



VIRGINIA HOUSING
ALLIANCE

HB 1398
(Del. Bennett Parker)

Affordable Housing Preservation

Enable localities to establish a right of first refusal during the sale of publicly supported multifamily properties at risk of expiring affordability.

The Case for Preservation

Secures Affordable Housing Inventory.

While new development is necessary to address our shortage of affordable housing in Virginia, it is critical that we also preserve what we currently have, especially our properties with deep affordability for very low-income households.

Extends State and Federal Investments. Preservation ensures that our state and federal investments in affordable housing continue to benefit Virginians for generations to come.

Safeguards Affordability in Areas of Opportunity. Preservation is especially important for subsidized properties in neighborhoods rich with amenities and services, where affordable housing is needed most.

Protects Tenants. Preservation prevents tenant displacement and the negative consequences such displacement has on the surrounding community.

Preservation cannot wait



300,000

Virginia's estimated shortage of affordable rental homes.

HB854 Report

6,094

units are at risk of losing affordability in the next five years.

25,080

units are at risk of losing affordability in the next ten years.

2022, PAHRC

Preservation saves money



It costs **25 to 40 percent** more to develop a unit of subsidized rental housing through new construction than through the acquisition and rehabilitation of existing housing units.

Right of First Refusal

Right of first refusal (ROFR) policies are one tool with which to prevent displacement and preserve affordable housing. ROFR programs typically give the government (state or local) the right to intervene in the sale or conversion of naturally occurring or subsidized affordable rental housing and purchase the property at fair market value or a value set by a third-party offer. This right can also be transferred by the government body to qualified entities who will preserve affordability. When the ROFR is triggered, it is not required that the ROFR be exercised. ROFR simply provides an opportunity, not obligation, to intervene in a transaction to preserve affordable housing.

The Solution for Virginia

VHA supports enabling legislation for localities to establish a right of first refusal during the sale of multifamily rental housing of 10 units or more that receives state or federal assistance and is at risk of expiring affordability. Localities may transfer the ROFR to a qualified designee, which could include public housing authorities, non-profit and for-profit housing providers, and resident associations. This legislation would grant localities the authority to require notice of the owner's intent regarding the expiration of affordability restrictions two years before such expiration will occur. From that moment on, the owner of this property must notify the locality if they intend to accept a qualifying third-party offer of sale. The locality will have only 30 days to exercise the ROFR with a matching offer. If such an offer is made, the owner must sell to the locality. In this way, the owner receives equivalent compensation, and the transaction is minimally delayed. There are a few exemptions, such as a sale to a third-party who will extend affordability, to ensure that the ROFR is used only as intended.

ROFR in Action

At the end of 2009, Massachusetts passed Chapter 40T, "An Act Preserving Publicly Assisted Affordable Housing" that established a ROFR program administered by the state's DHCD.

From 2010-2020, this program played a crucial role in preserving **9,594 affordable units** in 97 properties.



[2020, Chapter 40 T at 10](#)

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