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A BILL

22-315

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 TOPA, except where a tenant in the single-family home is an elderly tenant or a tenant with a disability, and 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:

24 “(16A) “Single-family accommodation” means:

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

27 “(i) A single-family dwelling only; or

28 “(ii) A single-family dwelling with an accessory dwelling unit; or

29 “(B) A rental unit in a condominium, cooperative, or homeowners

30 association, as that term is defined in section 2 of the Condominium and Cooperative Trash

31 Collection Tax Credit Act of 1990, effective October 2, 1990 (D.C. Law 8-180; D.C. Official

32 Code § 47-871).”.

33 “(16B) “Single-family dwelling” means a structure, whether freestanding or attached,
34 that contains a room or group of rooms forming a single unit that is used or intended to be used
35 for living, sleeping, and the preparation and eating of meals, and the structure’s appurtenant
36 land.”.

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

38 “Sec. 409. Single-family accommodations.

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

41 “(a-1)(1) Within 3 calendar days of receiving or soliciting an offer to purchase a single-
42 family accommodation, an owner of a single-family accommodation who has an intent to sell the
43 single-family accommodation shall provide notice to a tenant of the single-family

44 accommodation or a unit in the single-family accommodation that the owner received or
45 solicited an offer to purchase the single-family accommodation.

46 “(2) The notice requirement in paragraph (1) of this subsection shall apply to all
47 single-family accommodations, regardless of whether a tenant in the single-family
48 accommodation or a unit in the single-family accommodation is an elderly tenant or is a tenant
49 with a disability.

50 “(b) Elderly tenants and tenants with disabilities. – If a tenant is an elderly tenant or is a
51 tenant with a disability, and the tenant signed a rental agreement to occupy a single-family
52 accommodation or a unit in a single-family accommodation by December 31, 2017, and took
53 occupancy by January 15, 2018, the provisions of this title shall apply, as modified by this
54 section.

55 “(1) Written statement of interest. – (A) Upon receipt of a written offer of sale
56 from the owner, the tenant shall have 20 days to provide a written statement of interest to the
57 owner.

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

61 “(C) A written offer of sale shall comply with the requirements of section
62 403, and, in addition, shall include a description of the tenant’s rights and obligations under this
63 section, and a list of organizations from which the tenant may seek help to exercise the right to

64 purchase.

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

67 ~~“(E) A written offer of sale sent to an elderly tenant or tenant with a
68 disability shall also be sent by the owner to the District of Columbia’s Office of Tenant Advocate
69 within 2 days after the offer is sent to the tenant. The notice shall be sent via certified mail, hand
70 delivery, fax, or electronic mail. An owner who fails to comply with this subparagraph shall not
71 be entitled to recover possession of the housing unit in any proceeding. Within 4 days of receipt
72 of an offer of sale pursuant to this subparagraph, the Office of the Tenant Advocate shall contact
73 all affected tenants and provide them with the contact information of organizations that provide
74 advice concerning tenant rights under TOPA.”~~
75 (i) An owner shall provide to the District of
76 Columbia’s Office of the Tenant Advocate a copy of any written offer of sale provided to a
77 tenant pursuant to subparagraph (A) of this paragraph and any notice of intent provided to a
78 tenant pursuant to subsection (c) of this section, and shall do so on the same date that such offer
79 of sale or notice of intent is provided to the tenant.

80 “(ii) Within 4 business days following the receipt of a copy of an
81 offer of sale or notice of intent pursuant to this subparagraph, the District of Columbia’s Office
82 of the Tenant Advocate shall exercise its best efforts to contact all affected tenants and provide
83 them with the contact information of at least one organization that provides advice to tenants
concerning their TOPA rights.

84 “(2) Negotiation period. – If a tenant has provided a written statement of interest
85 in accordance with paragraph (1) of this subsection, the owner shall afford the tenant at least 25
86 days to negotiate a contract of sale, not including the 20 days provided by paragraph (1) of this
87 subsection. For every day of delay in providing information by the owner as required by this
88 title, the negotiation period is extended by one day.

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

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

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

101 “(B)(i) If a tenant assigns or sells the tenant’s rights under this title, the
102 recipient may only further reassign the rights to a private or non-profit corporation or a
103 partnership of which the assignee or buyer is an owner, managing member, or officer who can

104 legally bind the entity.

