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Codification District of Columbia Official Code

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AN ACT

D.C. ACT 17-211

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

To designate the senior wellness center, located at 324 Kennedy Street, N.W., in Ward 4, as the Hattie Holmes Senior Wellness Center.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Hattie Holmes Senior Wellness Center Designation Act of 2007".

Note, § 9-204.01

Sec. 2. Pursuant to section 401 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201, D.C. Official Code § 9-204.01), the site of the old Kennedy Theater, at 324 Kennedy Street, N.W., in Ward 4, is designated as the "Hattie Holmes Senior Wellness Center".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Vincent C Gray

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 27, 2007

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AN ACT
D.C. ACT 17-212

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
NOVEMBER 27, 2007

To amend, on a temporary basis, the Prevention of Child Abuse and Neglect Act of 1977 to require certain records to be made available to the Child and Family Services Agency as part of an investigation of suspected child abuse or neglect.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Child Abuse and Neglect Investigation Record Access Temporary Amendment Act of 2007".

Sec. 2. The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02 *et seq.*), is amended by adding a new section 106b to read as follows:

"Sec. 106b. Obtaining records.

"(a) Notwithstanding any other provisions of law, upon the Agency's request, a person who is required to report suspected incidents of child abuse or neglect under section 2 of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 5, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02), shall immediately provide the Agency copies of all records of a child who is the subject of a report of child abuse or neglect, or of any other child residing in the home where the abuse or neglect is alleged to have occurred, that are in the possession of the person or the person's employees.

"(b) The Agency shall request the records needed for its investigation conducted under Title I.

"(c) The Agency shall not be charged a fee for the records provided to it under this section.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 27, 2007

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AN ACT

D.C. ACT 17-213

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

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To amend, on a temporary basis, the School Proximity Traffic Calming Act of 2000 to require the Mayor to investigate appropriate traffic calming measures and institute increased speeding penalties for motorists around school zones, recreation centers, libraries, and public parks, and to require the Mayor to submit, within 60 days, a report to the Council reporting the findings of the investigation and the type of traffic control devices that should be installed.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "School Proximity Traffic Calming Temporary Amendment Act of 2007".

Sec. 2. The School Proximity Traffic Calming Act of 2000, effective May 23, 2000 (D.C. Law 13-111; D.C. Official Code § 38-3101), is amended as follows:

Note, § 38-3101

(a) Subsection (a) is amended by striking the phrase "school zones" and inserting the phrase "school zones and streets directly bordering recreation centers, libraries, and public parks" in its place.

(b) Subsection (b) is amended by striking the phrase "school zone" and inserting the phrase "school zone or on streets directly bordering recreation centers, libraries, and public parks" in its place.

(c) Subsection (c)(1) is amended by striking the phrase "school zones" and inserting the phrase "schools zones and on streets directly bordering recreation centers, libraries, and public parks" in its place.

(d) Subsection (e) is amended as follows:

(1) Paragraph (1) is amended as follows:

(A) Strike the phrase "School zones" and insert the phrase "School zones and streets directly bordering recreation centers, libraries, and public parks" in its place.

(B) Strike the phrase "school zones" and insert the phrase "school zones and streets directly bordering recreation centers, libraries, and public parks" in its place.

(2) Paragraph (2) is amended to read as follows:

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"(2) The Mayor shall place the traffic control device, deemed necessary under subsection (a) of this section, on every street within 100 yards of a:

"(A) School building within a school zone;

"(B) Recreation center;

"(C) Library; or

"(D) Public park.".

(e) Subsection (h) is amended by striking the phrase "school zone' and inserting the phrase "school zone or on streets directly bordering recreation centers, libraries, and public parks" in its place.

(f) Subsection (i) is amended by striking the phrase "school zones within 60 days from the effective date of this act" and inserting the phrase "school zones, recreation centers, libraries, and public parks within 60 days from October 15, 2007" in its place.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Vincent C. Gray

Chairman
Council of the District of Columbia

Adrian Fenty

Mayor
District of Columbia
APPROVED
November 27, 2007

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AN ACT

D.C. ACT 17-214

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

To amend, on a temporary basis, section 47-3503(c)(5) of the District of Columbia Official Code to delay implementation by one tax year of the owner-occupant residential tax credit to real properties that were under the lower income homeownership cooperative housing association 5-year exemption, to clarify that to receive the credit there must be continuous ownership, and to clarify that no credits will be granted for tax years prior to Tax Year 2007.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Lower Income Homeownership Cooperative Housing Association Re-Clarification Temporary Act of 2007".

Note, § 47-3503

Sec. 2. Section 47-3503(c)(5) of the District of Columbia Official Code is amended as follows:

(a) Designate the existing text as subparagraph (A).

(b) A new subparagraph (B) is added to read as follows:

"(B) The application of subparagraph (A) of this paragraph shall be limited as follows:

"(i) The credit under § 47-864.01 that may result for the tax year beginning October 1, 2006 shall be nonrefundable and shall be applied to the real property tax owed for the tax year beginning October 1, 2007, and thereafter.

"(ii) No credit under § 47-864.01 shall be allowed for a tax year prior to the tax year beginning October 1, 2006.

"(iii) Subparagraph (A) of this paragraph shall not apply if the ownership has not been continuous from the date that the exemption provided by this subsection has been validly in effect.".

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Sec. 3. Fiscal impact statement.

The Council adopts the December 4, 2006 fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 27, 2007

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AN ACT

D.C. ACT 17-215

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

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To amend, on a temporary basis, the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005 to clarify that the dollar volume subcontracting requirement may include purchases from small business enterprises that provide materials, goods, and supplies, to extend many of the benefits of the act afforded to small, local, and disadvantage business enterprises to all certified business enterprises, and to provide the Department of Small and Local Business Development with grant-making authority.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Small and Local Business Development Subcontracting Clarification, Benefit Expansion, and Grant-making Authority Temporary Amendment Act of 2007".

Sec. 2. The Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*), is amended as follows:

(a) Section 2302 (D.C. Official Code § 2-218.02) is amended by adding new paragraphs (1A) and (1B) to read as follows: **Note, § 2-218.02**

"(1A) "Business enterprise" means a business entity organized for profit.

"(1B) "Certified business enterprise" means a business enterprise or joint venture certified pursuant to part D.".

(b) Section 2312 (D.C. Official Code § 2-218.12) is amended as follows: **Note, § 2-218.12**

(1) Subsection (d) is amended by striking the phrase "local, small, and disadvantaged" and inserting the word "certified" in its place.

(2) Subsection (f) is amended by striking the phrase "local, small, and disadvantaged" and inserting the word "certified" in its place.

(c) Section 2313 (D.C. Official Code § 2-218.13) is amended as follows: **Note, § 2-218.13**

(1) Subsection (c) is amended as follows:

(A) Paragraph (1)(F) is amended by striking the phrase "contracting with, and procuring from, certified business enterprises" and inserting the phrase "the achievement of the goals set forth in section 2341" in its place.

(B) Paragraph (2) is amended as follows:

(i) The lead-in language is amended by striking the phrase "Contracting Opportunities" and inserting the phrase "Business Opportunities and Access to Capital" in its place.

(ii) Subparagraph (A) is amended by striking the phrase "local, small, and disadvantaged" wherever it appears and inserting the word "certified" in its place.

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(iii) Subparagraph (E) is amended by striking the phrase "local, small, and disadvantaged" and inserting the word "certified" in its place.

(iv) Subparagraph (I) is amended by striking the phrase "local, small, and disadvantaged" and inserting the word "certified" in its place.

(v) Subparagraph (J) is amended by striking the phrase "local, small, and disadvantaged" and inserting the word "certified" in its place.

(vi) Subparagraph (K) is amended by striking the phrase "local, small, and disadvantaged" wherever it appears and inserting the word "certified" in its place.

(2) A new subsection (c-1) is added to read as follows:

"(c-1) The Department shall have the authority to issues grants to local businesses (whether or not certified pursuant to this subtitle), community and neighborhood groups or other nonprofit organizations as necessary to effectuate the mission of the Department and the purposes of this subtitle.".

(d) Section 2323 (D.C. Official Code § 2-218.23) is amended by striking the phrase "local, small, and disadvantaged" wherever it appears and inserting the word "certified" in its place. Note, § 2-218.23

(e) Section 2325 (D.C. Official Code § 2-218.25) is amended as follows: Note, § 2-218.25

(1) The existing language is designated as paragraph (1).

(2) A new paragraph (2) is added to read as follows:

"(2) The Department may promulgate, amend, repeal, and enforce any bylaws and internal rules of operation, consistent with the provisions of this subtitle, as may be necessary or appropriate to carry out its responsibilities under this subtitle.".

(f) Section 2331(2A) (D.C. Official Code § 2-218.31(2A)) is amended by striking the phrase "Meets 3 of the 4" and inserting the phrase "Meets 1 of the 4" in its place. Note, § 2-218.31

(g) Section 2342 (D.C. Official Code § 2-218.42) is amended by striking the phrase "local, small, and disadvantaged business enterprises, resident-owned businesses, resident businesses, and local business enterprises with principal offices located in an enterprise zone" and inserting the phrase "certified business enterprises" in its place. Note, § 2-218.42

(h) Section 2343(a) (D.C. Official Code § 2-218.43(a)) is amended as follows: Note, § 2-218.43

(1) Paragraph (1)(B) is amended by inserting the word "a" before the word "resident-owned".

(2) Paragraph (2)(B) is amended by inserting the word "a" before the word "resident-owned".

(i) Section 2346(a) (D.C. Official Code § 2-218.46(a)) is amended to read as follows:

"(a)(1) All construction contracts in excess of $250,000 shall include the following requirements: Note, § 2-218.46

"(A) At least 35% of the dollar volume shall be subcontracted to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises; or

"(B) If there are insufficient qualified small business enterprises to completely fulfill the requirement of subparagraph (A) of this paragraph, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

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"(2) All non-construction contracts in which a portion of the work is subcontracted shall include the following requirements:

"(A) At least 35% of the dollar volume shall be subcontracted to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises; or

"(B) If there are insufficient qualified small business enterprises to completely fulfill the requirement of subparagraph (A) of this paragraph, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.".

