



Councilmember Anita Bonds

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, due to congressional review, the Tenant Opportunity to Purchase Act of 1980 (“TOPA”) to clarify that under certain limited circumstances, low-income housing tax credit redevelopment projects do not fall under the requirements of TOPA, and to require that a notice of transfer include certain material facts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Low Income Housing Tax Credit TOPA Exemption for Transfers of Interest Congressional Review Emergency Amendment Act of 2020”.

Sec. 2. Section 402 of the Tenant Opportunity to Purchase Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3404.02), is amended as follows:

(a) Subsection (c)(2) is amended as follows:

(1) Subparagraph (M) is amended by striking the word “and”.

(2) Subparagraph (N) is amended by striking the period and inserting a semicolon in its place.

(3) New subparagraphs (O), (P), and (Q) are added to read as follows:

“(O) A transfer of interest in an entity that owns a housing accommodation or a transfer of title to a housing accommodation, if each of the following conditions is satisfied:

“(i) The credit period, as defined in section 42 of the United States Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2189; 26 U.S.C. § 42) (“IRC”), for the housing accommodation has ended;

“(ii) Immediately prior to the transfer the housing accommodation is subject to:

“(I) An extended low-income housing commitment, as that term is defined in Section 42(h)(6)(B) of the IRC(100 Stat. 2189; 26 U.S.C. § 42(h)(6)(B)); or

“(II) A comparable restrictive covenant as a result of a federal or District program with occupancy, rent, and income requirements at least as restrictive as under section 42 of the IRC;

“(iii) Before and after the transfer, the owner of the housing accommodation shall be controlled, directly or indirectly, by the same person or entity; and

“(iv) Immediately following the transfer, the housing accommodation is for a term of not less than 10 years and subject to an existing or a new extended low-income housing commitment or a comparable restrictive covenant as a result of a federal or District program with occupancy, rent, and income requirements at least as restrictive as under section 42 of the IRC;

“(P) The transfer of interests in a partnership or limited liability company that owns an accommodation as its sole or principal asset; provided, that the sole purpose of the transfer is to allow for the exit of one or more limited partners or investor members who have made capital contributions and received tax benefits pursuant to section 42 of the IRC or a

comparable federal or District program with occupancy, rent, and income requirements at least as restrictive as under section 42 of the IRC; and

“(Q) A transfer of interest in an entity that owns a housing accommodation or a transfer of title to a housing accommodation, the sole purpose of which is to qualify for and enter into a new credit period, as defined in Section 42 of the IRC, for purposes of the rehabilitation of the housing accommodation; provided that, before and after the transfer, the owner of the housing accommodation shall be controlled, directly or indirectly, by the same person or entity.”.

(b) Subsection (d)(3)(A) is amended to read as follows:

“(d)(3)(A) The Notice of Transfer shall be substantially in the form prescribed by the Mayor and shall provide at a minimum:

“(i) A statement of the rights of the tenant or the tenant organization under this chapter;

“(ii) An accurate description of the transfer containing all material facts, including whether the transfer will result in any changes in management, current rents, or any applicable affordability requirements for the housing accommodation;

“(iii) The date of the proposed transfer; and

“(iv) The reason, if any, why the owner asserts the transfer may not constitute a sale.”.

63 Sec. 4. Applicability.

64 This act shall apply as of November 16, 2020.

65 Sec. 5. Fiscal impact statement.

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

69 Sec. 6. Effective date.

70 This act shall take effect following approval by the Mayor (or in the event of veto by the
71 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
72 90 days, as provided for emergency acts of the Council of the District of Columbia in section
73 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
74 D.C. Official Code § 1-204.12(a)).