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

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

110 “(c) Determining status of an elderly tenant or tenant with a disability. – (1)(A) An owner
111 of a single-family accommodation may determine whether the owner is obligated to comply with
112 subsection (b) of this section by providing a tenant notice of intent to sell, demolish, or
113 discontinue the housing use of the single-family accommodation prior to the offer of sale.

114 “(B) The notice shall include a description of the tenant’s rights and
115 obligations under this section, and a list of organizations from which the tenant may seek help to
116 exercise those rights.

117 “(2) The tenant shall have 20 days from the date of receipt of the notice to notify
118 the owner, in writing, of the tenant’s status as an elderly tenant or a tenant with a disability.

119 “(3) An owner may not serve a tenant with notice of intent to sell, demolish, or
120 discontinue the housing use of a single-family accommodation pursuant to this subsection more
121 than 45 days before issuing an offer of sale.

122 “(4) Failure of the tenant to respond to the notice in a timely manner shall be
123 deemed a waiver of rights under this section.

124 “(d) Proof of status as an elderly tenant or tenant with disability. – (1) A tenant who
125 asserts rights under this title shall deliver proof of status as an elderly tenant or a tenant with a
126 disability to the Mayor with a copy of the tenant’s written statement of interest.

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

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

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

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

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

141 “(B) Shall not require the tenant to provide a description of the disability;
142 provided, that the Mayor may require that a physician or other licensed healthcare professional
143 verify that the tenant meets the definition of a tenant with a disability.

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

147 “(4)(A) The Mayor shall issue to the owner and tenant a determination as to
148 whether a tenant qualifies as an elderly tenant or tenant with a disability under this title within 30
149 days of receiving proof of such status.

150 “(B) The Mayor’s time period for determining a tenant’s status pursuant to
151 this subsection shall run concurrently with other time periods in this section.

152 “(e) Documentation. – ~~(1) Copies of all documents delivered to a tenant or owner~~
153 ~~pursuant to this section shall be delivered to the Mayor on the same date the original document is~~
154 ~~delivered to the tenant or owner, and shall include written evidence of the date of delivery to the~~
155 ~~respective recipient.~~ (A) A copy of any document delivered to a tenant, owner, or the District of

156 Columbia Office of the Tenant Advocate pursuant to this subsection shall be delivered to the
157 Mayor. Delivery to the Mayor pursuant to this subparagraph shall be initiated on the same date
158 that delivery of the original document to the tenant, owner, or District of Columbia Office of the
159 Tenant Advocate is initiated.

160 “(B) Written evidence of the delivery of a document to a tenant, owner, or
161 the Office of the Tenant Advocate pursuant to this section shall be delivered to the Mayor no
162 later than 10 days following the initiation of the delivery of such document and shall indicate the
163 date on which delivery to the tenant, owner, or the Office of the Tenant Advocate occurred.

164 “(2)(A) The Mayor shall date stamp copies of all documents received pursuant to
165 this section.

166 “(B) Upon request of the owner or tenant, the Mayor shall provide written
167 confirmation of receipt or non-receipt of any document required to be delivered to the Mayor
168 pursuant to paragraph (1) of this subsection.

169 “(3) A document required to be delivered pursuant to this section shall be
170 delivered by:

171 “(A) First-Class Mail;

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

173 “(C) Certified Mail; or

174 “(D) Hand.

175 “(4) This subsection shall not apply to this notice requirement in subsection (a-1)
176 of this section.

177 “(f) No tenant who occupies a rental unit pursuant to subsection (b)(4) of this section may
178 be evicted pursuant to section 501(d), (e), (g), (h), (i), or (j) during the 12-month period of
179 occupancy following the sale of the single-family housing accommodation.

180 “(g) Definitions. – For the purposes of this section, the term “elderly tenant” means a
181 tenant who is 62 years of age or older.”.

182 (c) Section 410 (D.C. Official Code § 42-3404.10) is amended by striking the phrase
183 “with 2 through 4 units” and inserting the phrase “with 2 through 4 units, other than 2-unit

184 single-family accommodations” in its place.

185 Sec. 3. Fiscal impact statement.

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

189 Sec. 4. Effective date.

190 This act shall take effect following approval by the Mayor (or in the event of veto by the
191 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
192 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
193 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
194 Columbia Register.