential buyers of Assisted Housing Developments who are listed as QEs through HCD's self-certification process are entitled to notice and to take advantage of Preservation Notice Law provisions.

a. Types of Organizations That Can Act as Qualified Entities

The NOSOP's one-year offer period affords QEs a preferred opportunity to purchase a housing development if they are certified through HCD's certification process. As per Government Code section 65863.11, subdivision (d), these QEs include *only*:

- The tenant association of the development,
- Local nonprofit organizations and public agencies,
- Regional or national nonprofit organizations and regional or national public agencies, and
- Profit-motivated housing organizations or individuals.

b. Process for Becoming a Qualified Entity

An organization or individual listed above may become a QE by doing all of the following as prescribed in Government Code section 65863.11, subdivisions (e)(1)-(3):

- Get certified by HCD through its self-certification process, which can be done by submitting the [Qualified Entity Certification Form](#) available on the HCD website. An entity may self-certify based on demonstrated relevant prior experience in California and current capacity as capable of operating the housing for its remaining useful life, either by itself or through a management agent.
- Agree to obligate itself and any successors in interest to maintain the housing development affordable to households of very low, low, or moderate income for either a 30-year period from the date the purchaser takes legal possession or the remaining term of the existing federal government assistance, whichever is greater.
- Agree to maintain the occupancy of very low-, low-, or moderate-income tenants in the approximate percentages that existed at the time the 12-month notice of intent was given or the approximate percentages specified in the existing use restrictions, whichever is higher.
- Note: An owner who obligates themselves to a regulatory agreement that will ensure the affordability for at least 30 years of all units occupied by low- and very low-income households, or that are vacant at the time of executing a purchase agreement, at Low-Income Housing Tax Credit Program rent limits is deemed in compliance with this requirement and the requirement of item 2 above.

- Agree to renew rent subsidies, if available, and if the subsidies are sufficient to maintain the project's fiscal viability.
- Agree to record, and actually record, the obligations of items 2, 3, and 4 above in a regulatory agreement prior to the close of escrow in the office of the county recorder of the county in which the development is located. The recording must contain a legal description of the property, indexed to the name of the owner as grantor.

Note: Local nonprofit organizations and public agencies shall have no member among their officers or directorate with a financial interest in Assisted Housing Developments that have terminated a subsidy contract or prepaid a mortgage on the development without continuing the low-income restrictions.

Note: If the development is determined by all entities with regulatory agreements and rent restrictions on the property not to be economically feasible, a purchaser shall be entitled to remove one or more units from rent and occupancy requirements as necessary to achieve feasibility, provided that once the development is again economically feasible, the purchaser must designate the next available units as low-income units up to the original number of those units.

Please subscribe to the [HCD email list](#) for further updates about the certification process.

c. List of Qualified Entities

HCD maintains a list of QEs and makes the list available to owners of Assisted Housing Developments and the public on the HCD website at [Qualified Entities List](#).

d. HCD's Role in Sales and Purchase of Assisted Housing Developments

HCD has a role in implementing Preservation Notice Law as it pertains to sales and purchase of Assisted Housing Developments, as follows.

i. Qualified Entity Certification

HCD established a process of certification for QEs based on demonstrated relevant prior experience in California and current capacity. Owner certification and technical assistance materials can be found at [HCD's Preservation website](#).

ii. Qualified Entity List

HCD maintains a [list of Qualified Entities](#) on its website.

iii. Tracking and Enforcement

Notifying local governments and HCD about potential loss of affordability helps verify compliance with tenant noticing requirements and with early intervention assistance. HCD receives and tracks notices and tracks compliance with Preservation Notice Law. It also provides information through its public website and through technical assistance. A [list of notices received](#) is available on the

website.

In addition, HCD is required to report violations of Preservation Notice Law to the Attorney General for appropriate enforcement action. Violations can be reported to HCD by contacting Preservation@hcd.ca.gov

2. Notice of Opportunity to Submit an Offer to Purchase

a. When a NOSOP is Required

An owner of a Subject Development is prohibited by law from terminating a subsidy contract or prepaying a mortgage unless they have complied with the requirements for providing QEs with a NOSOP.

An owner must provide a NOSOP to both Qualified Entities (QEs) and HCD, and post the NOSOP to the property, prior to or concurrently with the 12-month notice (described in Table 2) when: (1) the owner intends to terminate rental subsidies or mortgage insurance, or to prepay a federally assisted mortgage; or (2) the rental restrictions on the owner's property are set to expire.