(j) Section 2348 (D.C. Official Code § 2-218.48) is amended by striking the phrase "local, small, or disadvantaged businesses" both times it appears and inserting the phrase "certified business enterprises" in its place. Note, § 2-218.48

(k) Section 2350 (D.C. Official Code § 2-218.50) is amended as follows: Note, § 2-218.50

(1) Subsection (b)(1) is amended to read as follows:

"(b)(1)(A) A government corporation shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the government corporation, or any agency or subsidiary of the government corporation, with respect to each major phase of the development and construction of a project undertaken by the government corporation, including contracts for professional services, architectural, engineering, and other construction-related services and construction trade work, shall provide that at least 35% of the work on the project shall be awarded to small business enterprises; provided, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods, and supplies are purchased from small business enterprises.

"(B) If there are insufficient qualified small business enterprises to fulfill the small business enterprise contracting requirement, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume of the project to any certified business enterprises; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work."

(2) Subsection (f)(3) is amended by striking the phrase "local, small, and disadvantaged" and inserting the word "certified" in its place.

(3) Subsection (g)(2) is amended by striking the phrase "Local, small, and disadvantaged" and inserting the word "Certified" in its place.

(l) Section 2351(e) (D.C. Official Code § 2-218.51(e)) is amended by striking the phrase "local, small, or disadvantaged" wherever it appears and inserting the word "certified" in its place. Note, § 2-218.51

(m) Section 2353 (D.C. Official Code § 2-218.53) is amended as follows: Note, § 2-218.53

(1) Subsection (a) is amended as follows:

(A) Paragraph (1)(D) is amended by striking the phrase "local, small, or disadvantaged".

(B) Paragraph (2)(A) is amended by striking the phrase "Local, small, and disadvantaged" and inserting the word "Certified" in its place.

(C) Paragraph (3)(A) is amended by striking the phrase "Local, small, and disadvantaged" and inserting the word "Certified" in its place.

(2) Subsection (b)(2)(A) is amended by striking the phrase "Local, small, and

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disadvantaged" and inserting the word "Certified" in its place.

(n) Section 2354 (D.C. Official Code § 2-218.54) is amended as follows: Note, § 2-218.54

(1) The existing language is designated as subsection (a).

(2) Paragraph (1)(D)(iv) of the newly designated subsection (a) is amended by striking the phrase "local, small, or disadvantaged".

(3) Paragraph (2) of the newly designated subsection (a) is amended as follows:

(A) Subparagraph (C) is amended by striking the word "and" at the end.

(B) Subparagraph (D) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(C) A new subparagraph (E) is added to read as follows:

"(E) The actual dollar amount expended with each business enterprise.".

(4) New subsections (b) and (c) are added to read as follows:

"(b) Within 45 days of its receipt of the annual reports required by section 2350(g), the Department shall submit to the Council and the Commission a report containing the following information with respect to each government corporation for the current and prior fiscal years:

"(1) The expendable budget of the government corporation;

"(2) The government corporation's achievement with respect to the requirements of section 2350; and

"(3) A list of each contract or procurement of the government corporation, which shall include the following:

"(A) A description of the contract or procurement;

"(B) The dollar amount of the contract or procurement;

"(C) The name of the business enterprise from which the goods or services were contracted or procured;

"(D) Whether the business enterprise was a certified business enterprise, and, if it was:

"(i) The category or categories under which the business enterprise is certified; and

"(ii) The identification number of the business enterprise assigned by the Department;

"(E) The source of funding for the contract (local, federal, other, or capital); and

"(F) The actual dollar amount expended with each business enterprise.

"(c)(1) Beginning with the first full quarter after October 25, 2006, the Department shall submit to the Council, within 60 days of the end of each quarter, a copy of the quarterly reports of each agency required by section 2353(a) and a copy of the quarterly reports of each government corporation required by section 2350(f).

"(2) Beginning with the first full quarter after October 25, 2006, the Department shall submit to the Council the following:

"(A) A summary of the information that each agency is required to submit pursuant to section 2353 and the information that each government corporation is required to submit pursuant to section 2350(f), in a format that shows the cumulative progress of each agency's or government corporation's annual certified business enterprise contracting and procurement goals to date and the actual dollar amount expended with each business enterprise for the current fiscal year; and

"(B) A list of all agencies or government corporations that have not submitted a report for that quarter and a detailed explanation of what actions were taken by the

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Department to effectuate compliance with the reporting requirement.".

(o) Section 2361(b) (D.C. Official Code § 2-218.61(b)) is amended by inserting the word "longtime" before the phrase "resident business" wherever it appears. Note, § 2-218.61

(p) Section 2371(a) (D.C. Official Code § 2-218.71(a)) is amended by striking the phrase "local, small, and disadvantaged" wherever it appears and inserting the word "certified" in its place. Note, § 2-218.71

Sec. 3. Section 2375 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code § 2-218.75), is amended as follows: Note, § 2-218.75

(a) Subsection (c)(2) is amended by inserting the word "section" before the term "2363(c)".

(b) Subsection (d) is designated as subsection (e).

(c) The second subsection designated as subsection (c) is re-designated as subsection (d).

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Vincent C. Gray

Chairman
Council of the District of Columbia

Adrian Fenty

Mayor
District of Columbia
APPROVED
November 27, 2007

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-216

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

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To amend, on a temporary basis, the School Modernization Financing Act of 2006 to provide that the Facilities Master Plan shall be submitted by May 31, 2008, to require that a work program of 2008 activities and capital projects to be undertaken by the Office of Public Education Facilities Modernization and a proposed organizational structure be submitted to the Council within 60 days of the effective date of the School Modernization Use of Funds Requirements Emergency Amendment Act of 2007, and to provide that no further funds shall be transferred to the Office of Public Education Facilities Modernization if the submissions are not submitted as required; to amend the Schools Modernization Amendment Act of 2005 to strike obsolete references and insert current references; and to amend the Public Education Reform Amendment Act of 2007 to provide that the Director of the Office of Public Education Facilities Modernization shall have maintenance authority at District of Columbia Public Schools facilities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "School Modernization Use of Funds Requirements Temporary Amendment Act of 2007".

Note, § 38-2971.03

Sec. 2. Section 103(b), (c), and (d) of the School Modernization Financing Act of 2006, effective June 8, 2006 (D.C. Law 16-123; D.C. Official Code § 38-2971.03(b), (c), and (d)), is amended to read as follows:

"(b) Funding authority provided to the Office of Public Education Facilities Modernization ("OFM") pursuant to this title shall be spent to fund the OFM and to modernize District of Columbia Public Schools in accordance with the Capital Improvement Plan and Budget and the Facilities Master Plan. The Facilities Master Plan shall be submitted to the Council for its approval no later than May 31, 2008.

"(c) Notwithstanding any other law, a work program detailing the activities and capital projects to be undertaken by OFM for fiscal year 2008 and a proposed organizational structure for OFM, which includes the information listed in section 104(a)(1) through (7), shall be submitted within 60 days of the effective date of the School Modernization Use of Funds Requirements Emergency Amendment Act of 2007, effective October 5, 2007 (D.C. Act 17-129; 54 DCR 10030), and approved by the Council.

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"(d)(1) The Chief Financial Officer shall not continue to provide authority to obligate funds to the OFM to modernize District of Columbia Public Schools under this title if either of the following submission deadlines is missed:

"(A) The Facilities Master Plan is not submitted as required by subsection (b) of this section and certified as required by paragraph (2) of this subsection; or

"(B) The work program and proposed organizational structure are not submitted as required by subsection (c) of this section and certified as required by paragraph (2) of this subsection.

"(2) The Chief Financial Officer shall continue to provide authority to obligate funds only upon receipt of written certification from the Secretary to the Council of the District of Columbia that the submission requirements of subsection (b) or (c) of this section, whichever is applicable, have been met.".

Sec. 3. Section 4045(a) of the Schools Modernization Amendment Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D. C. Official Code § 1-325.44(a)), is amended as follows: **Note, § 1-325.44**

(a) The heading is amended by striking the phrase "District of Columbia Public Schools" and inserting the phrase "Office of Public Education Facilities Modernization" in its place.

(b) Subsection (a) is amended as follows:

(1) Paragraph (1) is amended as follows:

(A) Strike the phrase "Master Facilities Plan" and insert the phrase "Facilities Master Plan" in its place.

(B) Strike the word "Superintendent" and insert the word "Chancellor" in its place.

(2) Paragraph (2) is amended by striking the phrase "Master Facilities Plan" and inserting the phrase "Facilities Master Plan" in its place.

(3) Paragraph (3) is amended as follows:

(A) The lead-in language is amended by striking the phrase "and approved by the Board of Education which shall include" and inserting the phrase ",which shall include" in its place.

(B) Subparagraph (C) is amended by striking the phrase "Master Facilities Plan" and inserting the phrase "Facilities Master Plan" in its place.

(C) Subparagraph (D) is amended by striking the phrase "developed by the Superintendent,".

Sec. 4. Section 704(6) of the Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-453(6)), is amended as follows: **Note, § 38-453**

(a) Strike the phrase "including planning, design," and insert the phrase "including planning, design, maintenance," in its place.

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(b) Strike the phrase "provided, that it shall not manage routine maintenance at DCPS facilities." and insert the phrase "provided, that it shall not manage cleaning and janitorial services at DCPS facilities." in its place.

Sec. 5. Applicability.

(a) Sections 2 and 3 shall apply as of October 1, 2007.

(b) Section 4 shall apply upon:

(1) Reprogrammings being approved by the Council that transfer to the Office of Public Education Facilities Modernization:

(A) All assets, personnel, and funding authority for maintenance conducted by the District of Columbia Public Schools' Office of Facilities Management; and

(B) All assets, personnel, and funding authority for capital projects from the District of Columbia Public Schools; and

(2) Submission to the Council of a transition plan detailing the incorporation of the Office of Facilities Management into the Office of Public Education Facilities Modernization.

