

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Housing Production Trust Fund Act of 1988 to revise the resale restrictions associated with affordable for-sale units developed or preserved in distressed neighborhoods with funding from the Housing Production Trust Fund; and to amend section 47-820.02 of the District of Columbia Official Code to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Affordable Homeownership Preservation and Equity Accumulation Amendment Act of 2014”.

Sec. 2. The Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 42-2801) is amended as follows:

(1) Paragraph (1C) is repealed.

(2) A new paragraph (1E) is added to read as follows:

“(1E) “Distressed neighborhood” means a United States Census Tract that the Mayor has determined to be distressed pursuant to section 3b(e), after considering the median sales price, median home appreciation rate, poverty rate, homeownership rate, and other factors the Mayor deems reasonable.”.

(3) A new paragraph (4A) is added to read as follows:

“(4A) “Future sales price” means the greater of any contract sales price or a value equal to 90% of the fair market appraised value determined within 6 months of the date of resale by a licensed appraiser of an affordable for-sale unit produced pursuant to this act.”.

(4) New paragraphs (8A) and (8B) are added to read as follows:

“(8A) “Preexisting equity” means the greater of the discounted price determined as the difference between an initial contract sales price and the fair market appraised value at the time of the initial sale or the amount of public subsidy provided pursuant to this act that was invested in the creation of the affordable housing unit.

“(8B) “Resale restrictions” means the parameters that govern the allowable sale of an affordable for-sale unit produced pursuant to this act.”.

(b) Section 3(d)(8) (D.C. Official Code § 42-2802(d)(8)) is amended to read as follows:

“(8) Notwithstanding any other applicable law, ensure that the provisions of section 3b

are enforced.”.

(c) A new section 3b is added to read as follows:

“Sec. 3b. Maintaining affordability.

“(a) A rental unit constructed pursuant to this act shall remain affordable for a period of 40 years or a longer period selected by the developer.

“(b)(1) Except as provided in subsection (c) of this section, a for-sale unit constructed pursuant to this act shall remain affordable for 180 months or a longer period selected by the developer, in accordance with section 2218 of Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 2218). If a for-sale unit is sold before the affordability period expires, the new affordability term shall begin on the date of the sale.

“(2) After the affordability period expires, there shall be no resale restrictions unless otherwise agreed to by the developer or a subsequent purchaser in an additional covenant negotiated pursuant to subsection (d) of this section. If no additional covenant exists after the affordability period expires, the purchaser shall repay all preexisting equity to the Housing Production Trust Fund established in section 3; provided, that:

“(A) Title to the property transferred from the purchaser to another party by a means other than inheritance; or

“(B) Refinancing of indebtedness secured by the property results in any withdrawals of cash or equity value from the property by the purchaser/borrower.

“(3) If the future sales price is not sufficient to pay off all deeds of trust, the customary seller's closing costs, and the preexisting equity, the amount due to the Housing Production Trust Fund for the repayment of the preexisting equity shall be the amount available from the sale of the property after payment of all deeds of trust and customary seller's closing costs.

“(4) Repayment of the preexisting equity shall not be required upon the refinancing of indebtedness resulting in withdrawal of cash or equity value if the new loan, all other indebtedness, and the preexisting equity result in an amount that is less than 80% of the appraised value of the property.

“(c)(1) A for-sale unit constructed pursuant to this act and located in a distressed neighborhood shall remain affordable for 60 months or a longer period selected by the developer, in accordance with section 2218 of Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 2218). If a for-sale unit is sold before the affordability period expires, the new affordability term shall begin on the date of the sale.

“(2) After the affordability period expires, there shall be no resale restrictions unless otherwise agreed to by the developer or a subsequent purchaser in an additional covenant negotiated pursuant to subsection (d) of this section. If no additional covenant exists after the affordability period expires, the purchaser shall repay all preexisting equity to the Housing Production Trust Fund; provided, that:

“(A) Title to the property transferred to another party by a means other than inheritance; or

“(B) Refinancing of indebtedness secured by the property results in any

withdrawals of cash or equity value from the property by the purchaser/borrower.

“(3) If the future sales price is not sufficient to pay off all deeds of trust, the customary seller's closing costs, and the preexisting equity, the amount due to the Housing Production Trust Fund for the repayment of the preexisting equity shall be the amount available from the sale of the property after payment of all deeds of trust and customary seller's closing costs.

“(4) Repayment of the preexisting equity shall not be required upon the refinancing of indebtedness resulting in withdrawal of cash or equity value if the new loan, all other indebtedness, and the preexisting equity results in an amount that is less than 80% of the appraised value of the property.

“(5) When a resident or developer submits an application for development of a property with affordable for-sale units that is located in a distressed neighborhood, this subsection shall apply for a period of 3 years regardless of any subsequent changes to the determination of whether a neighborhood is distressed under subsection (e) of this section.

“(d) Nothing in this act shall prohibit a developer from making the developer’s properties subject to affordability periods that are longer than those minimum affordability periods required under subsections (b) and (c) of this section, including for developments such as limited equity cooperatives, land trusts, and shared equity models. These covenants may require the developer or purchaser to repay additional amounts if terms of the covenant are not satisfied.

“(e)(1) The Mayor shall make the determination of distressed neighborhoods on an annual basis by rulemaking pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), and a map identifying all distressed neighborhoods shall be included in the annual Consolidated Action Plan submitted to the Department of Housing and Urban Development, which is the annual plan associated with the 5-Year Consolidated Plan.

“(2) For the first determination of distressed neighborhoods under this subsection, the proposed rules shall be promulgated as part of the next Consolidated Action Plan developed after the effective date of the Affordable Homeownership Preservation and Equity Accumulation Amendment Act of 2014, passed on 2nd reading on October 28, 2014 (Enrolled version of Bill 20-604), and submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

“(3) The Mayor shall use as a baseline for the determination of distressed neighborhoods those United States Census Tracts with a poverty rate of 20% and may add or remove United States Census Tracts designated as distressed considering the median sales price, median home appreciation rate, homeownership rate, and other factors deemed reasonable by the Mayor.”.

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Sec. 3. Section 47-820.02(a)(1)(B) of the District of Columbia Official Code is amended to read as follows:

“(B) The base assessment amount shall be the amount paid by the current property owner in exchange for the property, not including:

“(i) Any grants or other amounts received by the property owner from government agencies, housing organizations, and other entities that are not likely to be repaid (absent a violation of the terms of the limitations, encumbrances, or other restrictions attached to the sale); and

“(ii) Any preexisting equity as defined in section 2(8A) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801(8A)) (“Act”), in the case of resale restricted properties subject to the Act.”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia