

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Rental Housing Conversion and Sale Act of 1980 to exempt single-family accommodations from the Tenant Opportunity to Purchase Act of 1980 (“TOPA”), to provide an exception from the exemption when a current tenant is an elderly tenant or a tenant with a disability, and the tenant signed a rental agreement to occupy the housing accommodation by March 31, 2018, and took occupancy by April 15, 2018, to specify the rights and obligations of elderly tenants and tenants with a disability under TOPA, and to clarify that provisions of TOPA applicable to housing accommodations with 2 through 4 units do not apply to 2-unit single-family accommodations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “TOPA Single-Family Home Exemption Amendment Act of 2018”.

Sec. 2. The Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.01 *et seq.*), is amended as follows:

(a) Section 103 (D.C. Official Code § 42-3401.03) is amended as follows:

(1) Paragraph (1) is redesignated as paragraph (1A).

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

“(1) “Accessory dwelling unit” means a rental unit that is secondary to the principal single-family dwelling in terms of gross floor area, intensity of use, and physical character, but which has kitchen and bath facilities separate from the principal dwelling, and may have a separate entrance.”.

(3) New paragraphs (16A) and (16B) are added to read as follows:

“(16A) “Single-family accommodation” means:

“(A) A housing accommodation, whether freestanding or attached, and the appurtenant land that contains:

“(i) One single-family dwelling; or

“(ii) One single-family dwelling with one accessory dwelling unit;

or

“(B) A single rental unit in a condominium, cooperative, or homeowners association, as that term is defined in D.C. Official Code § 47-871(2).

“(16B) “Single-family dwelling” means a structure, whether freestanding or attached, that contains a room or group of rooms forming a single living space, which includes a kitchen, that is used or intended to be used for living, eating, and sleeping, and the structure’s

appurtenant land.”

(b) Section 405 (D.C. Official Code § 42-3404.05) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “sections 409(4), 410(4), and 411(4), respectively,” both times it appears and inserting the phrase “sections 410(4) and 411(4), respectively, or within 90 days of delivering an offer of sale to an elderly tenant or a tenant with a disability pursuant to section 409(c),” in its place.

(2) Subsection (a-1) is amended by striking the number “409” and inserting the phrase “409(c)” in its place.

(c) Section 408 (D.C. Official Code § 42-3404.08) is amended by striking the phrase “409(2)” and inserting the phrase “409(c)(4)” in its place.

(d) Section 409 (D.C. Official Code § 42-3404.09) is amended to read as follows:

“Sec. 409. Single-family accommodations.

“(a) The provisions of this title shall not apply to single-family accommodations except as provided in this section.

“(b) Notice to all tenants of the potential sale of a single-family accommodation. –

“(1) Within 3 calendar days of receiving or soliciting, in writing, an offer to purchase a single-family accommodation, an owner of a single-family accommodation who has an intent to sell the single-family accommodation shall deliver written notice to a tenant of the single-family accommodation or a unit in the single-family accommodation that the owner received or solicited an offer to purchase the single-family accommodation.

“(2) For one year after delivering notice to a tenant pursuant to paragraph (1) of this subsection, an owner is not required to provide the same tenant with subsequent notice that the owner has received or solicited offers to purchase the single-family accommodation.

“(3)(A) Liability for failure to provide the notice required by this subsection shall lie with the owner and may not attach to the real property that is the subject of the required notice.

“(B) A tenant who brings an action in any court of law against an owner for failing to provide the notice required by this subsection may not file a notice of pendency of action pursuant to section 556a of An Act To establish a code of law for the District of Columbia, effective June 24, 2000 (D.C. Law 13-129; D.C. Official Code § 42-1207), with the Recorder of Deeds.

“(4) Nothing in this subsection shall be construed as creating rights enforceable under Title V.

“(c) Elderly tenants and tenants with disabilities. – (1) If a tenant is an elderly tenant or is a tenant with a disability as of the date of the offer of sale, and the tenant signed a rental agreement to occupy a single-family accommodation or a unit in a single-family accommodation by March 31, 2018, and took occupancy by April 15, 2018, the provisions of this title shall apply, as modified by this section.

