

of the housing, the requirement may be met by (1) posting a copy of the information or material in readily accessible locations within each affected building, or posting notices in each such location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined, and (2) supplying a copy of the information or material to a representative of the tenants.

(Pub. L. 100-242, title II, §230, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4273.)

§ 4121. Definitions of qualified and priority purchaser and related party rule

(a) Priority purchaser

The term “priority purchaser” means (A) a resident council organized to acquire the housing in accordance with a resident homeownership program that meets the requirements of section 4121¹ of this title; and (B) any nonprofit organization or State or local agency that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 4112(d)² of this title).

(b) Qualified purchaser

The term “qualified purchaser” means any entity that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 4112(c) of this title), and includes for-profit entities and priority purchasers.

(c) Related parties

Except as provided in subsection (d), the terms “qualified purchaser” and “priority purchaser” do not include any entity that, either directly or indirectly, is wholly or partially owned or controlled by the owner of the housing being transferred under this subchapter, is under whole or partial common control with such owner, or has any financial interest in such owner or in which such owner has any financial interest. The Secretary shall issue any regulations appropriate to implement the preceding sentence.

(d) Management exception

A qualified purchaser shall not be precluded from retaining as a property management entity a company that is owned or controlled by the selling owner or a principal thereof if retention of the management company is neither a condition of sale nor part of consideration paid for sale and the property management contract is negotiated by the qualified purchaser on an arm’s length basis.

(Pub. L. 100-242, title II, §231, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4273; amended Pub. L. 102-550, title III, §317(a)(6), Oct. 28, 1992, 106 Stat. 3772.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-550 substituted “4112(c)” for “4112(d)”.

¹ So in original. Probably should be section “4116”.

² So in original. Probably should be section “4112(c)”.

§ 4122. Preemption of State and local laws

(a) In general

No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that—

(1) restricts or inhibits the prepayment of any mortgage described in section 4119(1) of this title (or the voluntary termination of any insurance contract pursuant to section 1715t of this title) on eligible low income housing;

(2) restricts or inhibits an owner of such housing from receiving the authorized annual return provided under section 4104 of this title;

(3) is inconsistent with any provision of this subchapter, including any law, regulation, or other restriction that limits or impairs the ability of any owner of eligible low income housing to receive incentives authorized under this subchapter (including authorization to increase rental rates, transfer the housing, obtain secondary financing, or use the proceeds of any of such incentives); or

(4) in its applicability to low-income housing is limited only to eligible low-income housing for which the owner has prepaid the mortgage or terminated the insurance contract.

Any law, regulation, or restriction described under paragraph (1), (2), (3), or (4) shall be ineffective and any eligible low-income housing exempt from the law, regulation, or restriction, only to the extent that it violates the provisions of this subsection.

(b) Effect

This section shall not prevent the establishment, continuing in effect, or enforcement of any law or regulation of any State or political subdivision of a State not inconsistent with the provisions of this subchapter, such as any law or regulation relating to building standards, zoning limitations, health, safety, or habitability standards for housing, rent control, or conversion of rental housing to condominium or cooperative ownership, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. This section shall not preempt, annul, or alter any contractual restrictions or obligations existing before November 28, 1990, that prevent or limit an owner of eligible low-income housing from prepaying the mortgage on the housing (or terminating the insurance contract on the housing).

(Pub. L. 100-242, title II, §232, as added Pub. L. 101-625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4273; amended Pub. L. 102-550, title III, §311, Oct. 28, 1992, 106 Stat. 3765.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-550 substituted “, such as any law or regulation” for “and” after “subchapter”.

§ 4123. Severability

If any provision of this subchapter, or the application of such provision with respect to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to any other person or circumstance, shall not be affected by such holding.