In addition, an owner proposing to sell or otherwise dispose of a property at any time during the *five years* prior to the expiration of restrictions or within *five years* of eligibility for prepayment or termination must provide the NOSOP to QEs at least 12 months in advance unless the sale or disposition qualifies for exemption pursuant to Government Code section 65863.13.

b. How to Serve the NOSOP

The NOSOP begins a one-year offer period in which QEs have preferential status for purchase, with the intent of retaining affordability. The owner must send the notice to the geographically-relevant QEs on [HCD's list](#) and to QEs that directly contact the owner. Notified QEs should include all QEs in the county in which the development is located, and those whose area of interest includes "All Counties." If the owner elects to sell the property, these QEs are prioritized.

The owner must send the NOSOP to QEs by registered or certified mail, return receipt requested, and must also post a copy of the notice in a conspicuous place in the common area of the development. (Gov. Code, § 65863.11, subd. (g).)

Owners are required to notify HCD of all QE offers received during the first six months of the notice period and either accept an offer from a QE or declare under penalty of perjury in writing that if the property is not sold pursuant to Government Code section 65863.11, it will not sell the property for at least five years after the end of the one-year offer period. (Gov. Code, § 65863.11, subd. (l).)

While the intent of the law is to facilitate the transfer of properties to entities that will maintain rental affordability, an owner is never obligated to sell. If no bona fide offer from a QE is submitted in the first six months of the offer period, the owner may sell

without restriction after the one-year offer period. (Gov. Code, § 65863.11, subd. (I).)

a. Contents of the NOSOP

The following must be included in the 12-month NOSOP sent to QEs, in accordance with 65863.11(h).

- (1) A statement addressing each of the following:
 - Whether the owner intends to maintain the current number of affordable units and level of affordability;
 - Whether the owner has an interest in selling the property; and
 - Whether the owner has executed a contract or agreement of at least five years' duration with a public entity to continue or replace subsidies to the property and to maintain an equal or greater number of units at an equal or deeper level of affordability and, if so, the length of the contract or agreement.
- (2) A statement that each QE, or any combination of them, has the right to purchase the development pursuant to the terms of Preservation Notice Law;
- (3) A statement that the owner will make available to each QE within 15 business days of receiving a request all of the following items:
 - Itemized lists of monthly operating expenses for the property,
 - Capital improvements made within each of the two preceding calendar years at the property,
 - The amount of project property reserves,
 - Copies of the two most recent financial and physical inspection reports on the property, filed with federal, state, or local agencies, if any,
 - The most recent rent roll for the property listing the rent paid for each unit and the subsidy, if any, paid by a governmental agency as of the date of the NOSOP,
 - The vacancy rate for the development for each of the two preceding calendar years,
 - The terms of assumable financing, if any,
 - The terms of the subsidy contract, if any, and
 - Proposed improvements to the property to be made by the owner in connection with the sale, if any.

Notes: An owner is not required to provide this information if 25 percent or less of the units on the property are subject to affordability restrictions or a rent or mortgage subsidy contract. A public entity or the California Housing Partnership may share any of this information with other prospective purchasers and cannot be required to sign a confidentiality agreement as a condition of receiving or sharing this information, provided that the information is used for the purpose of attempting to preserve the affordability of the property.

- (4) A statement that all 12-month notice requirements of Preservation Notice Law have been satisfied, unless the NOSOP is delivered more than 12 months prior to the anticipated date of termination, prepayment, or expiration (i.e., prior to the 12-month notice of intent to tenants).

b. Exemptions from the NOSOP

An owner of an Assisted Housing Development is exempt from providing the NOSOP in the following circumstances (Gov. Code, §§ 65863.11, subds. (m) and (r), and 65863.13):

- A government taking by eminent domain or negotiated purchase;
- A forced sale pursuant to a foreclosure;
- A transfer by gift, devise, or operation of law;
- A sale to a person who would be included within the table of descent and distribution if there were to be a death intestate of an owner;
- An owner who certifies, under penalty of perjury, to the existence of a financial emergency requiring immediate access to the proceeds of the sale of the development during the one-year offer period;
- Sale to a preservation buyer consistent with Government Code section 65863.13; or
- Assisted Housing Developments in which 25 percent or less of the units are subject to affordability restrictions in exchange for density bonuses, or concessions or incentives, including fee waivers, parking variances, or amendments to general plans, zoning, or redevelopment project area plans, pursuant to Government Code sections 65915-65918). (Gov. Code, § 65863.11, subd. (r)(1), referencing Gov. Code, § 65863.10, subd. (a)(3)(N)(iv).)

c. Timing of the NOSOP

An owner must provide a NOSOP to both QEs and HCD prior to or concurrent with the 12-month notice to affected tenants, but no later than one year prior to termination, expiration, or prepayment.

