



Legislation Details (With Text)

File #:	22-0250	Version:	0	Name:	The Councilmember Mary Pat Clarke Opportunity to Purchase Act
Type:	Ordinance	Status:			Enacted
File created:	6/27/2022	In control:			Baltimore City Council
On agenda:		Final action:			10/16/2023
Enactment date:		Enactment #:			23-275

Title: The Councilmember Mary Pat Clarke Opportunity to Purchase Act
For the purpose of repealing City Code, Article 13, Subtitle 6 {"Tenant's Right of First Refusal"} as obsolete and replacing it with a subtitle establishing a tenant's opportunity to purchase certain rental facilities; defining certain terms; establishing certain exemptions from the subtitle; providing for certain rules of interpretation; authorizing the Commissioner of the Department of Housing and Community Development to adopt rules and regulations to carry out the subtitle; requiring that a landlord provide a notice of offer of sale to certain persons on deciding to sell a rental facility; establishing certain procedures for landlords and tenants in instances where a party submits a statement of interest to purchase a rental facility; allowing for the landlord to require certain earnest money deposits; permitting the assignment of certain rights; prohibiting a waiver of certain rights absent agreed-on consideration; requiring certain disclosures if a rental facility is transferred to a party other than a tenant; requiring certain reports; providing for certain penalties; and generally relating to providing tenants with the opportunity to purchase certain rental facilities.

Sponsors: Odette Ramos, John T. Bullock, Zeke Cohen, Kristerfer Burnett, Ryan Dorsey, Phylicia Porter, Mark Conway, Antonio Glover, Robert Stokes, Sr., James Torrence, Sharon Green Middleton

Indexes: Opportunity, Purchasing

Code sections:

Attachments: 1. BMZA 22-0250, 2. #22-0250 - Planning, 3. 22-0250 Law, 4. Finance 22-0250, 5. HABC 22-0250, 6. DHCD 22-0250_V2, 7. 22-0250 OECR Bill Report (Updated), 8. Bill Synopsis 22-0250, 9. Agenda 22-0250, 10. ECD Hearing Notes 22-0250, 11. Voting Record 22-0250, 12. 22-0250 TOPA Ramos testimony, 13. 22-0250 TOPA Fact Sheet, 14. Testimony 22-0250, 15. cc22-0250(1)~1st (Comm - ECD), 16. 22-0250~1st Reader, 17. 3rd Reader Floor Amendments 22-0250(1)~3rd(Floor)(Ramos), 18. 3rd Reader 22-0250~Enrolled, 19. 22-0250 Signed, 20. Ord. 23-275

Date	Ver.	Action By	Action	Result
10/30/2023	0	Mayor	Signed by Mayor	
8/21/2023	0	Baltimore City Council	Approved and Sent to the Mayor	
7/17/2023	0	Baltimore City Council	3rd Reader, for final passage	
7/17/2023	0	Economic and Community Development	Recommended Favorably with Amendment	
7/11/2023	0	Economic and Community Development	Recommended Favorably with Amendment	Pass
6/26/2023	0	Economic and Community Development	Scheduled for a Public Hearing	
6/30/2022	0	Baltimore City Council	Refer to Board of Municipal and Zoning Appeals	
6/30/2022	0	Baltimore City Council	Refer to Dept. of Planning	
6/30/2022	0	Baltimore City Council	Refer to Dept. of Finance	
6/30/2022	0	Baltimore City Council	Refer to City Solicitor	

6/30/2022	0	Baltimore City Council	Refer to Dept. of Housing and Community Development
6/30/2022	0	Baltimore City Council	Refer to Housing Authority of Baltimore City
6/30/2022	0	Baltimore City Council	Refer to Office of Civil Rights and Wage Enforcement
6/27/2022	0	Baltimore City Council	Assigned
6/27/2022	0	Baltimore City Council	Introduced