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 7. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Vincent C. Gray

Chairman
Council of the District of Columbia

Adrian Fenty

Mayor
District of Columbia
APPROVED
November 27, 2007

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-217

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

Codification District of Columbia Official Code

2001 Edition

2008 Winter Supp.

West Group Publisher

To amend, on a temporary basis, the Office of Administrative Hearings Establishment Act of 2001 to permit the Rent Administrator, and those persons exercising authority delegated by the Rent Administrator, to retain authority to issue final orders in cases in which they have held evidentiary hearings before October 1, 2006.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Rent Administrator Hearing Authority Temporary Amendment Act of 2007".

Sec. 2. Section 6(b-1)(1) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03(b-1)(1)), is amended as follows: **Note, § 2-1831.03**

(a) The existing language is designated as subparagraph (A).

(b) A new subparagraph (B) is added to read as follows:

"(B) Notwithstanding subparagraph (A) of this paragraph, the Rent Administrator, or any employee or other person to whom authority has been delegated by the Rent Administrator, may issue a final order in any case in which an evidentiary hearing was conducted before October 1, 2006, but in which no final order was issued before that date, and may rule upon any post-hearing motion, including a motion for reconsideration.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

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December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Vincent C. Gray

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 27, 2007

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Codification District of Columbia Official Code

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AN ACT

D.C. ACT 17-218

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

To amend, on a temporary basis, Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain real property owned by Building Hope, an organization that provides funding for public charter school facilities in the District of Columbia, during the period from August 21, 2006, through March 22, 2007, and to provide equitable tax relief to the organization.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Building Hope Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2007".

Sec. 2. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"47-1077. Building Hope, Lot 802, Square 5357.".

(b) A new section 47-1077 is added to read as follows:

"§ 47-1077. Building Hope; Lot 802, Square 5357.

"(a) The real property, described as Lot 802, Square 5357 in the District of Columbia, is exempt from real property and recordation and transfer taxes for the period from August 21, 2006 through March 22, 2007, the period in which the property was owned by Building Hope, an organization that provides funding for public charter school facilities in the District.

"(b) All real property and transfer and recordation taxes, along with any interest, penalties, fees, and other related charges, assessed against the real property described as Lot 802, Square 5357 for the period of August 21, 2006, through March 22, 2007, shall be forgiven, and any payments made for these purposes during this period shall be refunded to the payer.".

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Sec. 3. Availability of funds contingency.

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Vincent C Gray

Chairman
Council of the District of Columbia

Adrian Fenty

Mayor
District of Columbia
APPROVED
November 27, 2007

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AN ACT

D.C. ACT 17-219

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

To amend, on a temporary basis, Chapter 20 of Title 21 of the District of Columbia Official Code to clarify presumption of capacity, to add definitions of "best interests", "emergency care", "incapacitated individual for health-care decisions", and "substituted judgment", to amend the definition of "guardian", to permit the court to waive the appointment of a visitor and examiner in certain circumstances, to prohibit the appointment of a guardian with a conflict of interest, to require guardians to limit their caseloads, to require the court to appoint a guardian who is least restrictive to the individual, to authorize the court to appoint a health-care guardian, to clarify the powers and duties of a guardian, to clarify the reasons that the court may remove a guardian, and to clarify the situations in which the estate of a ward shall be deemed depleted; to amend Chapter 22 of Title 21 of the District of Columbia Official Code to authorize psychologists to certify incapacity to make a health-care decision, to provide that nothing in this chapter condones mercy-killing or conflicts with the Emergency Medical Treatment and Labor Act, to permit court-appointed mental retardation advocates to provide substituted consent for health-care decisions for incapacitated customers, and to authorize a health-care provider, the District of Columbia, or an interested person to file a petition for the appointment of a limited guardian if there is no individual who can act as a substitute health-care decision-maker for an incapacitated customer; and to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to add definitions of "behavioral plan", "best interests", "comprehensive evaluation", "psychotropic medication", and "substituted judgment", to repeal a provision providing a process for authorizing emergency medical surgery for a customer that is inconsistent with federal law, to require initial and periodic evaluations of the decision-making capacity of and the availability of healthcare decision-making supports for the Department on Disability Services customers, to require informed consent for services and to establish a process for informed consent for psychotropic medications, to require the Department on Disability Services to complete a comprehensive review of psychotropic medication use for all Department on Disability Services customers within one year, to establish a Department on Disability Services health-care decisions policy,

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and to require the Department on Disability Services Administrator to issue reports on required evaluations and the agency's health-care decision-making activities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health-Care Decisions for Persons with Developmental Disabilities Temporary Amendment Act of 2007".

Sec. 2. Chapter 20 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) Section 21-2002 is amended by adding a new subsection (d) to read as follows:

"(d) An individual shall be presumed competent and to have the capacity to make legal, health-care, and all other decisions for himself or herself, unless certified otherwise under section 21-2204 or deemed incapacitated or incompetent by a court. Incapacity shall not be inferred from the fact that an individual: Note, § 21-2002

"(1) Has been voluntarily or involuntarily hospitalized for mental illness pursuant to Chapter 5 of Title 21; or

(2) Has mental retardation or has been determined by a court to be incompetent to refuse commitment under Chapter 13 of Title 7.

(b) Section 21-2011 is amended as follows: Note, § 21-2011

(1) Re-designate paragraph (1) as paragraph (1A).

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

"(1) "Best interests" means promoting personal well-being by assessing:

"(A) The reason for the proposed action, its risks and benefits, and any alternatives considered and rejected; and

"(B) The least intrusive, least restrictive, and most normalizing course of action possible to provide for the needs of the individual."

(3) A new paragraph (5C) is added to read as follows:

"(5C) "Emergency care" means immediate treatment, including diagnostic treatment, provided in response to a sudden, acute, and unanticipated medical crisis in order to avoid injury, extreme pain, impairment, or death.".

(4) Paragraph (8) is amended to read as follows:

"(8) "Guardian" means a person who has qualified as a guardian of an incapacitated individual pursuant to court appointment, not including a guardian ad litem, but including:

"(A) A limited guardian whose powers are limited by the court as described in section 21-2044(c);

"(B) A temporary guardian appointed as described in section 21-2046 for a finite period of time to serve as:

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"(i) An emergency guardian whose authority may not extend beyond 15 days and who may exercise any powers granted by court order and not prohibited by law;

"(ii) A health-care guardian whose authority is granted for up to 90 days and may be extended for up to an additional 90 days to provide substituted consent in accordance with section 21-2210 for an individual certified as incapacitated for a health-care decision; or

"(iii) A provisional guardian whose authority is granted for a specified period not to exceed 6 months, upon the court's finding that any guardian is not effectively performing duties and that the welfare of the incapacitated individual requires immediate action; and

"(C) A general guardian not limited by the court in scope as described in section 21-2044(c) or in time as described in section 21-2046.

(5) A new paragraph (11A) is added to read as follows:

"(11A) "Incapacitated individual for health-care decisions" means an adult individual who lacks sufficient mental capacity to:

"(A) Appreciate the nature and implications of a health-care decision;

"(B) Make a choice regarding the alternatives presented; or

"(C) Communicate that choice in an unambiguous manner.".

(6) A new paragraph (25A) is added to read as follows:

"(25A) "Substituted judgment" means making a decision that conforms as closely as possible with the decision that the individual would have made, based upon the knowledge of the beliefs, values, and preferences of the individual.".

(c) Section 21-2041 is amended as follows:

Note, § 21-2041

(1) Subsection (a) is amended by striking the word "limited" and inserting the phrase "limited, temporary," in its place.

(2) Subsection (d) is amended by adding the following sentence at the end:

"The court shall waive the appointments of a visitor and examiner if the petition seeks appointment of an emergency guardian or a health-care guardian and the petition is supported by the certification of incapacity made pursuant to section 21-2204.".

(3) Subsection (f) is amended by striking the second and third sentences and inserting the following sentence in their place: "The court may waive the appointment of a visitor and, where a current individual habilitation plan prepared pursuant to section 7-1304.03 is submitted to the court, the court may waive the appointment of an examiner.".

(4) Subsection (g) is amended as follows:

(A) Strike the phrase "other individual" and insert the word "individual" in its place.

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(B) Add the following sentence at the end: "For an individual alleged to be incapacitated for health-care decisions, the certification of incapacity made pursuant to section 21-2204 shall be presented as evidence to the court.".

Note, § 21-2043

(d) Section 21-2043 is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

"(a-1) (1) Except as provided in paragraph (2) of this subsection, a person may not be appointed as a guardian if the person:

"(A) Provides substantial services to the incapacitated individual in a professional or business capacity;

"(B) Is a creditor of the incapacitated individual; or

"(C) Is employed by any person or entity that provides services to the incapacitated individual in a professional or business capacity.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, a person may be appointed as a guardian if:

"(A) The person is the incapacitated individual's spouse, domestic partner, adult child, parent, adult sibling, or relative with whom the incapacitated individual has resided for more than 6 months prior to the filing of the petition; and

"(B) The court determines that the potential conflict of interest is insubstantial and that the appointment would clearly be in the best interests of the incapacitated individual. The court may not appoint a guardian in any other circumstance in which a conflict of interest may occur.".

(2) Subsection (c) is amended by adding a new paragraph (3A) to read as follows:

"(3A) An adult sibling of the incapacitated individual or a person nominated by will of a deceased sibling or by other writing signed by an adult sibling and attested by at least 2 witnesses;".

(3) A new subsection (e) is added to read as follows:

"(e) A guardian shall limit his or her caseload to a size that allows the guardian:

"(1) To accurately and adequately support and protect each ward;

"(2) To make a minimum of one visit per month with each ward; and

"(3) To have regular contact with service providers.".

(e) Section 21-2044(a) is amended to read as follows:

Note, § 21-2044

"(a) The court shall exercise the authority conferred in this subchapter so as to encourage the development of maximum self-reliance and independence of the incapacitated individual. The court, on appropriate findings, may appoint a limited guardian, a temporary guardian, or a general guardian. When the court appoints a guardian, it shall appoint the type of guardianship that is least restrictive to the incapacitated individual in duration and scope, taking into account the incapacitated individual's current mental and adaptive limitations or other warranted conditions.".