In addition, an owner proposing to sell or otherwise dispose of a property at any time during the *five years* prior to the expiration of restrictions or within *five years* of eligibility for prepayment or termination must provide the NOSOP to QEs at least 12 months in advance unless the sale or disposition qualifies for exemption pursuant to Government Code section 65863.13.

3. One-Year Offer Period

The one-year offer period begins on the date of an owner's bona fide NOSOP. Government Code section 658563.11 contains additional details as cited.

a. First 180 Days – Bona Fide Offers from Qualified Entities

During the first 180 days from the date of the owner's NOSOP, the owner may only accept bona fide offers to purchase from QEs. A QE offering to purchase an Assisted Housing Development must:

- Make a bona fide offer, within the first 180 days from the date of the owner's NOSOP, to purchase the property at market value; and
- Identify whether the entity is a tenant association, nonprofit organization, public agency, or profit-motivated organization or individual and certify, under penalty of perjury, that it meets all the requirements of a QE. (Gov. Code, § 65863.11, subd. (i).)

If one or more bona fide offers are made within the 180-day period, the owner must take all steps reasonably required to renew any expiring housing assistance contract or extend any available subsidies or use restrictions, if feasible, before the effective date of any expiration or termination. (Gov. Code, § 65863.11, subd. (i).)

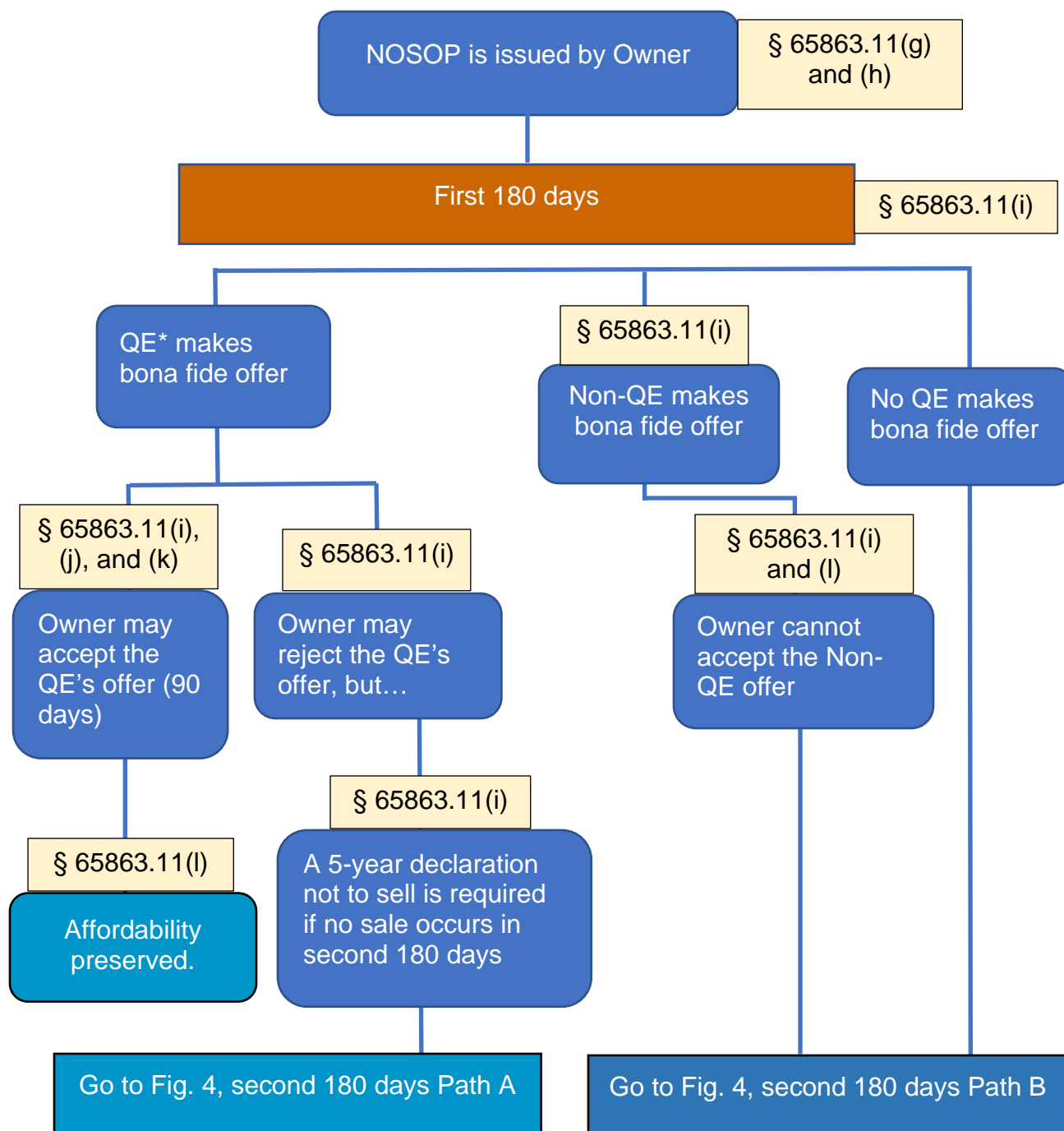
The owner may not accept an offer from any entity other than a QE during these first 180 days. If the owner receives one or more bona fide offers from a QE or QEs that meets these requirements, the owner must notify HCD of all bona fide offers and either:

- Accept one of the bona fide offers from a QE subject to the valuation process described in Government Code section 65863.11, subdivision (k); or
- Declare in writing under penalty of perjury to the QE or QEs and HCD on an HCD-approved form that if the property is not sold to a QE during the first 180 days or pursuant to the right of first refusal provisions during the second 180 days, it will not sell the property for at least five years from after the end of the one-year notice period (Five-Year Declaration). The form is available at Preservation@hcd.ca.gov. The owner must record this Five-Year Declaration with the county immediately after the one-year notice period. (Gov. Code, § 65863.11, subd. (i).)

Note: If no QE matches a non-QE offer in the second 180-day period, the owner may sell to a non-QE without waiting five years. Another exception is when the non-QE making an offer in the second 180-day period acts as a QE to maintain affordability (as described in subpart b. Second 180 Days, bullet three below). (Gov. Code, § 65863.11, subds. (l) and (e)(2).)

The owner of the affected property and QEs have rights and responsibilities regarding these transactions, as written in Government Code section 65863.11, subdivisions (i)-(k). Figure 3 below summarizes the first 180 days of the offer period.

Figure 3. One-Year Offer Period – First 180 Days



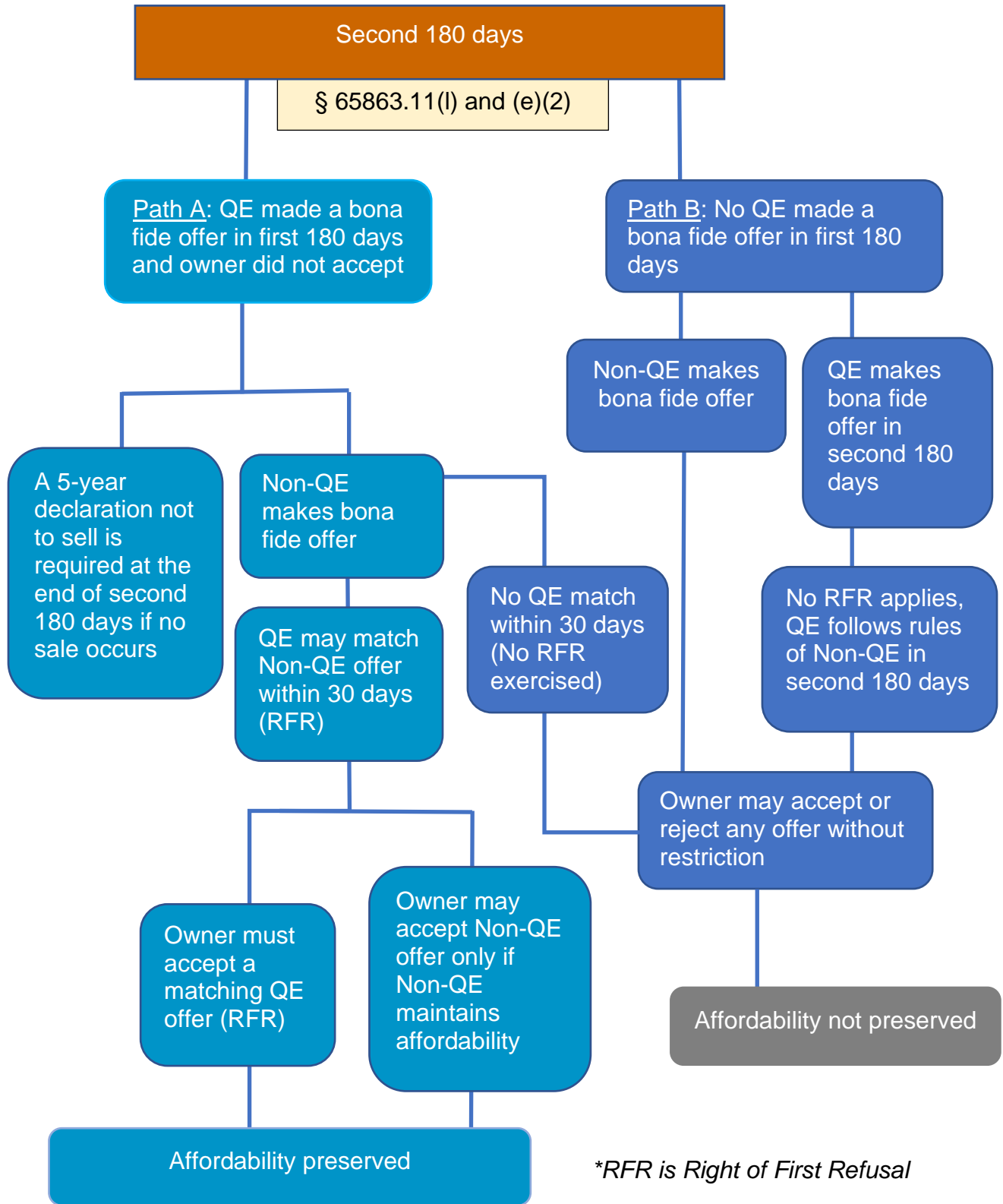
*QE is Qualified Entity

b. Second 180 Days – Right of First Refusal

For 180 days after the first 180-day period, an owner may accept a bona fide offer to purchase the affected property from any entity. However, the owner's acceptance of such an offer is subject to the following right of first refusal (RFR) process:

- The owner must notify HCD and each QE that submitted a bona fide offer to purchase the development of the terms and conditions of a non-QE's pending offer in writing, by certified or registered mail, return receipt requested. (Gov. Code, § 65863.11, subd. (l).)
- QEs that previously submitted a bona fide offer to purchase have 30 days from the date of mailing of the owner's notice to submit a bona fide offer to purchase on the same terms and conditions as the pending offer unless the original terms and conditions are modified by mutual consent of both parties. (Gov. Code, § 65863.11, subd. (l).)