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

*** Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*

City of Baltimore Council Bill

Introduced by: Councilmember Ramos

A Bill Entitled

An Ordinance concerning

The Councilmember Mary Pat Clarke Opportunity to Purchase Act

For the purpose of repealing City Code, Article 13, Subtitle 6 {"Tenant's Right of First Refusal"} as obsolete and replacing it with a subtitle establishing a tenant's opportunity to purchase certain rental facilities; defining certain terms; establishing certain exemptions from the subtitle; providing for certain rules of interpretation; authorizing the Commissioner of the Department of Housing and Community Development to adopt rules and regulations to carry out the subtitle; requiring that a landlord provide a notice of offer of sale to certain persons on deciding to sell a rental facility; establishing certain procedures for landlords and tenants in instances where a party submits a statement of interest to purchase a rental facility; allowing for the landlord to require certain earnest money deposits; permitting the assignment of certain rights; prohibiting a waiver of certain rights absent agreed-on consideration; requiring certain disclosures if a rental facility is transferred to a party other than a tenant; requiring certain reports; providing for certain penalties; and generally relating to providing tenants with the opportunity to purchase certain rental facilities.

By repealing

Article 13 - Housing and Urban Renewal
Subtitle 6. Tenant's Right of First Refusal, in its entirety
Baltimore City Code
(Edition 2000)

By adding

Article 13 - Housing and Urban Renewal
Sections 6-1 through 6-20, to be under the new subtitle,
"Subtitle 6. Opportunity to Purchase"
Baltimore City Code
(Edition 2000)

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That Article 13, Subtitle 6 {"Tenant's Right of First Refusal"} is hereby repealed in its entirety.

Section 2. Be it further ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 13. Housing and Urban Renewal

Subtitle 6. Opportunity to Purchase

Part 1. Definitions; General Provisions.

§ 6-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings stated.

(b) *Commissioner.*

“Commissioner” means the Commissioner of the Department of Housing and Community Development, or the Commissioner’s designee.

(c) *Dwelling unit.*

“Dwelling unit” has the meaning stated in § 202.2.23 of the Baltimore City Building Code.

(d) *Landlord.*

(1) *In general.*

“Landlord” means any person who is the owner of a rental facility.

(2) *Inclusion.*

“Landlord” includes any person authorized to exercise any aspect of the management of the rental facility, except those persons engaged solely in custodial and maintenance functions.

(e) *Owner.*

“Owner” means any person recorded in the official records of the State or City as holding title to a rental facility.

(f) *Rent.*

(1) *In general.*

“Rent” means the consideration, including any bonus, benefit, or gratuity, demanded or received per day, week, month, year, or other period of time, as the case may be, for the use or occupancy of housing accommodations or the transfer of a lease for those accommodations.

(2) *Inclusion.*

“Rent” includes any charge to a tenant under a rent-to-own agreement if the tenant’s acceptance of

the agreement is mandatory or if the tenant is not entitled to a refund of the charge if the tenant does not purchase the unit.

(g) *Rental facility.*

“Rental facility” means a single-family dwelling unit which the landlord provides to a tenant for rent or other compensation.

(h) *Statement of interest.*

“Statement of interest” means a written and clear expression of interest to a landlord that the person writing the statement is interested in purchasing the landlord’s rental facility.

(i) *Tenant.*

“Tenant” means any person who:

- (i) occupies a rental facility as a residence with the consent of the landlord; and
- (ii) has an obligation to pay rent or provide other consideration to the landlord for those accommodations.

§ 6-2. Scope of subtitle.

The following transfers of title are exempt from the requirements of this subtitle:

- (1) transfer of title to a spouse, child or children, parents, siblings, or in-laws of the landlord;
- (2) transfer of title by will or through inheritance under the State Estates and Trusts Article;
- (3) a gift to any religious, charitable, or benevolent, tax-exempt donee;
- (4) transfer of title in a mortgage or deed of trust;
- (5) transfer of title to a government agency;
- (6) transfer of, or for the sole purpose of creating, a reversionary (ground rent) interest, if the leasehold is retained by, or was not owned by, the transferor;
- (7) transfer of title in lieu of foreclosure of a mortgage or deed of trust;
- (8) any sale at public auction of a property individually, if the landlord has offered the property to the persons required under this subtitle, and those persons have failed to exercise the opportunity to purchase before the auction sale;
- (9) any transfer by a personal representative from a decedent’s estate made in the course of the administration of the estate; and
- (10) a transfer of title by a bona fide gift to a relative of the transferor or relative of the transferor’s spouse, subject to the following:

- (i) “relatives” means only those relatives set forth in § 267(c)(4) of the Internal Revenue Code and all lineal descendants and spouses of those relatives to the extent not already included in that section;
- (ii) “ancestors” as defined in § 267(c)(4) are limited to the levels of parents and grandparents; and
- (iii) “lineal descendants” include all biological children and stepchildren, and full effect shall be given to legal adoption.