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(f) Section 21-2046 is amended to read as follows: Note, § 21-2046

"§ 21-2046. Temporary guardians.

"(a) Temporary guardians are guardians appointed for a finite period of time. Temporary guardians include emergency guardians, health-care guardians, and provisional guardians. All provisions of this chapter apply to temporary guardians unless otherwise specified.

"(b)(1) The court, on appropriate petition, may appoint an emergency guardian, whose authority may not extend beyond 15 days, if:

"(A) An incapacitated individual has no guardian;

"(B) A life-threatening situation or situation involving emergency care exists; and

"(C) No other person appears to have authority to act within the circumstances.

"(2) An emergency guardian appointed pursuant to this subsection may exercise those powers granted in the order.

"(3) Immediately upon receipt of the petition, the court shall appoint counsel for the individual alleged to be incapacitated and provide notice to the individual alleged to be incapacitated and to interested persons, pursuant to section 21-2042.

"(4) The individual alleged to be incapacitated, counsel for that individual, or any other interested person may request a hearing at any time within the period of the temporary guardianship. The hearing shall be held no later than 48 hours after the request.

"(5) The court may extend the authority of an emergency guardian appointed pursuant to this subsection to authorize the emergency guardian to serve as a health-care guardian consistent with subsection (c) of this section.

"(c)(1) The court, on appropriate petition, may appoint a health-care guardian for the individual alleged to be incapacitated for a specified period of time of up to 90 days if:

"(A) An individual has been determined to be incapacitated under section 21-2204;

"(B) The individual has no guardian; and

"(C) No other person appears to have authority to act within the circumstances.

"(2) The health-care guardian shall have the powers and duties set forth at section 21-2047b(b).

"(3) An appropriate petition shall include the certification of incapacity made pursuant to section 21-2204. Immediately upon receipt of the petition, counsel shall be appointed for the individual alleged to be incapacitated, and notice provided to the individual alleged to be incapacitated and to interested persons, pursuant to section 21-2042. The hearing shall be held within 7 days of receipt of the petition.

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"(4) The court may extend the authority of a health-care guardian for one additional period of up to 90 days:

"(A) Upon determination of continued incapacity and determination of a continued need for the provision of substituted consent for any health-care service, treatment, or procedure pursuant to section 21-2210; or

"(B) If a petition for a permanent limited guardian or general guardian, pursuant to section 21-2041, has been filed with the court prior to the expiration of the appointment of the temporary guardian.

"(d) If the court finds that any appointed guardian is not effectively performing duties and that the welfare of the ward requires immediate action, it may appoint, with notice to interested parties within 14 day after the appointment, a provisional guardian. The provisional guardian shall have the powers set forth in the previous order of appointment for a specified period not to exceed 6 months. The authority of any permanent guardian previously appointed by the court is suspended as long as a provisional guardian has authority.".

(g) Section 21-2047 is amended as follows:

Note, § 21-2047

(1) The section heading is amended to read as follows:

"§ 21-2047. Powers and duties of general guardian and limited guardian.".

(2) The lead-in text is amended by striking the word "guardian" and inserting the phrase "a general guardian or a limited guardian" in its place.

(3) Subsection (a) is amended as follows:

(A) The lead-in text is amended by striking the word "guardian" and inserting the phrase "general guardian or limited guardian" in its place.

(B) Paragraph (4) is amended by striking the word "and" at the end.

(C) Paragraph (5) is amended by striking the phrase "as required by court rule, but at least semi-annually." and inserting the phrase "on any order of the court, but at least semiannually;" in its place.

(D) New paragraphs (6), (7), and (8) are added to read as follows:

"(6) Make decisions on behalf of the ward by conforming as closely as possible to a standard of substituted judgment or, if the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, make the decision on the basis of the ward's best interests;

"(7) Include the ward in the decision-making process to the maximum extent of the ward's ability; and

"(8) Encourage the individual to act on his or her own behalf whenever he or she is able to do so, and to develop or regain capacity to make decisions in those areas in which he or she is in need of decision-making assistance, to the maximum extent possible.".

(4) The lead-in text of subsection (b) is amended by striking the word "guardian" and inserting the phrase "general guardian or limited guardian" in its place.

(5) Subsection (c) is repealed.

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Note, § 21-2047

(h) New sections 21-2047a and 21-2047b are added to read as follows:

"§ 21-2047a. Limitations on temporary, limited, and general guardians.

"A guardian shall not have the power:

"(1) To consent to an abortion, sterilization, psycho-surgery, or removal of a bodily organ, except to preserve the life or prevent the immediate serious impairment of the physical health of the incapacitated individual, unless the power to consent is expressly set forth in the order of appointment or after subsequent hearing and order of the court;

"(2) To consent to convulsive therapy, experimental treatment or research, or behavior modification programs involving aversive stimuli, unless the power to consent is expressly set forth in the order of appointment or after subsequent hearing and order of the court;

"(3) To consent to the withholding of non-emergency, life-saving, medical procedures unless it appears that the incapacitated person would have consented to the withholding of these procedures and the power to consent is expressly set forth in the order of appointment or after subsequent hearing and order of the court;

"(4) To consent to the involuntary or voluntary civil commitment of an incapacitated individual who is alleged to be mentally ill and dangerous under any provision or proceeding occurring under Chapter 5 of Title 21, except that a guardian may function as a petitioner for the commitment consistent with the requirements of Chapter 5 of Title 21 or Chapter 13 of Title 7;

"(5) To consent to the waiver of any substantive or procedural right of the incapacitated individual in any proceeding arising from an insanity acquittal; or

"(6) To prohibit the marriage or divorce, or consent to the termination of parental rights, unless the power is expressly set forth in the order of appointment or after subsequent hearing and order of the court.

"§ 21-2047b. Powers and duties of emergency and health-care guardians.

"(a) Except as limited by sections 21-2046 and 21-2047a, an emergency guardian or health-care guardian is responsible for providing substituted consent for an incapacitated individual and for any other duties authorized by the court, but is not personally liable to third persons by reason of that responsibility or acts of the incapacitated individual.

"(b) An emergency or health-care guardian shall:

"(1) Become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of his or her capacities, limitations, needs, opportunities, and physical and mental health;

"(2) Make decisions on behalf of the ward by conforming as closely as possible to a standard of substituted judgment or, if the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, make the decision on the basis of the ward's best interests;

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"(3) Include the ward in the decision-making process to the maximum extent of the ward's ability;

"(4) Encourage the individual to act on his or her own behalf whenever he or she is able to do so, and to develop or regain capacity to make decisions in those areas in which he or she is in need of decision-making assistance, to the maximum extent possible; and

"(5) Make any report the court requires.

"(c) An emergency or health-care guardian may:

"(1) Grant, refuse, or withdraw consent to medical examination and health-care treatment for an individual who has been deemed incapacitated pursuant to section 21-2204;

"(2) Obtain medical records for the purpose of providing substituted consent pursuant to section 21-2210; and

"(3) Have the status of a legal representative under Chapter 12 of Title 7.".

(i) Section 21-2049(a) is amended to read as follows:

Note, § 21-2049

"(a) (1) On petition of the guardian, the court, after a hearing, may accept a resignation of a guardian.

"(2) The court may remove a temporary guardian at any time.

"(3) On petition of the ward or any interested person, or on the court's own motion, the court, after a hearing, may remove a limited guardian or a general guardian for any of the following reasons:

"(A) Failure to discharge his or her duties, including failure to conform as closely as possible to a standard of substituted judgment or, if the ward's wishes are unknown and remain unknown after reasonable efforts to discern them, to make a decision on the basis of the ward's best interests, pursuant to section 21-2047(a)(6) or 21-2047b(b)(2);

"(B) Abuse of his or her powers;

"(C) Failure to comply with any order of the court;

"(D) Failure to educate or provide for the ward as liberally as the ward's financial situation permits, if education and financial management fall within the scope of the guardianship;

"(E) Interference with the ward's progress or participation in programs in the community; or

"(F) For any other good cause.".

(j) Section 21-2060 is amended by adding a new subsection (a-1) to read as follows:

Note, § 21-2060

"(a-1) The estate of a person or ward shall be deemed depleted for purposes of this chapter, and all compensation, expenses, and payouts made under this section shall be paid from a fund established by the District:

"(1) If the person or ward qualifies for federal Supplemental Security Income under Title XVI of the Social Security Act;

"(2) If the person or ward qualifies for Medicaid or Medicaid Expansion Programs as allowed by federal, state, or local requirements;

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"(3) If the person or ward qualifies for other means-tested public assistance programs as allowed by federal, state, or local requirements, including Temporary Assistance for Needy Families, Interim Disability Assistance, Food Stamps, or D.C. Healthcare Alliance;

"(4) If the person or ward qualifies for federal disability benefits, including Old Age, Survivors, and Disability Insurance Benefits under Title II of the Social Security Act, Rehabilitation Services Administration Payments, Railroad Retirement Board, or Veterans benefits and such benefits constitute the person or ward's sole source of income;

"(5) If the person or ward has been found to be unable to pay for habilitation, care, or legal services by any branch of the Superior Court of the District of Columbia; or

"(6) If the circumstances listed in paragraphs (1), (2), (3), (4), or (5) of this subsection do not apply, the person or ward establishes, by affidavit or other proof satisfactory to the court, the inability to pay any costs without substantial financial hardship to himself or herself or his or her family.".

Sec. 3. Chapter 22 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) Section 21-2202 is amended by adding a new paragraph (6A) to read as follows:

Note, § 21-2202

"(6A) "Qualified psychologist" means a person who is licensed pursuant to § 3-1205.01 and has:

"(A) One year of formal training within a hospital setting; or

"(B) Two years of supervised clinical experience in an organized health-care setting, one year of which must be post-doctoral.".

(b) Section 21-2204(a) is amended as follows:

Note, § 21-2204

(1) Strike the word "physicians" wherever it appears and insert the word "professionals" in its place.

(2) Strike the second sentence and insert the sentence "One of the 2 certifying professionals shall be a physician and one shall be a qualified psychologist or psychiatrist." in its place.