- The owner is required to accept a QE's bona fide offer to purchase the development at the same terms and conditions as the pending offer unless the individual or entity making the pending offer agrees to maintain affordability and use restrictions in the same manner as a QE, including that the buyer obligates itself and any successor in interest in an enforceable recorded regulatory agreement to maintain the use restrictions and the affordability of the assisted households of very low, low, or moderate income for either a 30-year period from the date the purchaser takes legal possession or the remaining term of the existing federal assistance, whichever is greater, and to renew rental subsidies if available. The owner must notify HCD regarding how a non-QE purchaser is meeting this requirement. (Gov. Code, § 65863.11, subs. (l) and (e)(2).) Figure 4 below summarizes these steps during the second 180 days.

Figure 4. Purchase and Sale – Second 180 Days



*RFR is Right of First Refusal

c. Limits on Owner Obligation

While the intent of the law is to facilitate the transfer of properties to entities that will maintain rental affordability, an owner is never obligated to sell, and if no bona fide offer from a QE is submitted in the first six months of the offer period, the owner may sell without restriction after the one-year offer period.

4. Exemptions From Preservation Notice Law – Regulatory Agreement

Specific sales and transfers may be exempted from Preservation Notice Law requirements. An owner of a Subject Development is exempt from Preservation Notice Law if the owner agrees to sell or otherwise transfer the property to a QE, complies with the following conditions during the escrow period, and upon sale records a regulatory agreement with a governmental entity binding successor owners to the following conditions for the remaining term of governmental assistance or 30 years, whichever is greater:

a. Displacement Prohibited

No low-income tenant whose rent was restricted or subsidized and who resides in the development within 12 months of the date that the rent restrictions are, or subsidy is, set to expire or terminate, will be involuntarily displaced on a permanent basis as a result of the action of the owner, unless the tenant has breached the terms of the lease. (Gov. Code, § 65863.13, subd. (a)(1).)

b. Project-Based Section 8 Renewals

The owner must accept and fully utilize all renewals of project-based assistance under Section 8 of the United States Housing Act of 1937, if available, provided that assistance is at a level to maintain the project's fiscal viability. (Gov. Code, § 65863.13, subd. (a)(2).)

c. Section 8 Vouchers

Owners must accept all enhanced Section 8 vouchers and all other Section 8 vouchers for future vacancies. (Gov. Code, § 65863.13, subd. (a)(3).)

d. Termination of Tenancy

The owner cannot terminate a tenancy of a low-income household at the end of a lease term without demonstrating a breach of the lease by the tenant. (Gov. Code, § 65863.13, subd. (a)(4).)