§ 6-3. Rules of interpretation.

(a) In general.

In this subtitle, the following rules of interpretation apply.

(b) Time limits.

The time periods specified in this subtitle are minimum periods. A landlord may provide a tenant with reasonable extensions of time to purchase the rental facility.

(c) Presumption of knowledge.

Potential third-party purchasers are presumed to act with full knowledge of the rights and procedures established in this subtitle.

(d) Manner of delivery.

Unless otherwise expressly stated in this subtitle, delivery of items required by this subtitle shall be made either by first-class mail or hand-delivery to the required party.

(e) Resolution of defects or ambiguities.

To the extent possible, any defect or ambiguity in this subtitle shall be resolved in favor of tenants.

§ 6-4. Rules and regulations.

Subject to Title 4 {“Administrative Procedure Act - Regulations”} of the City General Provisions Article, the Commissioner may adopt rules and regulations to carry out this subtitle.

§ 6-5. {Reserved}

Part 2. Opportunity to Purchase - Procedures and Requirements

§ 6-6. Opportunity to purchase - generally.

Before a landlord may settle on the sale of a rental facility, the landlord shall give the tenant an opportunity to purchase the rental facility at a price and under terms that constitute an offer of sale in accordance with the requirements of this subtitle.

§ 6-7. Offer of sale.

(a) *In general.*

Prior to settlement on the sale of a rental facility to another party, a landlord shall provide a written offer of sale to:

- (1) the tenant within the rental facility; and
- (2) the Commissioner, on behalf of the Mayor and City Council.

(b) *Contents of offer of sale.*

(1) *In general.*

The offer of sale required by this section shall include:

- (i) the asking price and the material terms of sale; and
- (ii) a statement that the landlord shall provide the tenant, within 7 calendar days of a request, the following:
 1. a complete copy of any third-party contract to purchase the rental facility; and
 2. copies of available licensing inspection reports of the rental facility for the previous 2 years.

(3) *Delay.*

For each calendar day of delay by the landlord to provide the information required by subsection (b) (1)(ii) of this section, the time period for the tenant to express interest in purchasing the rental facility or to negotiate a contract with the landlord for the purchase of the rental facility, as the case may be, shall be extended by 1 day.

(c) *Third-party contracts.*

(1) *In general.*

If a third-party contract for the sale of the rental facility exists at the time the offer of sale is made, then the offer of sale required under this section shall include a statement that the tenant have the right to purchase the rental facility under this article at the same price and on substantially the same terms and conditions as the third-party contract of sale for the rental facility.

(2) *Unrelated matters in a third-party contract.*

If a third-party contract includes real or personal property other than the rental facility, an offer of sale must allow the tenant to purchase only the rental facility.

(e) *Changes after notice of sale.*

(1) *“Material change” defined.*

In this subsection, “material change” means:

- (i) a change in the purchaser under a third-party contract; or

(ii) a reduction in the sales price of 10% or more.

(2) *In general.*

- (i) If there is a subsequent third-party contract after the initial offer of sale was transmitted that results in a material change or if the terms of a third-party contract to purchase the rental facility materially change between the time an offer of sale is made and the settlement, the landlord shall provide the tenant with a new offer of sale reflecting the new terms.
- (ii) If the initial time period to indicate interest has expired, the tenant shall have all rights preserved under this subtitle except that the period to indicate interest in purchasing the rental facility under the revised terms of sale may not exceed 7 calendar days from the date of receipt of the new offer of sale.

(3) *Sale price increase.*

A landlord is not required to provide a new offer of sale if there is an increase in the sale price.

§ 6-8. Opportunity to purchase.

(a) *On receipt of offer of sale.*

On receipt of the written offer of sale required by § 6-7 {"Offer of sale"} of this subtitle, a tenant shall have 14 calendar days to deliver a written statement of interest to the landlord.

(b) *Acceptance of offer of sale.*

- (1) The tenant may accept the offer of sale by submitting a written contract within 14 calendar days from the date of the submission of the statement of interest.
- (2) The contract must include substantially the same terms and conditions set forth in the any third-party contract of sale, including any contract term that provides for a reasonable real estate commission.