(c) Section 21-2210 is amended as follows:

Note, § 21-2210

(1) Subsection (a) is amended to add a new paragraph (1A) to read as follows:

"(1A) A court-appointed mental retardation advocate of the patient, if the ability to grant, refuse, or withdraw consent is within the scope of the advocate's appointment under section 7-1304.13.".

(2) New subsections (h)and (i) are added to read as follows:

"(h) If no person listed in subsection (a) of this section is reasonably available, mentally capable, and willing to act, the health-care provider, or the District of Columbia, for those persons committed or admitted to receive habilitation or other services pursuant to Chapter 13 of Title 7, or any interested person may petition the Superior Court of

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the District of Columbia for appointment of a health-care guardian pursuant to section 21-2044 or section 21-2046.

"(i) The health-care provider who is treating or providing services to the incapacitated patient at the time of the health-care decision shall accept the decision of the individual authorized under this section to grant, refuse, or withdraw consent on behalf of the patient as the decision of the principal."

(d) Section 21-2212 is amended to read as follows: Note, § 21-2212

"§ 21-2212. Effect of chapter.

"(a) Nothing in this chapter shall be construed to condone, authorize, or approve mercy-killing or to permit any affirmative or deliberate act to end a human life other than to permit the natural dying process.

"(b) Nothing in this chapter shall be construed to conflict with or supersede, the Emergency Medical Treatment and Labor Act, approved April 17, 1986 (100 Stat. 164; 42 U.S.C. § 1395dd).

"(c) Emergency health care may be provided without consent to a patient who is certified incapacitated under § 21-2204, if no authorized person is reasonably available or if, in the reasonable medical judgment of the attending physician, attempting to locate an authorized person would cause:

"(1) A substantial risk of death to the incapacitated individual;

"(2) The health of the incapacitated individual to be placed in serious jeopardy;

"(3) Serious impairment to the incapacitated individual's bodily functions; or

"(4) Serious dysfunction of a bodily organ or part of the incapacitated individual".

Sec. 4. The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.02 *et seq.*), is amended as follows:

(a) Section 103 (D.C. Official Code § 7-1301.03) is amended as follows: Note, § 7-1301.03

(1) Redesignate paragraph (2A) as paragraph (2C).

(2) New paragraphs (2A) and (2B) are added to read as follows:

"(2A) "Behavioral plan" means a written plan that, at a minimum:

"(A) Identifies challenging or problematic behavior;

"(B) States the working hypothesis about the cause of the individual's behavior and uses the working hypothesis as the basis for the selected intervention;

"(C) Identifies strategies to teach or encourage the individual to adopt adaptive behavior as an alternative to the challenging or problematic behavior;

"(D) Considers the potential for environmental or programmatic changes that could have a positive impact on challenging or problematic behaviors; and

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"(E) Addresses the individual's need for additional technological or supervisory assistance to adapt or cope with day to day activities.

"(2B) "Best interests" means promoting personal well-being by assessing:

"(A) The reason for the proposed action, its risks and benefits, and any alternatives considered and rejected; and

"(B) The least intrusive, least restrictive, and most normalizing course of action possible to provide for the needs of the individual.".

(3) Paragraph (6) is amended to read as follows:

"(6) "Comprehensive evaluation" means an assessment of a person with mental retardation by persons with special training and experience in the diagnosis and habilitation of persons with mental retardation, which includes a documented sequence of observations and examinations intended to determine the person's strengths, developmental needs, and need for services. The initial comprehensive evaluation shall include documentation of:

"(A) A physical examination that includes the person's medical history;

"(B) An educational evaluation, vocational evaluation, or both;

"(C) A psychological evaluation, including an evaluation of cognitive and adaptive functioning levels;

"(D) A social evaluation;

"(E) A dental examination;

"(F) An evaluation of whether the person has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment; and

"(G) A determination of whether the person:

"(i) Has executed or could execute a durable power of attorney in accordance with D.C. Official Code § 21-2205;

"(ii) Has been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and declined; or

"(iii) Has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210.".

(4) Redesignate paragraphs (14A) and (14B) as paragraphs (14B) and (14C), respectively.

(5) A new paragraph (14A) is added to read as follows:

"(14A) "Human Rights Advisory Committee" or "HRAC" means the committee of the Department on Disability Services which provides guidance and oversight regarding matters pertaining to the human rights of individuals receiving services through the Department on Disability Services and reviews allegations of human rights violations.".

(6) A new paragraph (20A) is added to read as follows:

"(20A) "Psychotropic medication" means a medication prescribed for the treatment of symptoms of mental or emotional disorders or to influence and modify behavior,

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cognition, or affective state. The term "psychotropic medication" includes the following categories of medications:

"(A) Antipsychotics or neuroleptics;

"(B) Antidepressants;

"(C) Agents for control of mania or depression;

"(D) Antianxiety agents;

"(E) Sedatives, hypnotics, or other sleep-promoting drugs; and

"(F) Psychomotor stimulants.".

(7) A new paragraph (24C) is added to read as follows:

"(24C) "Substituted judgment" means making a decision that conforms as closely as possible with the decision that the individual would have made, based upon knowledge of the beliefs, values, and preferences of the individual.".

(b) Section 413 (D.C. Official Code § 7-1304.13) is amended by adding a new subsection (n) to read as follows: Note, § 7-1304.13

"(n) If so authorized by the Court, the mental retardation advocate shall be permitted to grant, refuse, or withdraw consent on behalf of his or her client with respect to the provision of any health-care service, treatment, or procedure, consistent with the provisions of Chapter 22 of Title 21 of the District of Columbia Official Code.".

(c) Section 504(a) (D.C. Official Code § 7-1305.04(a)) is amended to read as follows: Note, § 7-1305.04

"(a) (1) Prior to each customer's commitment under this act, the customer shall receive, pursuant to section 403, a comprehensive evaluation or screening and an individual habilitation plan. Within 30 days of a customer's admission pursuant to section 302, the customer shall have a comprehensive evaluation or screening and an individual habilitation plan.

"(2) All individual habilitation plans shall include information on whether the person has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment and shall identify whether the person:

"(A) Has executed or could execute a durable power of attorney in accordance with D.C. Official Code § 21-2205;

"(B) Has been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and declined; or

"(C) Has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210.

"(3) Annual reevaluations or screenings of the customer shall be provided as determined by the customer's interdisciplinary team. Annual reevaluations and screenings shall include a review and update to the individual habilitation plan information on whether the person has the capacity to grant, refuse, or withdraw consent to any ongoing medical treatment and whether the person:

"(A) Has executed or could execute a durable power of attorney in accordance with D.C. Official Code § 21-2205;

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"(B) Has been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and declined; or

"(C) Has an individual reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210.

"(4) The DDS shall establish written procedures for incorporating a review of all mental health services, including psychotropic medications, behavioral plans, and any other psychiatric treatments, into the annual reevaluations and screenings conducted by the customer's interdisciplinary team.

"(5) Nothing in this subsection shall be construed as requiring any person to execute a durable power of attorney for health care.".

(d) New sections 506a, 506b, and 506c are added to read as follows: Note, § 7-1305.06

"Sec. 506a. Informed consent.

"(a) Except in accordance with the procedures described in subsections (b) and (c) of this section, in D.C. Official Code § 21-2212, or as otherwise provided by law, no DDS customer shall be given services pursuant to this act absent the customer's informed consent. In seeking informed consent, the provider or DDS shall present the customer with available options and all material information necessary to make the decision, including information about the proposed service, potential benefits and risks of the proposed service, potential benefits and risks of no service, side effects, and information about feasible alternative services, if any.

"(b) If the provider or DDS reasonably believes that the customer lacks the capacity to provide informed consent for the proposed service, the provider or DDS promptly shall seek a determination of the individual's capacity in accordance with D.C. Official Code § 21-2204. If the individual is certified as incapacitated for health-care decisions in accordance with D.C. Official Code § 21-2204, DDS or the provider shall promptly seek the provision of substituted consent from the customer's attorney-in-fact pursuant to D.C. Official Code § 21-2206 or, if no attorney-in-fact has been authorized pursuant to D.C. Official Code § 21-2205 or is reasonably available, mentally capable, and willing to act, from an individual authorized to provide substituted consent pursuant to D.C. Official Code § 21-2210.

"(c) If the customer is certified as incapacitated and unable to consent to the proposed service in accordance with D.C. Official Code § 21-2204, and no attorney-in-fact or person listed in D.C. Official Code § 21-2210(a) is reasonably available, mentally capable, and willing to act:

"(1) For any proposed services except psychotropic medications, the District shall petition the Court for appointment of a guardian pursuant to Chapter 20 of Title 21. The District's petition shall request the form of guardianship which is least restrictive to the incapacitated individual in duration and scope, taking into account the incapacitated individual's current mental and adaptive limitations or other conditions warranting the procedure. This

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subsection does not preclude any other party from petitioning the Court for appointment of a guardian; or

"(2) For all proposed psychotropic medications, the provider may administer medication only when the administration of medication is accompanied by a behavioral plan and only after receiving approval from an independent panel appointed by the DDS Administrator pursuant to section 506b.

"Sec. 506b. Review panel for administration of psychotropic medications.

"(a) Subject to the availability of appropriations, the DDS Administrator shall establish an independent panel to review all proposals to administer psychotropic medications to customers made pursuant to section 506a(c) and in accordance with the procedures set forth in this section and those to be developed by the Administrator as required by this section.

"(b) The panel shall be comprised of 3 members. The members of the panel and their employers shall be immune from suit for any claim arising from any good faith act or omission under this section. The members of the panel shall not be affiliated with the individual, the provider, or the physician seeking to administer the medication, but shall include:

"(1) A board-certified psychiatrist;

"(2) A licensed professional; and

"(3) A customer, or, if unavailable, a Mental Retardation Advocate or other customer advocate.

"(c) The administrative procedure established by DDS for the panel shall include, at a minimum:

"(1) A meeting by the panel no later than one week after DDS receives a request for consent;

"(2) Written and oral notice to the customer not less than 48 hours prior to when the panel will meet;

"(3) The right of the customer to be present when the panel meets and to have a representative present during any such meeting;

"(4) The opportunity, at the meeting of the panel, for the customer and his or her representative to present information and to discuss the wishes of the customer;

"(5) The issuance of a written decision by the panel no later than one week after the meeting of the panel, to be provided to the customer, the customer's representative, and the provider; and

"(6) The right of the customer to request that the DDS Human Rights Advisory Committee or its successor entity review the decision of the panel.

