

1 Amendment in the Nature of a Substitute (Engrossed)  
2 B22-0315

3 Councilmember Anita Bonds  
4 April 10, 2018  
5

6 A BILL

7 22-315

8 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
9

10 To amend the Rental Housing Conversion and Sale Act of 1980 to exempt single-family  
11 accommodations from TOPA, ~~except where;~~ to provide an exception from the  
12 exemption when a current tenant in the single family home is an elderly tenant or  
13 a tenant with a disability, and the tenant signed a rental agreement to occupy the  
14 housing accommodation by the effective date of this Act, and took occupancy by  
15 15 days following that date; to specify the rights and obligations of elderly tenants  
16 and tenants with a disability under TOPA; and to clarify that provisions of TOPA  
17 applicable to housing accommodations with 2 through 4 units do not apply to 2-  
18 unit single-family accommodations.

19 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF

20 COLUMBIA, That this act may be cited as the "TOPA Single-Family Home Exemption  
21 Amendment Act of 2018".

22 Sec. 2. The Rental Housing Conversion and Sale Act of 1980, effective September 10,  
23 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.01 *et seq.*), is amended as follows:

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

25 \_\_\_\_\_(1) Paragraph (1) is redesignated as paragraph "(1A)".

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

27 \_\_\_\_\_“(1) “Accessory dwelling unit” means a rental unit that is  
28 secondary to the principal single-family dwelling in terms of gross floor area, intensity of use,

29 and physical character, but which has kitchen and bath facilities separate from the principal  
30 dwelling, and may have a separate entrance.”.

31 \_\_\_\_\_“(3) New paragraphs (16A) and (16B) are added to read as  
32 follows:

33 —“(16A) “Single-family accommodation” means:

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

36 \_\_\_\_\_ “(i) AOne single-family dwelling ~~only~~; or

37 \_\_\_\_\_ “(ii) AOne single-family dwelling with ~~a~~one accessory dwelling  
38 unit; or

39 \_\_\_\_\_ “(B) A single rental unit in a condominium, cooperative, or homeowners  
40 association, as that term is defined in section 2102(4) of the Condominium and Cooperative  
41 ~~Trash Collection Tax Credit Act of 1990, effective October 2, 1990~~1976 (D.C. Law ~~8-1801-89~~;  
42 D.C. Official Code § ~~47-87142-1901.02~~).”.

43 —“(16B) “Single-family dwelling” means a structure, whether freestanding or attached,  
44 that contains a room or group of rooms forming a single ~~unit~~living space, which includes a  
45 kitchen, that is used or intended to be used for living, eating, and sleeping, ~~and the preparation~~  
46 ~~and eating of meals~~, and the structure’s appurtenant land.”.

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

48 \_\_\_\_\_(1) Subsection (a) is amended by striking the phrase “sections 409(4), 410(4), and  
49 411(4), respectively,” both times it appears and inserting the phrase “sections 410(4) and 411(4),  
50 respectively, or within 90 days of delivering an offer of sale to an elderly tenant or a tenant with

51 a disability pursuant to section 409(c).” in its place.

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

54 (c) Section 408 (D.C. Official Code § 42-3404.08) is amended by striking the phrase  
55 “409(2)” and inserting the phrase “409(c)(2)” in its place.

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

57 “Sec. 409. Single-family accommodations.

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

60 “(b) Notice to all tenants of the potential sale of a-1)( single-family accommodation. –

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

66 “(2) ~~The~~ For one year after delivering notice requirement in to a tenant under  
67 paragraph (1) of this subsection, an owner shall apply to all single family accommodations,  
68 regardless of whether a tenant in not be required to provide the same tenant with subsequent  
69 notice that the owner has received or solicited offers to purchase the single-family  
70 accommodation or a unit in the single family accommodation.

71 “(3)(A) Liability for failure to provide the notice required by this subsection shall  
72 lie with the owner and may not attach to the real property that is an elderly tenant or is the subject

73 of the required notice.

74 “(B) A tenant who brings an action in any court of law against an owner  
75 for failing to provide the notice required by to this subsection may not file a notice of pendency  
76 of action pursuant to section 556a of An Act to establish a ~~tenant with a disability~~ code of law for  
77 the District of Columbia, effective June 24, 2000 (D.C. Law 13-129; D.C. Official Code § 42-  
78 1207), with the Recorder of Deeds.

79 “(b) (4) Nothing in this subsection shall be construed as creating rights  
80 enforceable under title V.