“(2) Written offer of sale. – (A) A written offer of sale shall comply with the requirements of section 403, and in addition, shall include a description of the tenant’s rights and obligations under this section, and a list of organizations from which the tenant may seek help to

exercise the right to purchase.

“(B) The owner shall deliver a copy of a written offer of sale and of any notice of intent delivered pursuant to subsection (d)(1) of this section to the Office of the Tenant Advocate (“OTA”), and shall initiate delivery of the copy on the same date as initiating delivery of the original document.

“(C) Within 4 business days of receiving a copy of an offer of sale or notice of intent pursuant to this subparagraph, the OTA shall exercise its best efforts to contact all affected tenants and provide them with the contact information of organizations that provide tenants advice concerning their rights under this title.

“(3) Written statement of interest. – (A) Upon delivery of a written offer of sale from the owner, the tenant shall have 20 days to deliver a written statement of interest to the owner.

“(B) The tenant’s statement of interest shall be a clear expression of interest on the part of the tenant to exercise the right to purchase the housing accommodation as specified in this title.

“(C) A tenant’s failure to deliver a written statement of interest to the owner in a timely manner shall be deemed a waiver of the tenant’s rights under this section.

“(4) Negotiation period. – If a tenant has delivered a written statement of interest in accordance with paragraph (3) of this subsection, the owner shall afford the tenant at least 25 days after delivery of the statement of interest to the owner to negotiate a contract of sale, not including the 20 days provided by paragraph (3) of this subsection. For every day of delay in providing information by the owner as required by this title, the negotiation period is extended by one day.

“(5) Time before settlement. – (A) The owner shall afford the tenant at least 45 days after the date of contracting to go to settlement to secure financing and financial assistance.

“(B) If, within 45 days after the date of contracting, the tenant presents the owner with the written decision of a lending institution or agency that states that the institution or agency estimates that a decision with respect to financing or financial assistance will be made within 75 days after the date of contracting, the owner shall afford an extension of time consistent with the written estimate.

“(6) Assignment of rights. – (A) The only consideration an elderly tenant or a tenant with a disability may receive for the sale or assignment of the tenant’s rights under this title is the right to immediately use and occupy the tenant’s unit for a period of 12 months following the sale of the single-family accommodation at the rate of rent charged to the tenant as of the date of the offer of sale.

“(B)(i) If a tenant assigns or sells the tenant’s rights under this title, the recipient may only further reassign the rights to a private or nonprofit corporation or a partnership of which the assignee or buyer is an owner, managing member, or officer who can legally bind the entity.

“(ii) No consideration shall be allowed in exchange for a secondary assignment.

“(C) A bargain in which the tenant receives consideration to vacate the tenant’s unit before the 12-month period ends so that the owner may use or occupy the unit shall constitute a willful violation of this paragraph.

“(d) Determining whether a tenant claims elderly or disability status. – (1)(A) An owner of a single-family accommodation may determine whether a tenant claims status as an elderly tenant or a tenant with a disability under this section by delivering to the tenant a written notice of intent to sell, demolish, or discontinue the housing use of the single-family accommodation before issuing an offer of sale.

“(B) The notice shall include a description of the rights and obligations of elderly tenants and tenants with disabilities under this section, and a list of organizations from which the tenant may seek help to exercise those rights.

“(2) The tenant shall have 20 days from the date of delivery of the notice to deliver to the owner, in writing, a response that states the tenant’s status as an elderly tenant or a tenant with a disability.

“(3) An owner may not serve a tenant with notice of intent to sell, demolish, or discontinue the housing use of the single-family accommodation pursuant to this subsection more than 60 days before issuing the offer of sale.

“(4) Failure of the tenant to deliver to the owner a response to notice provided pursuant to paragraph (1) of this subsection in a timely manner shall be deemed a waiver of rights under this title.