"(d) If the customer requests a review by the DDS Human Rights Advisory Committee, or its successor entity, before the decision of the panel has been implemented, the decision shall not be implemented until after the DDS Human Rights Advisory Committee, or its successor entity, responds to the requested review. The DDS Human Rights Advisory Committee, or its

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successor entity, shall conduct the review at its next meeting or no later than 30 days after the request, whichever is earlier, and shall issue a response promptly.

"(e) The panel shall issue a written decision which may grant, refuse, or withdraw consent to the prescription of the proposed psychotropic medication. The panel shall seek to conform as closely as possible to a standard of substituted judgment or, if the individual's wishes are unknown and remain unknown after reasonable efforts to discern them, make the decision on the basis of the individual's best interests. If the panel grants consent, the consent shall be granted for a limited period of time and shall last no longer than 9 consecutive months.

"(f) For individuals for whom the panel has provided consent, DDS shall offer the individual the opportunity to execute a durable power of attorney in accordance with D.C. Official Code § 21-2205 and shall continue to seek to identify one or more individuals listed in D.C. Official Code § 21-2210(a) who may be reasonably available, mentally capable, and willing to act.

"(g) For individuals for whom the panel has provided consent for 3 or more consecutive months, and for whom there is a reasonable likelihood that no decision-maker will become available and that the individual will not achieve capacity during the next 6 months to make decisions regarding psychotropic medications on his or her own behalf, the District shall petition the Court for appointment of a guardian pursuant to Chapter 20 of Title 21 of the District of Columbia Official Code. The District's petition shall request the type of guardianship that is least restrictive to the incapacitated individual in duration and scope, taking into account the incapacitated individual's current mental and adaptive limitations or other warranted conditions. This subsection does not preclude any other party from petitioning the Court for appointment of a guardian.

"(h) Refusal to consent to psychotropic medications shall not be used as evidence of an individual's incapacity.

"(i) Refusal to consent to services on the basis of a valid religious objection shall not be overridden absent a specific court order requiring the provision of services.

"Sec. 506c. Psychotropic medication review.

"(a) Within one year of the effective date of the Health-Care Decisions for Person's with Developmental Disabilities Emergency Amendment Act, effective October 18, 2007 (D.C. Act 17-161; 54 DCR ___), the DDS shall complete a psychotropic medication review for all DDS customers.

"(b) Within one year of the effective date of the Health-Care Decisions for Person's with Developmental Disabilities Emergency Amendment Act, effective October 18, 2007 (D.C. Act 17-161; 54 DCR ___), the DDS shall establish written procedures, which shall include timelines and identify responsible entities or individuals, for promptly implementing the recommendations for each customer identified by the psychotropic medication review.

"(c) The psychotropic medication review shall be conducted by a review team that includes professionals with expertise in the prescription, use, and side effects of psychotropic

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medications as therapy for individuals who have been dually diagnosed with mental retardation and mental illness.

"(d) The review team shall establish in writing:

"(1) Procedures for an initial administrative review of psychotropic medication prescriptions for all DDS customers;

"(2) Procedures and criteria for determining which customers receive only an initial administrative review of psychotropic medications and which customers also receive a more detailed clinical review of psychotropic medications; and

"(3) Criteria for screening and determining the clinical appropriateness of each psychotropic medication prescribed for each customer.

"(e) The review team shall complete the initial administrative review of psychotropic medications. The initial administrative review of psychotropic medications shall determine, at minimum, for each DDS customer:

"(1) All prescribed psychotropic medications;

"(2) The diagnosis justifying each prescription;

"(3) The provision of informed consent for each prescription;

"(4) The presence of an accompanying behavioral plan; and

"(5) Any other mental health services being provided to the customer.

"(f) The review team shall conduct a clinical review of psychotropic medications when the initial administrative review meets the review team's criteria indicating that a detailed clinical review of the customer's psychotropic medication is warranted. The clinical review shall seek to determine the clinical appropriateness of each prescribed psychotropic medication and the potential for alternative approaches. The clinical review shall include, at a minimum, interviews with the customer, the prescribing physician, and the customer's residential and day service providers, if any.

"(g) By no later than 30 days after completing a psychotropic medication review of a customer, the review team shall issue a written report, which shall include recommendations for:

"(1) Continued use, modification, or termination of psychotropic medication;

"(2) Potential use of alternative approaches including therapies, behavioral plans, skill development, and environmental modifications;

"(3) Informed consent, if informed consent has not been provided; and

"(4) Development of a behavioral plan, if no behavioral plan is present.

"(h) A copy of the written report of the review team shall be appended to the customer's individual habilitation plan and be provided to:

"(1) The customer;

"(2) The customer's legal representative, if any;

"(3) The customer's mental retardation advocate, if any;

"(4) The customer's DDS case manager;

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"(5) The individuals identified in the customer's individual habilitation plan as reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210, if any;

"(6) The customer's residential service provider; and

"(7) The Quality Trust for Individuals with Disabilities, Inc.".

(e) Section 507 (D.C. Official Code § 7-1305.07) is repealed.

Note, Repeal § 7-1305.07

(f) A new section 507a (to be codified at D.C. Official Code § 7-1305.07a) is added to read as follows:

Note, § 7-1305.07

"Sec. 507a. Health-care decisions policy, annual plan, and quarterly reports.

"(a) It shall be the policy of the District government to ensure that all persons who become incapable of making or communicating health-care decisions for themselves have available health-care decision-makers. In addition, it shall be the policy of DDS to ensure that every DDS customer has the opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205, and has one or more individuals identified as reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210, if the customer were to become certified as incapacitated to make a health-care decision in accordance with D.C. Official Code § 21-2204.

"(b) The DDS Administrator shall issue by November 1 of each year an annual plan describing how DDS will comply with subsection (a) of this section during the current fiscal year. The plan shall include data from the prior fiscal year which assess the current and potential health-care decision-making needs of all DDS customers. The plan shall include, at a minimum:

"(1) Aggregate statistics summarizing the numbers of DDS customers who:

"(A) Have a general guardian, a limited guardian, a health-care guardian, or an emergency guardian as of the end of the prior fiscal year;

"(B) At any time during the prior fiscal year, had an emergency guardian authorized to make health-care decisions or a health-care guardian;

"(C) Have executed a durable power of attorney in accordance with D.C. Official Code § 21-2205;

"(D) Have been offered an opportunity to execute a durable power of attorney pursuant to D.C. Official Code § 21-2205 and declined;

"(E) Have an individual identified as reasonably available, mentally capable, and willing to provide substituted consent pursuant to D.C. Official Code § 21-2210; and

"(F) Lack any available substitute health-care decision-maker;

"(2) Aggregate statistics describing the numbers of customers taking psychotropic medications as of the end of the previous fiscal year, and an assessment of the degree to which health-care decision-making support for the prescription of psychotropic medication may be required for these customers;

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"(3) Aggregate statistics describing the requests for consent reviewed during the prior fiscal year by the independent psychotropic medication panel authorized in section 506b, analyzing outcomes, monthly and yearly trends, and requests for review by the DDS Human Rights Committee;

"(4) Aggregate statistics describing for the prior fiscal year:

"(A) The number of substitute decisions which required intervention by DDS to identify an individual to provide substituted consent pursuant to D.C. Official Code § 21-2210;

"(B) The nature of the health-care needs and medical treatments; and

"(C) The average time elapsed between a request for a substituted decision and the provision of substituted consent; and

"(5) An analysis of the statistics described in this subsection, identification of yearly and multiyear trends, and a plan for remedial measures to be taken when the statistics identify process or service deficiencies.

"(c) The DDS Administrator shall produce a quarterly report on all substituted consent activities pursuant to subsection (a) of this section until October 2010. Quarterly reports shall be complete by the 15th day of October, January, April, and July and shall include:

"(1) Statistics describing:

"(A) The number of substitute decisions during the prior quarter which required intervention by DDS to identify an individual to provide substituted consent pursuant to D.C. Official Code § 21-2210;

"(B) The nature of the health-care needs and medical treatments for each substituted decision;

"(C) The time elapsed between each request for a substituted decision and the provision of substituted consent; and

"(D) If the process for identifying an individual to provide substituted consent pursuant to D. C. Official Code § 21-2210 is not complete, a summary of the specific barriers currently identified and the specific action needed; and

"(2) An analysis of the statistics described in this subsection, and a plan for remedial measures to be taken, when the statistics identify process delays.

"(d)(1) The DDS Administrator shall submit the annual plan described in subsection (b) of this section and the quarterly report described in subsection (c) of this section to:

"(A) The Committee of the Council under whose purview DDS falls;

"(B) The Mayor; and

"(C) The designated state protection and advocacy agency for the District of Columbia established pursuant to the Protection and Advocacy for Mentally Ill Individuals Act of 1986, approved May 23, 1986 (100 Stat. 478; 42 U.S.C. § 10801 *et seq.*), and section 509 of the Rehabilitation Act of 1973, approved October 29, 1992 (106 Stat. 4430; 29 U.S.C. § 794e).

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"(2) The DDS Administrator shall make copies of the annual plan and quarterly reports described in this section and make them available to members of the public upon request.

"(e) Nothing in this section shall be construed as requiring any person to execute a durable power of attorney for health care.".

