



May 26, 2023

Honorable Jared Polis
State Capitol Building
200 E. Colfax
Denver, CO 80203

Re: HB 23-1190 Right of First Refusal

Dear Governor Polis:

Colorado has a robust banking industry with more than 125 banks, 1400 branches and 20,000 proud professionals. The Colorado Bankers Association (CBA) advocates for our customers and Colorado banks of all sizes and charter types.

We present this letter to you requesting a veto of HB23-1190 Concerning Right of First Refusal. The CBA has a long history with this legislation. We worked closely with Representative Boesenecker prior to the introduction of the bill. In fact, we appreciate the representative's efforts at early outreach and stake holding. CBA requested several amendments to one section of the bill regarding foreclosures. Representative Boesenecker was most accommodating in addressing our concerns. To provide additional background, CBA was initially in an amend position upon introduction of the legislation. Once the requested amendments were passed in the House chamber, the association moved to a neutral position.

The bill as amended in Senate Local Government Committee did not change the CBA's neutral position. HB23-1190 was debated extensively on the Senate floor May 7, 2023. At the time the amendments were offered on the Senate floor, we were not offered an opportunity to provide input. The Senate chamber second reading amendments in conjunction with the House amendments requires us to reevaluate our position on the bill.

Representatives from the title community testified that title insurance could not be executed under the terms of the legislation. The House passed amendments to exempt title insurance companies from liability for title defects. Senate second reading amendments created significant harm to the lending process and a lack of title protection. Lenders cannot execute loans without enforceable title insurance.

We are aware that various sectors of the business community have shared their concerns regarding this legislation. Given the totality of the amendments from the House to the Senate, those concerns are valid.

- The bill has a dampening impact on the multi-unit housing market by allowing not only cities but “mission-driven” 501 (c)(3) organizations to endless negotiations as long as they are substantially similar to the market offer. Yet, the bill does not define substantially similar and would thus allow nonconventional terms.
- The bill allows for “mission-driven” organizations whether domiciled in Colorado or outside Colorado to bring litigation against the seller or buyer. Even if the local government entity does not feel aggrieved, these organizations are empowered to bring litigation. This creates greater risk to the seller and the buyer, and the unintended consequence is higher lending costs.

The legislation creates a series of adverse outcomes of stifling investment and housing growth within Colorado.

Colorado Bankers Association and its memberships requests a veto of HB23-1190 Concerning Right of First Refusal. We appreciate your work to move Colorado’s housing concerns forward and your leadership in this arena.

Sincerely,

A handwritten signature in blue ink that reads "Jenifer Waller". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jenifer Waller
CEO/President
Colorado Bankers Association

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*Creating a stronger economy and
helping Coloradans realize dreams
by building better banks.*