(c) *Settlement; Financing.*

- (1) In order for the tenant to secure financing, any contract of sale shall provide a reasonable period of no less than 30 days between the execution of the contract and settlement.
- (2) A landlord shall afford a tenant a reasonable and commensurate extension of time, if:
 - (i) the tenant is obtaining financing through a government or other loan program designed for low- or moderate-income persons or first-time homebuyers; and
 - (ii) the government agency or other lender estimates in writing that a financing decision will be made within 60 calendar days after the date of the contract.

(e) *Expiration.*

If 6 months elapses from the date the landlord has delivered the written offer of sale required by § 6-7 {"Offer of sale"} to a tenant and the landlord has not gone to settlement on the sale of the rental facility, the landlord shall send a new written offer of sale to the relevant parties before selling the rental facility.

§§ 6-9 to 6-12. {Reserved}

Part 3. Miscellaneous provisions

§ 6-13. Earnest money deposits.

(a) *In general.*

To execute a contract under this subtitle, the landlord may require the tenant to pay an earnest money deposit of:

- (1) up to 1% of the contract sales price, for rental facilities with 6 or fewer dwelling units; or
- (2) up to 0.5% of the contract sales price, for rental facilities with 7 or more dwelling units.

(b) *Refundable.*

- (1) The earnest money deposit shall be refundable in the event of failure of the parties to perform under the contract despite good faith efforts.
- (2) The deposit shall be refunded within 30 days of the determination of the failure described in paragraph (1) of this subsection.

§ 6-14. Exercise or assignment of rights.

(a) *In general.*

The tenant may exercise rights under this subtitle in conjunction with a third party or by assigning or selling those rights to any party, whether private or governmental.

(b) *Timing; Consideration.*

The exercise of rights in conjunction with a third party under this subtitle or the assignment or sale of those rights may occur at any time in the process set forth in part 2 of this subtitle and may be made for any consideration that the tenant or the Mayor and City Council finds acceptable.

§ 6-15. Waiver of rights.

Unless otherwise expressly stated, a landlord may not request, and the tenant may not grant, a waiver of any requirement under this subtitle unless the waiver is in exchange for consideration that the tenant, in their sole discretion, find acceptable.

§ 6-16. Affidavit on transfers to third parties.

(a) *Affidavit of compliance required.*

In any transfer of real property subject to this subtitle to a party other than the tenant, the landlord shall file in the land records of Baltimore City an affidavit in the form set forth in subsection (c) of this section, certifying that the requirements of this subtitle have been met, as a part of the deed conveyance.

(b) *Transferee's rights protected.*

Where an affidavit has been filed as required by subsection (a) of this section,

the rights and title of a third party transferee and the transferee's heirs, successors, or assigns shall be free of any restriction or claim arising in favor of the tenant under this subtitle.

(c) *Corporate owner.*

Where a rental facility subject to this section is owned by a corporation, LLC, or other business organization, the affidavit required by subsection (a) of this section shall be made by the president and the secretary of the business organization.

§ 6-17. Reporting.

(a) *Landlord's duty to report.*

- (1) A landlord shall report each rental facility transfer subject to this subtitle to the Commissioner within 30 days of the transfer in the manner required by the Commissioner.
- (2) The duty to report under this subsection shall include transfers to a party other than the tenant.

(b) *Commissioner's annual report.*

On or before June 30 of the each year, the Commissioner shall submit a report to the Mayor and City Council detailing:

- (1) the total number of transfers subject to this subtitle, including transfers to parties other than a tenant, disaggregated by zip code; and
- (2) any recommendations for legislative or policy amendments to better ensure that City tenants are benefitting from this subtitle.

§§ 6-18 to 6-19. {Reserved}

Part 5. Penalties

§ 6-20. Penalties.

(a) *In general.*

Any person who violates any provision of this subtitle shall be guilty of a misdemeanor and, on conviction, shall be subject to a fine of up to \$1,000 for each violation.

(b) *Other remedies not precluded.*

The criminal penalty described in this section is not intended to preclude any other civil or administrative remedy available at law.

Section 3. And be it further ordained, That this Ordinance takes effect on the 30th day after the date it is enacted.