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Vincent C. Gray

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 27, 2007

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Codification District of Columbia Official Code

2001 Edition

2008 Winter Supp.

West Group Publisher

AN ACT

D.C. ACT 17-220

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

To amend, on a temporary basis, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to allow District of Columbia government employees who serve in the reserve units of the United States Armed Forces and who have been called or will be called to active duty as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom, to receive a pay differential.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Temporary Amendment Act of 2007".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 1103(a) (D.C. Official Code § 1-611.03(a)) is amended by adding a new paragraph (7) to read as follows: **Note, § 1-611.03**

"(7)(A) Any full-time permanent, term, or TAPER District government employee who serves in a reserve component of the United States Armed Forces and who has been or will be called to active duty as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom, shall receive, upon application and approval, an amount that equals the difference in compensation between the employee's District government basic pay and the employee's basic military pay. This amount shall not be considered as basic pay for any purpose. This amount shall be paid for any period following the formal inception of Operation Enduring Freedom in 2001, any period following the beginning of the preparation for Operation Iraqi Freedom in 2002 and 2003, or for any period following the formal inception of Operation Iraqi Freedom in 2003, during which the employee is carried in a non-pay status, from the time the employee is called to active duty until the employee is released from active duty occasioned by any of these military conflicts.

"(B) The Mayor shall issue rules to implement the provisions of this paragraph.".

(b) Section 1111(d) (D.C. Official Code § 1-611.11(d)) is amended by striking the phrase "and (6)" and inserting the phrase "and (7)" in its place. **Note, § 1-611.11**

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Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Vincent C Gray

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 27, 2007

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AN ACT

D.C. ACT 17-221

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 27, 2007

Codification District of Columbia Official Code

2001 Edition

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To amend, on a temporary basis, the Office of Administrative Hearings Establishment Act of 2001 to authorize the Board of Real Property Assessment and Appeals to hear appeals from a notice of final determination on vacancy and to exempt appeals from a notice of final determination on vacancy from the purview of the Office of Administrative Hearings; to amend An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, to consolidate the overlapping responsibilities for the designation, registration, and assessment of vacant properties, to provide for the consolidation of exemptions under the Department of Consumer and Regulatory Affairs and a reduction in the overall number of exemptions from the registration of vacant buildings, to provide for the establishment of regulations governing vacant property, to provide penalties for the filing of false or misleading vacant property registration information by an owner, to provide for the petition for reconsideration of a vacancy determination, to provide for the periodic noticing of the Office of Tax and Revenue of properties designated as vacant and the assessment of taxes on properties designated as vacant, and to provide for the appeal of a notice of final determination to the Board of Real Property Assessment and Appeals; and to amend Title 47 of the District of Columbia Official Code to restate the classes of property subject to taxation, to vest fully with the Department of Consumer and Regulatory Affairs the determination of the vacant status of buildings for Class 3 real property tax purposes, and to create a specific appeals process for Class 3 Properties.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Nuisance Properties Abatement Reform and Real Property Classification Temporary Amendment Act of 2007".

Note, § 2-1831.03

Sec. 2. Section 6(b)(2) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03(b)(2)), is amended by striking the phrase "Rent Administrator" and inserting the phrase "Rent

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Administrator and those cases under the jurisdiction of the Board of Real Property Assessment and Appeals" in its place.

Sec. 3. An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 115; D.C. Official Code § 42-3131.01 *et seq.*), is amended as follows:

(a) Section 5 (D.C. Official Code § 42-3131.05) is amended as follows: **Note, § 42-3131.05**

(1) The lead-in text is amended by striking the phrase "sections 5 through 15" and inserting the phrase "sections 5 through 16" in its place.

(2) Paragraph (2) is amended by striking the phrase "District of Columbia" and inserting the phrase "District of Columbia, actively operating as a hotel or motel, and legally using the real property as a hotel or motel" in its place.

(3) Paragraph (4) is amended to read as follows:

"(4) "Owner" means the owner of record of the real property.".

(4) A new paragraph (4A) is added to read as follows:

"(4A) "Real property" means real property as defined under D.C. Official Code § 47-802(1).".

(5) Paragraph (5) is amended as follows:

(A) Strike the word "means" and insert the phrase "means real property improved by" in its place.

(B) Strike the phrase "for more than 180 days".

(b) A new section 5a is added to read as follows:

"Sec. 5a. Notice by mail.

"Notice shall be deemed to be served properly on the date when mailed by first-class mail to the owner of record of the vacant building at the owner's mailing address as updated in the real property tax records of the Office of Tax and Revenue.".

(c) Section 6 (D.C. Official Code § 42-3131.06) is amended as follows: **Note, § 42-3131.06**

(1) Subsection (b) is amended as follows:

(A) Paragraph (3) is amended to read as follows:

"(3) Under active construction or undergoing active rehabilitation, renovation, or repair, and there is a valid building permit to make the building fit for occupancy that was issued, renewed, or extended within 12 months of the required registration date;".

(B) Paragraph (4) is amended by striking the phrase "one year from the initial listing, offer, or advertisement of sale, or 90 days from the initial listing, offer, or advertisement to rent" and inserting the phrase "8 months" in its place.

(C) Paragraph (5) is amended to read as follows:

"(5) Exempted by the Mayor in his or her sole discretion; provided, that the exemption may be withdrawn upon notice in the same manner as if the building were designated as vacant under section 11;".

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(D) New paragraphs (6), (7), (8), and (9) are added to read as follows:

"(6) Occupied at the time of a fire, flood, or other casualty which occurred within the preceding 12 months and which was not intentionally caused by the owner;

"(7) For a period not to exceed 24 months, the subject of a probate proceeding or the title is the subject of litigation (not including a foreclosure of the right of redemption action brought under Chapter 13A of Title 47 of the District of Columbia Official Code);

"(8) For a period not to exceed 12 months, the subject of a pending application for a necessary approval for development before the Board of Zoning Adjustment, the Zoning Commission for the District of Columbia, the Commission on Fine Arts, the Historic Preservation Review Board, the Mayor's Agent for Historic Preservation, or the National Capital Planning Commission; or

"(9) For a period not to exceed 12 months, owned by a qualifying nonprofit housing organization under D.C. Official Code § 47-3505(a).".

(2) Subsection (e) is amended by striking the phrase "30 days" and inserting the phrase "30 days in the manner provided in section 499d(b-1) of An Act To establish a code of law for the District of Columbia, effective October 23, 1997 (D.C. Law 14-282; D.C. Official Code § 42-405(b-1))" in its place.

(3) New subsections (f) and (g) are added to read as follows:

"(f)(1) The cumulative time period for exemption from registration and fee requirements for a vacant building under the same, substantially similar, or related ownership shall not exceed 3 real property tax years.

"(2) Notwithstanding paragraph (1) of this subsection, any exemption shall be terminated at the end of the 2007 real property tax year if the building under the same, substantially similar, or related ownership benefitted from an exemption under this section or under D.C. Official Code § 47-813(c-6) during 3 or more real property tax years.

"(3) The limitations set forth in paragraphs (1) and (2) of this subsection shall not apply to vacant buildings that benefit from the exemption under subsection (b)(1), (b)(2), or (b)(5) of this section.

"(4) A vacant building benefitting from an exemption under this section or D.C. Official Code § 47-813(c-6)(2)(C) or (c-6)(3)(C), immediately preceding March 8, 2007, shall continue to benefit from the exemption and shall not be required to register or pay fees for the duration permitted under those provisions; provided, that the exemption shall not be valid after September 30, 2007; provided further, that the vacant building may qualify for an exemption in effect after March 8, 2007, and subject to the time restriction and exclusion set forth in paragraphs (2) and (3) of this subsection.

"(5) For the purposes of this subsection, ownership shall be related if a deduction for a loss from the sale or exchange of properties between taxpayers would be disallowed under section 267 of the Internal Revenue Code of 1986, approved August 16, 1954

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(68A Stat. 78; 26 U.S.C. § 267); provided, that the exclusion under section 267(a)(1) for a loss in a distribution in a complete liquidation shall not apply.

"(g) The Mayor shall issue proposed rules to implement the provisions of this act on or before June 30, 2007. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed disapproved.".

(d) Section 8 (D.C. Official Code § 42-3131.08) is amended to read as follows: Note, § 42-3131.08

"Sec. 8. Notice of denial or revocation of registration.

"The owner shall be notified of the denial or revocation of registration of a vacant building and the right to appeal. Upon notice of the denial or revocation, the owner shall not proceed with any operation to which the registration related. If the registration is denied or revoked, no registration fees or parts thereof shall be returned.".

(e) Section 9(d) (D.C. Official Code § 42-3131.09(d)) is amended by striking the phrase "section 11" wherever it appears and inserting the phrase "section 8" in its place. Note, § 42-3131.09

(f) Section 10 (D.C. Official Code § 42-3131.10) is amended as follows: Note, § 42-3131.10

(1) Subsection (a) is amended by striking the phrase "receipt of a mailing of a delinquency and determination notice under section 11 or" and inserting the phrase "notice of the designation of the owner's building as vacant, the determination of delinquency of registration or fee payment, the denial or revocation of registration, the filing by an owner of any false or misleading registration-related information, or" in its place.

(2) Subsection (c) is amended by striking the word "semiannual".

(g) Section 11 (D.C. Official Code § 42-3131.11) is amended to read as follows: Note, § 42-3131.11

"Sec. 11. Notice of vacancy designation and right to appeal.

"The Mayor shall identify nonregistered vacant buildings in the District, excluding vacant buildings identified in section 8. The owner shall be notified that the owner's building has been designated as vacant and of the owner's right to appeal.".

(h) Section 15 (D.C. Official Code § 42-3131.15) is amended to read as follows: Note, § 42-3131.15

"Sec. 15. Administrative review and appeal.

"(a) Within 15 days after the designation of an owner's building as vacant, the determination of delinquency of registration or fee payment, or the denial or revocation of registration, the owner may petition the Mayor for reconsideration by filing the form prescribed by the Mayor. Within 30 days after receiving the petition, the Mayor shall issue a notice of final determination.

"(b) Within 45 days after the date of the notice of final determination under subsection (a) of this section, an owner may file an appeal with the Board of Real Property Assessments and Appeals on the form prescribed by the Mayor; provided, that the notice of final determination under subsection (a) of this section shall be a prerequisite to filing an appeal with the Board of Real Property Assessments and Appeals.".

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(i) A new section 16 is added to read as follows:

"Sec. 16. Transmission of list by Mayor.

