

Tenant Opportunity to Purchase Act (TOPA)
“An Act to guarantee a tenant’s first right of refusal” – S.998 & H.1544

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

- **In a nutshell:** TOPA is an enabling act that would let municipalities enact an ordinance to give tenants in multi-family buildings the right to match a third-party offer when their homes are being sold. Tenants can designate that right to or partner with a local housing authority or affordable housing purchaser.

★ **Massachusetts urgently needs TOPA to help stabilize our housing stock, keep low-income and working class families in their homes, and stem the tide of residents leaving our state.**

- TOPA is critical to *preserving unsubsidized “naturally occurring” affordable housing (NOAH)*.
- Cities and towns desperately need tools to address the worsening housing market.

★ **TOPA could move thousands of rental units to permanent affordability.**

- TOPA has a proven track record in Washington, D.C. where it has helped [preserve more than 16,000 homes as affordable](#).

★ **TOPA is critical to address increasing housing speculation.**

- [Large corporate speculators and investment funds are increasingly buying up residential properties](#) to generate large profits by drastically increasing rents, displacing long-time residents.

★ **TOPA would help blunt deepening inequities.**

- TOPA would provide first-time homeownership opportunities for historically excluded communities.
- Displacement and unaffordable rents increase segregation and disproportionately harm people of color, seniors, people with disabilities, and other vulnerable groups.
- TOPA would help to avert speculation, like that in the 2008 foreclosure crisis, when huge amounts of wealth were lost by communities of color and working class families.

★ **TOPA is an Enabling Act** and does not require anyone to do anything: it would only affect municipalities that choose to enact it.

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

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

★ **TOPA contains safeguards to protect owners:**

- *TOPA’s timeframes mirror normal real estate transactions.*
- TOPA imposes no price restrictions: sales are at market-rate.
- TOPA exempts below or at market sales to immediate family members.
- Tenants are prohibited from selling their rights.

***The TOPA enabling act - S.998 & H.1544 - is essential NOW
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 on Johnny Court with her husband and three young children. In 2015, the building was sold to an investor, who at first raised the 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 removed it permanently from 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 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 associations can partner with or designate their rights to a non-profit or for-profit affordable housing purchaser or local housing authority.

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.

TOPA 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, and additional sources will be needed to fully stabilize neighborhoods and provide housing needed by low and moderate income tenants.

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<https://www.topa4ma.org>