81 “(c) Elderly tenants and tenants with disabilities. – If a tenant is an elderly tenant or is a  
82 tenant with a disability ~~as of the date of the offer of sale,~~ and the tenant signed a rental agreement  
83 to occupy a single-family accommodation or a unit in a single-family accommodation by  
84 ~~December 31, 2017~~the effective date of the TOPA Single-Family Home Exemption Amendment  
85 Act of 2018, as passed on second reading on April 10, 2018 (Engrossed version of B22-315), and  
86 took occupancy by ~~within 15 days thereafter~~January 15~~,~~, the provisions of this title shall apply,  
87 as modified by this section.

88 “(1) Written statement of interest. – (A) Upon ~~receipt~~delivery of a written offer of  
89 sale from the owner, the tenant shall have 20 days to ~~provide~~deliver a written statement of  
90 interest to the owner.

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

94 “(C)(i) A written offer of sale shall comply with the requirements of

95 section 403, and, in addition, shall include a description of the tenant's rights and obligations  
96 under this section, and a list of organizations from which the tenant may seek help to exercise the  
97 right to purchase.

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

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

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

108 ~~“(E)(i) An owner shall provide to the District of Columbia's Office of the~~  
109 ~~Tenant Advocate a copy of any written offer of sale provided to a tenant pursuant to~~  
110 ~~subparagraph (A) of this paragraph and any notice of intent provided to a tenant pursuant to~~  
111 ~~subsection (e) of this section, and shall do so on the same date that such offer of sale or notice of~~  
112 ~~intent is provided to the tenant.~~

113 ~~“(ii) Within 4 business days following the receipt of a copy of an~~  
114 ~~offer of sale or notice of intent pursuant to this subparagraph, the District of Columbia's Office~~  
115 ~~of the Tenant Advocate shall exercise its best efforts to contact all affected tenants and provide~~  
116 ~~them with the contact information of at least one organization that provides advice to tenants~~

117 concerning their TOPA rights.

118           “(2) Negotiation period. – If a tenant has ~~provided~~delivered a written statement of  
119 interest in accordance with paragraph (1) of this subsection, the owner shall afford the tenant at  
120 least 25 days after delivery of the statement of interest to the owner to negotiate a contract of  
121 sale, not including the 20 days provided by paragraph (1) of this subsection. For every day of  
122 delay in providing information by the owner as required by this title, the negotiation period is  
123 extended by one day.

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

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

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

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



161 provided pursuant to paragraph (1) of this subsection in a timely manner shall be deemed a  
162 waiver of rights under this ~~section~~title.

163 ~~“(d) Proof of~~ Documentation of status as an elderly tenant or tenant with disability. – (1)

164 A tenant who asserts rights under subsection (c) of this title~~section~~ shall deliver  
165 ~~proof of~~documentation of status as an elderly tenant or a tenant with a disability to the Mayor with  
166 ~~a copy of~~by the same date the tenant’s written statement of interest is due to the owner.

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

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

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

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

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

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

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

184 ~~\_\_\_\_\_“(C”“(4)(A) The Mayor shall maintain records of the information compiled~~  
185 ~~under this subsection and shall not disclose information about the disability of a tenant unless the~~  
186 ~~disclosure is required by law.~~

187 ~~\_\_\_\_\_“(4)(A) The Mayor shall issue to the owner and tenant a~~  
188 ~~determination as to whether~~“(B)(i) Within 30 days of receiving from a tenant documentation of  
189 status as an elderly tenant or tenant with a disability, the Mayor shall determine whether a tenant  
190 qualifies as an elderly tenant or a tenant with a disability.

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

196 ~~\_\_\_\_\_“(I) Owner;~~

197 ~~\_\_\_\_\_“(II) Tenant;~~

198 ~~\_\_\_\_\_“(III) A title within 30 days of receiving proof of such~~  
199 ~~status or settlement company that is conducting a closing on the transfer of ownership of~~  
200 ~~the single-family accommodation; or~~

201 ~~\_\_\_\_\_“(B”“(IV) A real estate agent~~  
202 ~~representing the owner in the sale of the single-family housing accommodation.~~

203 ~~\_\_\_\_\_“(5) The Mayor’s time period~~timeframe ~~for determining a tenant’s status pursuant~~  
204 ~~to this subsection shall run concurrently with other time period~~timeframes ~~in this section.~~

205 ~~“(e) Documentation. (1)(A) A copy of any document delivered to a tenant, owner, or~~  
206 ~~the District of Columbia Office of the Tenant Advocate pursuant to this subsection shall be~~  
207 ~~delivered to the Mayor. Delivery to the Mayor pursuant to this subparagraph shall be initiated on~~  
208 ~~the same date that delivery of the original document to the tenant, owner, or District of Columbia~~  
209 ~~Office of the Tenant Advocate is initiated.~~