e. Screening Criteria – Tenant's Amount of Income

In selecting eligible applicants for admission, owners may consider the amount of a prospective tenant's income, as long as they also adequately consider other factors relevant to an applicant's ability to pay rent. (Gov. Code, § 65863.13, subd. (a)(5).)

f. Regulated Rents

i. Rent-Restricted Units (Gov. Code, § 65863.13, subd. (a)(6))

Restricts the rents and incomes of the previously restricted units, except as provided in paragraph (ii), (iii), and (iv) below, to an equal or greater level of affordability than previously required so that the units are affordable to households at the same or a lower percentage of area median income (AMI).

ii. Project-Based Rental Assistance (Gov. Code, § 65863.13, subd. (a)(7))

For a development with units that have project-based rental assistance at the time of prepayment and that subsequently become unassisted by any form of rental assistance, rents upon loss of assistance must not exceed 30 percent of 60 percent of AMI. If any form of rental assistance is or becomes available, the owner must apply for and accept, if awarded, the rental assistance.

iii. Unassisted Units (Gov. Code, § 65863.13, subd. (a)(8))

For units that do not have project-based rental assistance at the time of prepayment and will remain unassisted, rents must not exceed the greater of:

- (1) 30 percent of 50 percent of AMI; or
- (2) For projects insured under Section 241(f) of the National Housing Act, the regulated rents under the terms of that program, expressed as a percentage of AMI.

If any form of rental assistance is or becomes available, the owner must apply for and accept, if awarded, the rental assistance.

iv. Units Occupied by Tenants Exceeding Income Limit (Gov. Code, § 65863.13, subd. (a)(9))

If, upon recording the new regulatory agreement, any unit governed by the regulatory agreement is occupied by a household whose income exceeds the applicable limit, the rent for that household must not exceed 30 percent of that household's adjusted income, provided that the household's rent must not be increased by more than 10 percent annually.

Area median income is the midpoint of a specific area's income distribution based on a four-person household. It is calculated annually by the U.S. Department of Housing and Urban Development (HUD). State income limits are based on the HUD limits. For more information, go to [HCD's Income Limits](#) tool.

HCD's Role in the Preservation Notice Process

1. Public Outreach

HCD is tasked with providing information and monitoring compliance with Preservation Notice Law. (Gov. Code, § 65863.11, subd. (o).)

a. Compliance Information and Notice Templates

HCD maintains on its [website](#) a summary of rights and obligations under Preservation Notice Law and makes that information available to owners of Assisted Housing Developments as well as to tenant associations, local nonprofit organizations, regional or national nonprofit organizations, public agencies, and other entities with an interest in preserving the state's subsidized housing.

Notice forms and instructions for owners and QEs are also published on the [website](#). Technical assistance and answers to inquiries are available by emailing Preservation@hcd.ca.gov.

b. List of Qualified Entities

HCD compiles, maintains, and updates a [list of Qualified Entities](#) that is publicized on its website and is available statewide. QEs may be added to the list through HCD's self-certification process using the [Qualified Entity Certification Form](#).

c. Affordable Housing Data and Technical Assistance

In addition to HCD's preservation email, Preservation@hcd.ca.gov, the California Housing Partnership (CHPC, or the Partnership) is a private nonprofit organization with a public mission created by the Legislature in 1988. The Partnership helps nonprofit, state, and local government housing organizations, as well as state leaders who implement laws and programs, to provide necessary resources for sustainable and affordable housing. The Partnership's [website](#) provides access to research, data, and technical assistance regarding affordable housing preservation.

d. Housing Elements

Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. California's local governments meet this requirement by adopting housing plans (housing element) as part of their "general plan." An effective housing element provides the necessary conditions for developing and preserving an adequate supply of housing, including housing affordable to seniors, families, and workers.

The housing element must identify and analyze units that are at risk of converting from affordable to market-rate during the next 10 years. If units are found to be at-risk, the housing element must estimate the total cost of replacing and preserving

these units and include a list of entities with the capacity to acquire multifamily developments at-risk. The analysis should guide policies and actions necessary to address the critical activity of preserving at-risk units. (Gov. Code, § 65583, subd. (a)(9).)

HCD plays the critical role of reviewing every local government's housing element to determine whether it complies with state law to ensure that housing plans contain policies and actions to support the preservation of at-risk units. Together, PNL and the at-risk analysis of housing elements are complementary tools for preserving existing affordable housing.

