

Tenant Opportunity to Purchase Act (TOPA)

“An Act to guarantee a tenant’s first right of refusal” - SD2238 & HD3645

Lead Sponsors Senators Patricia Jehlen and Adam Gomez & Reps. Jay Livingstone and Rob Consalvo
A Revenue-Neutral Local Option To Stabilize Housing

- **TOPA in a nutshell:** This enabling act would allow cities and towns a local option to provide tenants in multi-family buildings the right to match a third-party offer when their homes are being sold. Tenants can designate their rights to a non-profit or local housing authority, or partner with an affordable housing purchaser.

- ★ **TOPA is critical *now* especially to address Covid-related housing speculation.**
 - The pandemic has caused increasing distress in the housing market and more turmoil, speculative purchases and resident displacement are expected.
 - Already billion-dollar investment funds have been set up for distressed properties.
 - Cities and towns desperately need tools as the housing crisis worsens.

- ★ **TOPA is essential during the pandemic to help tenants keep their homes.**
 - TOPA would help prevent the displacement of vulnerable tenants.

- ★ **TOPA would help blunt deepening inequities.**
 - Displacement and unaffordable rents disproportionately impact people of color, seniors, people with disabilities, and other vulnerable groups -- and increase segregation in our communities.
 - TOPA would help to avert speculation of 2008 when huge amounts of wealth were lost by communities of color and working class families.

- ★ **TOPA is cost-neutral** and does not authorize additional expenditures.

- ★ **TOPA is an Enabling Act** that only would go into effect in municipalities that choose to adopt it.

- ★ **Small landlords explicitly are excluded from TOPA.**

- ★ **TOPA contains safeguards to protect owners:**
 - *TOPA’s timeframes are designed to be typical of a normal real estate market in which properties are purchased with a combination of cash equity and debt.*
 - TOPA imposes no price restrictions: sales are at market-rate.
 - TOPA exempts below-market sales to immediate family members.
 - Tenants are prohibited from selling their rights.

- ★ **TOPA could move thousands of rental units to permanent affordability - every year.**
 - This bill is based on a Washington D.C. ordinance that has helped preserve thousands of homes since its enactment in 1980.

The TOPA enabling act - SD2238 & HD3645 - is essential NOW in the pandemic to divert housing from speculators and give tenants a fighting chance to avoid displacement.

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Examples of how TOPA could help stabilize neighborhoods and avoid displacement:

- A 20-year resident of Chinatown lived in a building on Johnny Court with her husband and three young children. In 2015, the building was sold to an investor, who at first raised their rent from \$930 to \$1,450 a month. The family was forced out after the investor-owner demanded \$2,600 per month, as he converted the units one by one to short-term rental use. The Chinatown Community Land Trust had prepared a purchase offer for the building, but the owner sold it to the investor. With TOPA in place, residents could have preserved their housing and taken it permanently out of the speculative market.
- Devenscrest is a complex of 110 apartments in 33 buildings in Ayer. It is occupied by many working-class families, a number of people with disabilities, and approximately 200 children. Many of the tenants have resided at Devenscrest for decades. Owned by the same family for over 50 years, rents had been kept affordable.

In June 2021, Devenscrest was purchased for \$11.6 million in cash by out-of-state developers that own dozens of properties. Right after the purchase, the developers issued eviction notices to about a third of the residents, and said they intended to evict everyone, renovate the units and double the rents. Most of Devenscrest tenants do not want to leave and cannot leave: there simply are not anywhere near 100 vacant affordable rental units elsewhere in Ayer and adjoining towns. The tenants quickly formed a tenant association, and are fighting to keep their homes and preserve the property as affordable for the long term. Had TOPA been in place in Ayer, the tenant association could have partnered with an affordable housing purchaser to do so.

How does the TOPA Enabling Act work?

In municipalities that adopt TOPA, multi-family property owners notify tenants and the municipality when they decide to sell a property. Tenants can form a tenant association, made up of tenants in at least 51 percent of the tenant-occupied units. Tenants can designate its rights to a non-profit organization or local housing authority, or partner with an affordable housing purchaser.

The tenant association or its designee has the right to make a first offer to purchase after being notified of the sale. Additionally, when the owner enters a contract to sell the property to a third party, the tenant association/designee can agree to the sales price of the third-party contract. If they do, the tenant association/designee has a reasonable period of time to perform due diligence, secure financing, and close on the purchase of the building. Otherwise, the owner can sell to a third party. The TOPA enabling act also includes a tenant opportunity to purchase process for short sales and foreclosures.

The TOPA enabling act neither brings in additional revenue nor requires additional expenditures. As an enabling act, it simply allows municipalities to adopt tenant right-of-first-refusal ordinances. Existing state and local housing funding programs could be deployed to properties acquired via TOPA programs, and additional sources will be needed to fully stabilize neighborhoods and provide housing needed by low and moderate income tenants.

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