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

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

216 ~~“(B) Upon request of the owner or tenant, the Mayor shall provide written~~  
217 ~~confirmation of receipt or non receipt of any document required to be delivered to the Mayor~~  
218 ~~pursuant to paragraph (1) of this subsection.~~

219 ~~“(3) A document required to be~~ ~~“(f) Documentation. – (1) A document~~  
220 ~~delivered pursuant to this section shall be delivered by:~~

221 ~~“(A) First-Class Mail;~~

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

223 ~~“(C) Certified Mail; or~~

224 ~~“(D) Hand.~~

225 ~~“(4) This subsection shall not apply to this notice requirement in subsection (a-1)~~  
226 ~~of this section~~

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

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

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

235 “(i) Owner;

236 “(ii) Tenant;

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

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

241 “(g) No tenant who occupies a rental unit pursuant to subsection (b)(4) of this section  
242 may be evicted pursuant to section 501(d), (e), (g), (h), (i), or (j) of the Rental Housing Act of  
243 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 3505.01), during the 12-  
244 month period of occupancy following the sale of the single-family housing accommodation.

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

247 ~~“(e)~~ “(f) Section 410 (D.C. Official Code § 42-3404.10) is amended by striking the  
248 phrase “with 2 through 4 units” and inserting the phrase “with 2 through 4 units, other than 2-

249 unit single-family accommodations” in its place.


250 (g) Section 412 (D.C. Official Code § 42-3404.12) is amended by striking the phrase  
251 “409(3)” and inserting the phrase “409(c)(3)” in its place.

252 Sec. 3. Fiscal impact statement.

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

256 Sec. 4. Effective date.

257 This act shall take effect following approval by the Mayor (or in the event of veto by the  
258 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
259 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
260 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
261 Columbia Register.



Chairman Phil Mendelson

An Amendment  
Bill 22-315, "TOPA Single-family Home Exemption Amendment Act of 2018"  
Amendment in the Nature of a Substitute  
April 10, 2018

***Amend Proposed Section 409 (c) – Page 4, Lines 84-86:***

Strike the phrase "the effective date of the TOPA Single-Family Home Exemption Amendment Act of 2018, as passed on second reading on April 10, 2018 (Engrossed version of B22-315), and took occupancy by within 15 days thereafter," and insert the phrase "March 31, 2018 and took occupancy by April 15, 2018," in its place.

**Rationale:**

As approved by Committee and adopted first reading, this grandfather provision dated to December 31, 2017. The Amendment in the Nature of a Substitute updates this, but as of some time in the future. This amendment is better because the grandfathering is as of a clearly specified date. And the date is the present, as the legislation is being adopted, which is typical practice.


**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Office of the Budget Director**



Jennifer Budoff  
Budget Director

**FISCAL IMPACT STATEMENT**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jennifer Budoff - Budget Director 

**DATE:** April 10, 2018

**SHORT TITLE:** B22-0315 – “TOPA Single-Family Home Exemption Amendment Act of 2018” (Amendment in the Nature of a Substitute)

**TYPE:** Amendment

**REQUESTING OFFICE:** Chairman Phil Mendelson

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**Conclusion**

This amendment does not have an impact on the District’s budget or the financial plan, because there is no cost associated with implementing this legislation.

**Background**

This amendment changes the effective date of the grandfather provision of the bill from 15 days of the date the elderly or disabled tenant signs a lease and takes occupancy of the unit to signs the lease by March 31, 2018 and takes occupancy by April 15, 2018.

**Analysis of Impact on Spending**

This emergency has no impact on spending.

**Analysis of Impact on Revenue**

This emergency has no impact on revenue.



OFFICE OF THE GENERAL COUNSEL

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**MEMORANDUM**

**TO:** Chairman Phil Mendelson

**FROM:** Ellen Efros, General Counsel *EAE / DRG*

**DATE:** April 10, 2018

**RE:** Legal sufficiency determination for Amendment to Bill  
22-315, the TOPA Single-Family Home Exemption  
Amendment Act of 2018

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The measure is legally and technically sufficient for Council consideration.

The amendment makes a change to section 2(e) of the amendment in the nature of a substitute to the engrossed version of Bill 22-315, the TOPA Single-Family Home Exemption Amendment Act of 2018, amending the amendatory section 409(c) of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3404.09) ("Act"), to clarify the dates by which an elderly tenant or tenant with a disability must sign a rental agreement and take occupancy for the provisions of Title IV of the Act to apply.

I am available if you have any questions.