Councilmember Janeese Lewis George

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AN AMENDMENT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Date: July 28, 2025

Offered by: Councilmembers Nadeau and Lewis George

To: B26-164, the "Rebalancing Expectations for Neighbors, Tenants, and Landlords (RENTAL) Act of 2025"

Version: ___ Introduced

___ Committee Report

___ Committee Print

___ First Reading

___ Engrossed

___ Enrolled

_X_ Amendment in Nature of Substitute

Amendment

1. Line 175: Amendatory section 401a is amended by adding new paragraphs (2A) and (2B) to read as follows:

"(2A) "Project" shall have the same meaning as set forth in section 2(11) of The Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1401(11))."

"(2B) "Qualified Purchaser" means any person certified by the Mayor pursuant to section 402d, or an agency or instrumentality of the District.".

2. Line 176: Amendatory section 401a(3) is amended to read as follows:

"(3)(A) "Tenant" means any person or persons who, under the terms of a current or expired written lease or other rental agreement, are entitled to occupy the housing accommodation and are liable to the owner for the payment of rent.

"(B) Nothing in this paragraph shall be construed to limit the definition of "tenant" for purposes of any other law.".

3. Line 342: Amendatory section 402b(b)(20) is amended to read as follows:

"(20) For projects constructed after the applicability date of this paragraph, the first sale or other transfer of interest of a new project that was constructed in its entirety within 10 years before the date of sale, provided, that this paragraph shall not apply to the construction of new units or buildings within a larger project.".

4. Line 346: Strike amendatory section 402b(b)(21).

5. Subsection (e) is revived.

6. Line 534: Amendatory section 403b is amended to read as follows:

"Sec. 403b. Cooling-off period; interference prohibited.

"(a) Within the first 3 business days following receipt of the offer of sale by the Mayor pursuant to section 403, the Mayor shall provide all tenant support providers and qualified purchasers with a copy of the offer of sale.

"(b) Neither a tenant nor tenant organization may assign purchase rights pursuant to section 406 prior to or during the following periods, unless the tenant or tenant organization has already met with an approved tenant support provider:

"(1) For rental accommodations with 2 through 4 units, during the 15-day period for joint tenant response and the subsequent 7-day period for individual tenant response as set forth in section 410(1).

"(2) For rental accommodations with 5 or more units:

"(A) During the 45-day period provided for tenant organization formation and registration as set forth in 411(1); or

"(B) If, at the time of receipt of the valid offer, a tenant organization exists in a form desired by the tenants, during the 30-day period provided for tenant organization registration, as set forth in 411(1).

"(c) All time periods set forth in this section shall run concurrently with any other applicable time period established under this subchapter.".

"(d) Any person that contacts a tenant organization or individual tenant related to an offer

or negotiation subject to this subchapter shall disclose:

"(1) The names, residence and business addresses of each person with direct, indirect, legal, or beneficial ownership of a governance or total distributional interest of the entity as provided for in § 29-102.01(a)(6) and § 29-102.01(a)(7); and

"(2) Any financial connection to the property.

"(e) Neither the owner nor the third party purchaser or any other agent or party with a financial or other interest in the accommodation shall interfere with the tenants' exercise of their rights under this subchapter. Interference includes, but is not limited to:

"(1) Attempting to organize the tenants in an effort to persuade the tenants to waive or exercise rights in any particular manner without fully disclosing the interested party's financial or other interest in the outcome;

"(2) Failing to disclose that tenants have a right to no-cost training on their rights under this subchapter, as well as the right to a consultation with a tenant support provider.".

7. Line 593: Strike subsection (j).

8. Line 664: Subsection (o) is revived.

9. Line 668: A new subsection (l-1) is added to read as follows:

"(l-1) A new section 417 is added to read as follows:

""Sec 417. Prohibition on tolling of tenant deadlines.

"Notwithstanding any other provision of law, the running of all time periods for tenants and tenant organizations to exercise rights under this act shall not be tolled.".".

10. Line 679: Section 402 is revived.

Section-by-Section Summary

1.	Adds definition of "project" – applicable to the new construction exemption Re-establishes definition of "Qualified Purchaser"
2.	Clarifies definition of "tenant" to mean any person entitled to occupy a housing unit and liable to the owner for the payment of rent pursuant to a rental agreement.
3.	**New construction exemption:** **First sale/transfer within 10 years of completion, prospective only.**
4.	**Strikes covenant exemption**
5.	Revives section regarding Qualified Purchasers
6.	Re-establishes cooling-off period, with modifications to clarify timelines based on building size and tenant organization status
7.	**Strikes amendments restricting tenant considerations**
8.	Revives section with conforming amendment District Opportunity to Purchase Act – makes language consistent with "Qualified Purchaser" definition.
9.	Adds new section prohibiting future tolling of TOPA deadlines.
10.	Revives section that establishes an exemption from deed recordation tax for sales in which a tenant association assigns purchase rights to a Qualified Purchaser.

Rationale

These amendments will maximize the consistency and predictability of transactions, encourage new investment in the District's housing market, and preserve tenants' ability to engage in good faith negotiations. This is an amendment to TITLE IV of the Housing Committee's Amendment in Nature of a Substitute, which covers the Tenant Opportunity to Purchase Act. See below for a summary of major provisions:

Prohibits any future tolling (i.e. freeze or suspension) of TOPA timelines. For about two years, all TOPA transaction timelines ground to a halt during the COVID public health emergency. The TOPA "tolling" period from 2020-2022 broke longstanding expectations that property owners, developers, and investors could historically rely on. While the tolling period is over, it is still having clear impacts on an industry that relies on consistency and predictability.