“(e) Documentation of status as an elderly tenant or tenant with disability. – (1) A tenant who asserts rights under subsection (c) of this section shall deliver documentation of status as an elderly tenant or a tenant with a disability to the Mayor by the same date the tenant’s written statement of interest is due to the owner.

“(2) The Mayor shall require the minimum documentation necessary to establish status as an elderly tenant or a tenant with a disability. Such documentation may include:

“(A) For elderly status, a passport, birth certificate, District-issued driver’s license or identification card, or other such documentation the Rental Conversion and Sale Administrator deems sufficient to establish proof of age; or

“(B) For disability status, an award letter for disability benefits from the U.S. Social Security Administration, a letter from a physician stating that the tenant is a tenant with a disability, or other such documentation the Rental Conversion and Sale Administrator deems sufficient to establish proof of disability.

“(3) In determining whether a tenant qualifies as a tenant with a disability, the Mayor:

“(A) Shall limit the inquiry to the minimum information and documentation necessary to establish that the tenant meets the definition of a tenant with a disability under this act and shall not inquire further into the nature or severity of the disability; and

“(B) Shall not require the tenant to provide a description of the disability; provided, that the Mayor may require that a physician or other licensed healthcare professional

verify that the tenant meets the definition of a tenant with a disability under this act.

“(4)(A) The Mayor shall maintain records of the information compiled under this subsection and shall not disclose information about the disability of a tenant unless the disclosure is required by law.

“(B)(i) Within 30 days of receiving from a tenant documentation of status as an elderly tenant or tenant with a disability, the Mayor shall determine whether a tenant qualifies as an elderly tenant or a tenant with a disability.

“(ii) Upon the request of one of the following parties, the Mayor shall issue the determination as to whether the tenant qualifies as an elderly tenant or a tenant with a disability to the requesting party, who shall not share the determination with third parties except as necessary to facilitate the transfer of ownership of the single-family accommodation or to pursue rights under this act, unless otherwise authorized by the tenant:

“(I) Owner;

“(II) Tenant;

“(III) A title or settlement company that is conducting a closing on the transfer of ownership of the single-family accommodation; or

“(IV) A real estate agent representing the owner in the sale of the single-family accommodation.

“(5) The Mayor’s timeframe for determining a tenant’s status pursuant to this subsection shall run concurrently with other timeframes in this section.

“(f) Documentation. – (1) A document delivered pursuant to this section shall be delivered by:

“(A) First-class mail;

“(B) A delivery service providing delivery tracking confirmation;

“(C) Certified mail; or

“(D) Hand.

“(2) Within 10 days of the initiation of delivery, copies of all documents delivered to a tenant, owner, or OTA pursuant to subsections (c) or (d) of this section shall be delivered to the Mayor with written evidence of the date of delivery of the original document.

“(3)(A) The Mayor shall date stamp copies of all documents received pursuant to this subsection.

“(B) Upon the request of one of the following parties, the Mayor shall provide written confirmation of receipt or non-receipt of any document required to be delivered to the Mayor pursuant to this subsection to the requesting party:

“(i) Owner;

“(ii) Tenant;

“(iii) A title or settlement company that is conducting a closing on the transfer of ownership of the single-family accommodation; or

“(iv) A real estate agent representing the owner in the sale of the single-family accommodation.

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“(g) No tenant who occupies a rental unit pursuant to subsection (c)(6) of this section may be evicted pursuant to section 501(d), (e), (g), (h), (i), or (j) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3505.01(d), (e), (g), (h), (i), or (j)), during the 12-month period of occupancy following the sale of the single-family accommodation.”.

(e) Section 410 (D.C. Official Code § 42-3404.10) is amended by striking the phrase “The following provisions apply to accommodations with 2 through 4 units:” and inserting the phrase “The following provisions apply to accommodations with 2 through 4 units, other than 2-unit single-family accommodations:” in its place.

(f) Section 412 (D.C. Official Code § 42-3404.12) is amended by striking the phrase “409(3)” and inserting the phrase “409(c)(5)” in its place.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. 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