2. Annual Owner Compliance Certification and Report to Legislature

HCD must monitor compliance with Government Code sections 65863.10, 65863.11, and 65863.13 and report annually to the Legislature. To that end, owners of Assisted Housing Developments in which at least 25 percent of the units are subject to affordability restrictions, or a rent or mortgage subsidy contract, are required to certify to HCD annually that they are in compliance with these Sections. The annual owner certification must be made under penalty of perjury, on the website as required by HCD. Information about certification and the online registration are available by logging in to the [California Housing Preservation Portal \(CaHPP\)](#).

HCD is required under Government Code section 65863.11, subdivision (o)(4) to report violations of Preservation Notice Law to the Attorney General for appropriate enforcement action.

Consequences of Non-Compliance with PNL

Injunctive relief is available to any affected tenant or public entity who is aggrieved by a violation of Government Code section 65863.10, i.e., the tenant and public entity notice requirements. Injunctive relief may include, but is not limited to, reimposition of the prior restrictions until any required notice is provided and the required noticing period has elapsed, restitution of any non-compliant rent increases, and potential payment of attorneys' fees and costs to a prevailing plaintiff.

Any QE entitled to exercise the opportunity to purchase and right of first refusal under Government Code section 65863.11, and any tenant association at the property or any Affected Public Entity that has been adversely affected by an owner's failure to comply with Government Code section 65863.11, may seek relief in law or in equity. In any judicial action brought to enforce Government Code section 65863.11, the court may waive any bond requirement and may award attorney's fees and costs to a prevailing plaintiff.

In addition, under Government Code section 65863.11, subdivision (o)(4), HCD must refer violations to the Attorney General for appropriate enforcement action.

Contact and Resources

Contact HCD's Division of Housing Policy Development at Preservation@hcd.ca.gov or visit the Preservation section of HCD's website at <https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing>. This site contains links to other preservation resources.

Glossary of Terms

Government Code Section 65863.10, subdivision (a)(1-9), Government Code Section 65863.11, subdivision (a)(1-15), Government Code Section 65863.13, subdivision (a)(2) and (b)

Affected Public Entities: The mayor of the city in which the Assisted Housing Development is located, or, if located in an unincorporated area, the chair of the board of supervisors of the county; the appropriate local public housing authority, if any; and the California Department of Housing and Community Development (HCD).

Affected Tenant: A tenant household residing in an Assisted Housing Development at the time notice is required and who benefits from the government assistance.

Assisted Housing Development: A multifamily rental development that receives governmental assistance under any of the following programs:

- New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f);
- Below Market Interest Rate Program under Section 221(d)(3) of the National Housing Act (12 U.S.C. Sec. 1715 l(d)(3) and (5));
- Section 236 of the National Housing Act (12 U.S.C. Sec. 1715z-1);
- Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q);
- Section 811 of the Cranston-Gonzales National Affordable Housing Act;
- Programs for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. Sec. 1701s);
- Programs under Sections 514, 515, 516, 521, 533 and 538 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485);
- Section 42 of the Internal Revenue Code;
- Section 142(d) of the Internal Revenue Code or its predecessors (tax-exempt private activity mortgage revenue bonds);
- Section 147 of the Internal Revenue Code (Section 501(c)(3) bonds);

- Title I of the Housing and Community Development Act of 1974, as amended (Community Development Block Grant Program);
- Title II of the Cranston-Gonzales National Affordable Housing Act of 1990, as amended (HOME Investment Partnership Program);
- Titles IV and V of the McKinney-Vento Homeless Assistance Act of 1987, as amended, including the U.S. Department of Housing and Urban Development's Supportive Housing Program, Shelter Plus Care program, and surplus federal property disposition program;
- Grants and loans made by HCD;
- Grants and loans made by the California Housing Finance Agency for rental housing.
- Chapter 1138 of the Statutes of 1987 (State Tax Credit Program); or
- The following assistance provided by counties or cities in exchange for restrictions on the maximum rents that may be charged for units within a multifamily rental housing development and on the maximum tenant income as a condition of eligibility for occupancy of the unit subject to the rent restriction, as reflected by a recorded agreement with a county or city:
 - Loans or grants provided using tax increment financing pursuant to the Community Redevelopment Law (Part I (commencing with Section 33000) of Division 24 of the Health and Safety Code);
 - Local housing trust funds, as referred to in paragraph (3) of subdivision (a) of Section 50843 of the Health and Safety Code;
 - The sale or lease of public property at or below market rates; or
 - The granting of density bonuses, or concessions or incentives, including fee waivers, parking variances, or amendments to general plans, zoning, or redevelopment project area plans, pursuant to Government Code sections 65915-65918.

City: A general law city, a charter city, or a city and county.

Expiration of Rental Restrictions: The expiration of rental restrictions for an Assisted Housing Development described in [Government Code section, 65863.10(a)(3)] unless the development has other recorded agreements restricting the rent to the same or lesser levels for at least 50 percent of the units.

Fiscal Viability: The property is deemed fiscally viable if the rents permitted under the terms of the assistance are not less than the established regulated rent levels.

Local Nonprofit Organizations: Not-for-profit corporations organized pursuant to Division 2 (commencing with Section 5000) of Title I of the Corporations Code that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of low or

moderate income and very low income, and which have a broadly representative board, a majority of whose members are community based and have a proven track record of local community service.

Local Public Agencies: Housing authorities, redevelopment agencies, or other agency of a city, county, or city and county, whether general law or chartered, which are authorized to own, develop, or manage housing or community development projects for persons and families of low or moderate income and very low income.

Low or Moderate Income: Having an income as defined in Section 50093 of the Health and Safety Code.

Offer to Purchase: An offer from a Qualified Entity or non-Qualified Entity that is nonbinding on the owner.

Owner: An individual, corporation, association, partnership, joint venture, or business entity that holds title to the land on which an Assisted Housing Development is located. If the Assisted Housing Development is the subject of a leasehold interest, “owner” also means an individual, corporation, association, partnership, joint venture, or business entity that holds a leasehold interest in the Assisted Housing Development, and the owner holding title to the land and the owner with a leasehold interest in the Assisted Housing Development must be jointly responsible for compliance.

Prepayment: Payment in full or refinancing of the federally insured or federally held mortgage indebtedness prior to its original maturity date, or the voluntary cancellation of mortgage insurance, on an identified Assisted Housing Development that would have the effect of removing the current low-income current rent and/or occupancy restrictions contained in the applicable laws and regulatory agreement.

Profit-Motivated Organizations or Individuals: Individuals or two or more persons organized pursuant to Division 1 (commencing with Section 100) of Title 1 of, Division 3 (commencing with Section 1200) of Title 1 of, or Chapter 5 (commencing with Section 16100) of Title 2 of, the Corporations Code, that carry on business for profit and own and operate at least three comparable rent- and income-restricted affordable rental properties governed under a regulatory agreement with a department or agency of the State of California or the United States, either directly or by serving as the managing general partner of limited partnerships or managing member of limited liability corporations.

Regional or National Organizations: Not-for-profit charitable corporations organized on a multicounty, state, or multistate basis that have as their principal purpose the ownership, development, or management of housing or community development projects for persons and families of low or moderate income and very low income and own and operate at least three comparable rent- and income-restricted affordable rental properties governed under a regulatory agreement with a department or agency of the State of California or the United States, either directly or

by serving as the managing general partner of limited partnerships or managing member of limited liability corporations.

Regional or National Public Agencies: Multicounty, state, or multistate agencies that are authorized to own, develop, or manage housing or community development projects for persons and families of low or moderate income and very low income and own and operate at least three comparable rent- and income-restricted affordable rental properties governed under a regulatory agreement with a department or agency of the State of California or the United States, either directly or by serving as the managing general partner of limited partnerships or managing member of limited liability corporations.

Regulatory Agreement: An agreement, with a governmental agency for any governmental program, that applies to developments subject to the State Preservation Notice Requirements and which obligates the owner and any successors in interest to maintain the affordability of the Assisted Housing Development for households of very low, low, or moderate income for the greater of the term of the existing federal, state, or local government assistance or 30 years.

Tenant: A tenant, subtenant, lessee, sublessee, or other person legally in possession or occupying the Assisted Housing Development.

Tenant Association: A group of tenants who have formed a nonprofit corporation, cooperative corporation, or other entity or organization, or a local nonprofit, regional, or national organization whose purpose includes the acquisition of an Assisted Housing Development and that represents the interest of at least a majority of the tenants in the Assisted Housing Development.

Termination: An owner's decision not to extend or renew participation in a federal, state, or local government subsidy program or private, nongovernmental subsidy program for an identified Assisted Housing Development either at or prior to the scheduled date of the expiration of the contract, that may result in an increase in tenant rents or a change in the form of the subsidy from project-based to tenant-based.

Use Restrictions: Any federal, state, or local statute, regulation, ordinance, or contract that, as a condition of receipt of any housing assistance, including a rental subsidy, mortgage subsidy, or mortgage insurance, to an Assisted Housing Development, establishes maximum limitations on tenant income as a condition of eligibility for occupancy of the units within a development, imposes any restrictions on the maximum rents that could be charged for any of the units within a development, or requires that rents for any of the units within a development be reviewed by any governmental body or agency before the rents are implemented.

Very Low Income: Having an income as defined in Section 50105 of the Health and Safety Code.