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A BILL
23-858

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an temporary basis, the Tenant Opportunity to Purchase Act of 1980 to clarify that under certain limited circumstances, low-income housing tax credit (LIHTC) 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 Temporary Amendment Act of 2020”.

Sec. 2. Section 402(c)(2) 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(c)(2)), is amended as follows:

(a) Subsection (c)(2) is amended by adding new subparagraphs (O), (P), and (Q) 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), for the housing accommodation has ended;

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

25 “(I) An extended low-income housing commitment, as that
26 term is defined in Section 42(h)(6)(B) of the United States Internal Revenue Code of 1986,
27 approved October 22, 1986 (100 Stat. 2189; 26 U.S.C. § 42(h)(6)(B)); or

28 “(II) A comparable restrictive covenant as a result of a
29 federal or District program with occupancy, rent, and income requirements at least as restrictive
30 as under 26 U.S.C. § 42;

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

33 “(iv) Immediately following the transfer, the housing
34 accommodation shall for a term of not less than 10 years, either remain subject to an existing or
35 become subject to a new extended low-income housing commitment or a comparable restrictive
36 covenant as a result of a federal or District program with occupancy, rent and income
37 requirements at least as restrictive as under 26 U.S.C. § 42.

38 “(P) The transfer of interests in a partnership or limited liability company
39 that owns an accommodation as its sole or principal asset; provided, that the sole purpose of the
40 transfer is to allow for the exit of one or more limited partners or investor members who have
41 made capital contributions and received tax benefits pursuant to section 42 of the United States
42 Internal Revenue Code of 1986 approved October 22, 1986 (100 Stat. 2189; 26 U.S.C. § 42) or a

43 comparable federal or District program with occupancy, rent and income requirements at least as
44 restrictive as under 26 U.S.C. § 42.

45 “(Q) A transfer of interest in an entity that owns a housing accommodation
46 or a transfer of title to a housing accommodation, the sole purpose of which is to qualify for and
47 enter into a new credit period, as defined in Section 42 of the United States Internal Revenue
48 Code of 1986, approved October 22, 1986 (100 Stat. 2189; 26 U.S.C. § 42), for purposes of the
49 rehabilitation of the housing accommodation; provided that, before and after the transfer, the
50 owner of the housing accommodation shall be controlled, directly or indirectly, by the same
51 person or entity;”.

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

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

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

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

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

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

63 Sec. 4 Fiscal impact statement.

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

67 Sec. 5 Effective date.

68 (a) This act shall take effect after approval by the Mayor (or in the event of veto by the
69 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
70 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
71 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
72 Columbia Register.

73 (b) This act shall expire after 225 days of its having taken effect.