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**Before the Committee on Housing
Council of the District of Columbia**

Hearing on B26-0597 – Housing Production Trust Fund Act of 2026

October 19, 2026

Legal Aid DC¹ supports passage of the Housing Production Trust Fund Act of 2026 with amendments. We applaud Council for its improvements to the bill and recommend the following further changes:

1. Further clarification of the definition of “New Building;” and
2. Explanation of what anti-displacement protections apply when there is a transfer of a long-term subsidy.

Improvements in the Committee Print

We applaud the many improvements that Council made to the Housing Production Trust Fund Act in the committee print. In particular, the following changes will increase the bill’s effectiveness in preserving affordability:

1. The new definition of “Preservation;”
2. The requirement that recipients of stabilization funds enter into new 40-year affordability covenants;

¹ Legal Aid DC is the oldest and largest general civil legal services program in the District of Columbia. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. For more information, visit www.LegalAidDC.org.

3. The requirement that a tenant advocate organization be represented on the Housing Production Trust Fund Board; and
4. The new requirement that DC have the ability to exercise the District Opportunity to Purchase Act (DOPA) in the event of foreclosures at multifamily buildings.

The new definition of “Preservation” adds clarity to the law. The prior version of the bill defined “Stabilization,” but did not define preservation.² Stabilization and preservation are distinct concepts. As the current version of the bill now clarifies, “‘Preservation’ means repair and rehabilitation.”³ Conversely, “Stabilization” means “[r]isk coverage to lenders” and “[b]ridge funding.”⁴ These two terms serve different purposes and need to be distinguished. This new definition will prevent later confusion as the bill is implemented.

The committee print also now includes a requirement that recipients of stabilization funds enter into new 40-year affordability covenants.⁵ Recipients of these funds will be receiving a massive windfall from government coffers. They should only receive this money if it serves the District’s goal of continuing to preserve affordable housing. This 40-year affordability covenant will help advance that goal.

We also applaud the revision to the composition of the Housing Opportunity Fund Board (Board). At the time of introduction, the bill required that the Board consist of nine members. Only one of the members of the Board needed to “be a representative of a low-income tenant association.”⁶ While the committee print retains this overall composition for the Board, it adds a new requirement that the Board also include a representative of a tenant advocate organization.⁷ Although the new Board composition

² “Hous. Production Omnibus Amend. Act of 2026,” B26-597, Introduction, Title I(A) § 102(5).

³ “Hous. Production Omnibus Amend. Act of 2026,” B26-597, Committee Print, Title I(A) § 102(5).

⁴ *Id.*

⁵ *Id.* at Title I(A) § 108(e).

⁶ Introduction at Title I(B) § 115(b).

⁷ Committee Print at Title I(B) § 116(b)(7).

is still heavily weighted towards housing developers and industry professionals, we appreciate this addition of a tenant advocate voice to the conversation.

Finally, we believe the addition of the DOPA process to foreclosure sales of multifamily buildings has the potential to preserve affordable housing in the District. Unfortunately, up to the present, the District has underused DOPA. As of February 2026, the Department of Housing and Community Development (DHCD), which administers DOPA, had never purchased a building using the DOPA process.⁸ However, foreclosure sales could offer an opportunity for the District to save at-risk properties by combining the DOPA process with government-administered Housing Production funds. We applaud this innovative approach and encourage DHCD to exercise these powers in the future to protect affordable properties that might otherwise be lost. We further urge counsel to also give tenants the opportunity to purchase their buildings through Tenant Opportunity to Purchase Act (TOPA) as well in the event of foreclosure sales.

Further Needed Amendments

While we applaud the improvements in the committee print, we recommend the following further amendments to better protect District tenants.

Definition of “New Building”

We are concerned that the definition of “New Building” in the committee print could still leave some room for confusion. This definition determines which buildings will lose TOPA protections. We believe it was Council’s intent to limit this TOPA exemption exclusively to either buildings that were newly built in their entirety or were buildings that were newly converted to residential use. The definition in the committee print clearly lists only these two bases for the exemption. However, we are concerned that some landlords could misread the word “including” in the definition to open up the possibility that other properties might *also* qualify for the exemption. We do not believe this interpretation would effectuate Council’s intent, and could create fresh legal confusion and extended litigation. To avoid any future confusion, we recommend the following revision to the definition – suggested revisions in bold:

“New Building” means a building that has completed construction within the 15 years before the relevant date of sale, **including either:**

⁸ Colleen Green, Director of Dep’t of Hous. and Community Development, to the Honorable Robert White, Chairperson of the Committee on Hous. for the Council of the District of Columbia, “DHCD Draft Responses: Committee on Hous. FY 2026 Performance Oversight Pre-Hearing Questions,” at 72 (Feb. 25, 2026).

- A) A building that received its first permanent certificate of occupancy within the last 15 years; or
- B) A building changed in use and occupancy from any non-residential category to Residential Group R-2, as defined by the Construction Codes, a permanent certificate of occupancy for which was issued within the previous 15-year period.

Tenant Protections When Long-Term Subsidies Transfer

We are concerned that the provision regarding transfer of long-term subsidies does not include sufficient protections for tenants who may face displacement during relocations. Legal Aid supports the goal of enabling tenants to transfer their housing assistance during renovations. However, this is a complex process and should be addressed in its own separate legislation. Trying to push through this new provision without sufficient consideration could lead to unintended consequences.

In our experience, temporary and permanent transfers are disruptive and can pose a serious risk to a tenancy. Any scheme for transfers should include a clear plan and process to solicit input from tenants, inform and assist tenants during relocation, and track households as they move through the process. Without these features, tenants risk losing their housing. If Council intends to leave this provision in the current bill, rather than address this issue through new legislation, then we would recommend an amendment clarifying that the process for relocations under D.C. Code § 42-505.01(f) also applies to any relocations envisioned by this bill.

Conclusion

We applaud Council's ongoing efforts to protect affordable housing in the District. For this reason, we support passage of the Housing Production Trust Fund Act with the following two amendments:

1. A revision of the definition of "New Building;" and
2. Removal of the provision regarding transfers of long-term subsidies.