This amendment would bar any future freeze on TOPA timelines that might hold up transactions. The intent is to renew investor confidence in the District by re-affirming that the statutory deadlines are in fact deadlines, not suggestions.

Exempts all new construction from TOPA for the first 10 years, regardless of building affordability levels. A blanket exemption is much easier to administer compared to the means-tested exemption in the RENTAL Act as introduced. Setting the new construction exemption at 10 years is consistent with the TOPA exemption for downtown properties approved by Council in 2023. It further aligns with a report that found that "in buildings constructed after 2007, all transactions subject to TOPA occurred within the first 10 years of ownership".[1]

Re-establishes the Qualified Purchaser program and Deed and Recordation Tax exemption for sales. This will help attract good actors with experience navigating the TOPA process and working with tenant associations to achieve good outcomes for everyone.

Modifies the definition of "tenant" to prevent misuse of TOPA while ensuring that no legitimate tenant is left out. The definition of "tenant" as it currently stands in the ANS could result in an increase in challenges to TOPA due to a tenant's exclusion from the process. In older buildings, particularly in buildings which have changed owners over the years, it is common for neither party to have a copy of the lease. Legal precedent has established that tenancy can be established in various ways without a written lease, such as payment and acceptance of rent. To require a written agreement as a determinant of TOPA rights would be a significant deviation in current practice.

This amendment establishes a definition would exclude those who may be entitled to occupy the unit (a relative, guest, etc.) but are not the party legally obligated to pay the rent.

Strikes a provision that would exempt any property from TOPA if there is a promise of a new affordability covenant. The inclusion of this provision in the Committee's ANS raises concerns, including:

- Administrability – The revised language in the Committee's ANS addresses some of the original timing concerns but creates new administrative complexities that that will likely create delays caused by legal challenges. The introduction of a contingent structure opens uncertainty for all parties – buyers, sellers, and tenants.

  This provision lacks clear standards for several critical implementation issues. It remains unclear what documentation would be required to prove a purchaser's commitment to the affordability covenant or what enforcement mechanisms would be available to tenants should a transfer take place without this covenant being honored.

  These gaps open such transactions up to extensive legal battles as tenants challenge such Notices of Transfer, which merely delay and complicate the sale process. The contingent nature of the exemption – where transactions can revert from exempt to non-exempt status – further compounds these concerns by creating dual procedural pathways that increase the potential for disputes and cause administrative confusion.

[1] https://www.dcpolicycenter.org/publications/topas-promise-and-pitfalls-in-dc/

- Affordability – The Committee Print exemption applies to new covenants for buildings if 51% of the units are restricted to 80% Median Family Income or below. For context, 80% MFI for a family of three is up to $111,400/year and the approved rent for an 80% MFI unit is up to $2,430/month for a 2BR – above the cost of many market rate units in parts of the District.[2]

  Further, the Committee Print exemption does not account for the existing rent of a unit, making it possible for a building to be exempted from TOPA even if rents ultimately increase.

- Enforcement – Even if the above issues are addressed, an exemption of this nature would require close monitoring by DHCD for each 20-year period to ensure that rents charged are in line with the covenant, annual reporting requirements are met, and tenant incomes are recertified annually.

Restores the "cooling off period" in which tenants cannot assign purchase rights unless having met with a tenant support provider and aligns this time period with existing TOPA timelines for buildings according to their size and the status of an existing tenant organization. This is a critical component of recommendations from the Council-funded study on TOPA, to "address cases and concerns of abuse and bad actors."[3]

Removes the provision that would restrict the ability for tenants and tenant associations to negotiate a successful TOPA transaction. The Committee's ANS significantly narrows a section of the TOPA law that currently allows for "any consideration which the tenant, in the tenant's sole discretion, finds acceptable" [4].

According to the committee report, the intent of this provision is to address cash buyouts, noting that "[a]lthough buyouts are rare, they often cause contention."

While well-intentioned, the Committee's ANS amendment to section 406 of TOPA to cap cash buyouts ***will not have its intended effect***, as buyouts may happen at any time regardless of whether TOPA negotiations are in play.[5] The ANS language will simply change when they take place and the tenants' ability to negotiate collectively.

Even with the changes introduced in the Committee's ANS, cash buyouts would be pushed outside of the TOPA process when tenants do not have representation.

It is clear that many Councilmembers, residents, and industry representatives share an interest in addressing exploitative buyouts – whether that exploitation impacts the tenant or the buyer. If

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[2] https://dhcd.dc.gov/sites/default/files/dc/sites/dhcd/publication/attachments/2024-2025%20IZ%20ADU%20price%20schedule%20-%202024-8-30.pdf

[3] https://thecoalitiondc.org/wp-content/uploads/2023/11/CNHED_TOPAStudyNov09.pdf, page 12.

[4] https://code.dccouncil.gov/us/dc/council/code/sections/42-3404.06

[5] The circulated Committee Report rationale does not acknowledge the distinction between a buyout related to TOPA rights and a buyout related to a tenant's occupancy right. The Committee Print would restrict the former but not the latter.

those issues are to be properly addressed, Council must consider the matter of buyouts across the board, not just within the confines of legislation on TOPA. Otherwise, the Council may cause more buyout problems than it solves.