"(a) Semiannually, the Mayor shall transmit to the Office of Tax and Revenue a list of buildings:

"(1) Registered as vacant; provided, that for the purposes of this section and D.C. Official Code § 47-813(c-7)(5)(A-1)(i)(I)(aa), buildings for which the registration has been revoked shall also be deemed registered; and

"(2) For which a notice of final determination has been issued under this act and administrative appeals have been exhausted or expired.

"(b) The list shall be in the form and medium prescribed by the Office of Tax and Revenue.".

Sec. 4. Chapter 8 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-813 is amended as follows:

(1) Subsection (c-6)(1) is amended by striking the phrase "the real property tax year beginning October 1, 2002, and ending September 30, 2003, and for each subsequent tax year" and inserting the phrase "tax years 2003 through 2006" in its place.

Note, § 47-813

(2) A new subsection (c-7) is added to read as follows:

"(c-7)(1) For tax year 2007 and thereafter, the following classes of taxable real property are established:

"(A) Class 1 Property;

"(B) Class 2 Property; and

"(C) Class 3 Property.

"(2)(A) Except as otherwise provided in this paragraph, Class 1 Property shall be comprised of residential real property that is improved and used exclusively for nontransient residential dwelling purposes; provided, that the improved and nontransient real property shall not be classified as Class 1 Property if it appears on the list compiled under § 42-3131.16.

"(B) Unimproved real property benefitting from an exemption under subsection (c-6)(2)(C) of this section immediately preceding March 8, 2007, shall continue to benefit from the exemption and be classified as Class 1 Property for the duration permitted under that subsection; provided, that the exemption shall not be valid after September 30, 2007; provided further, that the unimproved real property may qualify for an exemption in effect after March 8, 2007, and subject to the time restriction and exclusion set forth in subparagraph (E)(ii)(II) of this paragraph.

"(C) Real property used as a parking lot shall be classified as Class 1 Property if it appertains to improved Class 1 Property and if each approval required from the District government for use as a parking lot has been obtained.

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"(D) Unimproved real property which abuts Class 1 Property shall be classified as Class 1 Property if the real property and the Class 1 Property have common ownership.

"(E)(i) Unimproved, residential real property shall be classified as Class 1 Property if:

"(I) The real property is actively offered for sale or rental at a reasonable market price as of September 30 of the preceding tax year or as of March 31 of the current tax year; provided, that a real property which has been offered for sale or rental for more than 8 months shall be presumed not to be offered for sale or rental at a reasonable market price;

"(II) A valid building permit to construct at least one nontransient dwelling unit has been issued and construction is actively pursued as of September 30 of the preceding tax year or as of March 31 of the current tax year;

"(III) The real property is encumbered by a deed of trust that was recorded during the 12 months preceding the current tax year and a building permit described in sub-sub-subparagraph (II) of this sub-subparagraph has been issued;

"(IV) The real property is owned by a qualifying nonprofit housing organization under § 47-3505(a);

"(V) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the real property as a matter of right; or

"(VI) The unimproved air rights lot appertains to improved Class 1 Property.

"(ii)(I) Classification of unimproved real property as Class 1 Property pursuant to sub-subparagraph (i)(I), (II), (III), or (IV) of this subparagraph shall not exceed 3 tax years under the same, substantially similar, or related ownership.

"(II) Notwithstanding sub-sub-subparagraph (I) of this sub-subparagraph, unimproved real property under the same, substantially similar, or related ownership that qualified for and benefited from an exemption under sub-subparagraph (i) of this subparagraph or under subsection (c-6)(2)(C) or (c-6)(2)(E) of this section, other than under sub-subparagraph (i)(V) or (VI) of this subparagraph or a similar provision of subsection (c-6)(2)(C) of this section, for 3 or more tax years shall no longer be classified as Class 1 Property beginning in tax year 2008.

"(III) For purposes of this sub-subparagraph, ownership shall be related if a deduction for a loss from the sale or exchange of properties between taxpayers would be disallowed under section 267 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 78; 26 U.S.C. § 267); provided, that the exclusion under section 267(a)(1) for a loss in a distribution in a complete liquidation shall not apply.

"(F) Unimproved real property which is separated from Class 1 Property

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by a public alley less than 30 feet wide shall be classified as Class 1 Property if:

"(i) The real property is less than 1,000 square feet;

"(ii) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the real property as a matter of right; and

"(iii) The real property and the Class 1 Property separated by the alley from the real property have common ownership.

"(3)(A) Except as otherwise provided in this paragraph, Class 2 Property shall be comprised of improved commercial real property; provided, that such improved real property shall not be classified as Class 2 Property if it appears on the list compiled under § 42-3131.16.

"(B) Unimproved real property benefitting from an exemption under subsection (c-6)(3)(C) of this section immediately preceding March 8, 2007, shall continue to benefit from the exemption and be classified as Class 2 Property for the duration permitted under subsection (c-6)(3)(C) of this section; provided, that the exemption shall not be valid after September 30, 2007; provided further, that the unimproved real property may qualify for an exemption in effect after March 8, 2007, and subject to the time restriction and exclusion set forth in subparagraph (E)(ii)(II) of this paragraph.

"(C) Real property used as a parking lot shall be classified as Class 2 Property if each approval required from the District government for use as a parking lot has been obtained.

"(D) Unimproved real property which abuts Class 2 Property shall be classified as Class 2 Property if the real property and the Class 2 Property have common ownership.

"(E)(i) Unimproved, commercial real property shall be classified as Class 2 Property if:

"(I) The real property is actively offered for sale or rental at a reasonable market price as of September 30 of the preceding tax year or as of March 31 of the current tax year; provided, that a real property which has been offered for sale or rental for more than 8 months shall be presumed not to be offered for sale or rental at a reasonable market price;

"(II) A valid building permit to construct an improvement to be occupied or a parking lot has been issued and construction is actively pursued as of September 30 of the preceding tax year or as of March 31 of the current tax year;

"(III) The real property is encumbered by a deed of trust that was recorded during the 12 months preceding the current tax year and a building permit described in sub-sub-subparagraph (II) of this sub-subparagraph has been issued;

"(IV) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the real property as a matter of right; or

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"(V) The unimproved air rights lot appertains to improved Class 2 Property.

"(ii)(I) Classification of unimproved real property as Class 2 Property pursuant to sub-subparagraph (i)(I), (II), or (III) of this sub-subparagraph shall not exceed 3 tax years under the same, substantially similar, or related ownership.

"(II) Notwithstanding sub-sub-subparagraph (I) of this sub-subparagraph, unimproved real property under the same, substantially similar, or related ownership that qualified for and benefited from an exemption under sub-subparagraph (i) of this subparagraph or under subsection (c-6)(3)(C) of this section, other than under sub-subparagraph (i)(IV) or (V) of this subparagraph or under a similar provision of subsection (c-6)(3)(C) of this section, for 3 or more tax years shall no longer be classified as Class 2 Property beginning with tax year 2008.

"(III) For purposes of this sub-subparagraph, ownership shall be related if a deduction for a loss from the sale or exchange of properties between taxpayers would be disallowed under section 267 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 78; 26 U.S.C. § 267); provided, that the exclusion under section 267(a)(1) for a loss in a distribution in a complete liquidation shall not apply.

"(F) Unimproved real property which is separated from Class 2 Property by a public alley less than 30 feet wide shall be classified as Class 2 Property if:

"(i) The real property is less than 1,000 square feet;

"(ii) The zoning regulations adopted by the Zoning Commission for the District of Columbia do not allow the building of any structure on the real property as a matter of right; and

"(iii) The real property and the Class 2 Property separated by the alley from the real property have common ownership.

"(G) Class 2 Property shall include, as of September 30 of the preceding tax year, the unimproved real property that is within the Northeast No. 1/Eckington Yards Special Treatment Area and the Buzzard Point/Near Southeast Development Opportunity Area, as designated on the current District of Columbia Generalized Land Use Map that is part of the Comprehensive Plan; provided, that the real property is zoned for commercial development and the real property owner is engaged in predevelopment activities as supported by written documentation. For the purpose of this subparagraph, the term "predevelopment activities" means completion of one of the following:

"(i) Preparation of subdivision or large tract review applications;

"(ii) Preparation or application for District of Columbia permits or authorizations to proceed with development;

"(iii) Participation in special planning or transportation studies prepared in conjunction with the District of Columbia; or

"(iv) Completion of environmental assessment or mitigation

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studies prepared in conjunction with the District of Columbia.

"(4) Class 3 Property shall be comprised of all real property which cannot be classified as Class 1 Property or Class 2 Property.".

(3) Subsection (d)(5) is repealed.

(4) Subsection (d-1) is amended as follows:

(A) Paragraph (3) is repealed.

(B) Paragraph (3A)(A) is amended as follows:

(i) Strike the phrase "appeal any reclassification under this section in the same manner and to the same extent as a new owner under § 47-825.01(f-1)(1), regardless of the tax year involved or whether a prior petition or appeal had been filed for the tax year" and insert the phrase "appeal any classification of Class 3 Property under this section of unimproved real property or real property that is used as a parking lot to the same extent as a new owner under § 47-825.01(f-1)(1)(C)(iii) or (iv)" in its place.

(ii) A new sentence is added to read as follows:

"The Class 3 Property classification shall only be appealed under the provisions of this paragraph and regardless of whether a petition or appeal is filed under § 47-825.01(f-1)(1A), notwithstanding any other provision of law.".

(iii) Strike the word "reclassification" wherever it appears and insert the word "classification" in its place.

(C) New paragraphs (4A) and (4B) are added to read as follows:

"(4A) For improved real property that is not used as a parking lot, the determination that the real property belongs on the list compiled under § 42-3131.16 (and, indirectly, its Class 3 Property classification) shall only be appealed as prescribed under § 42-3131.15 and § 47-825.01(f-1)(2A), notwithstanding any other provision of law. A notice of final determination by the Mayor shall be a prerequisite before an appeal to the Board of Real Property Assessments and Appeals may be taken.

"(4B) The classification of Class 3 Property in the notice of proposed assessment under §§ 47-824 and 47-829 shall not be appealed under the provisions applicable to the appeal of such notice and any statement in such notice that the real property shall be classified as other than Class 3 Property shall not be effective, notwithstanding any other provision of law.".

(D) Paragraph (5) is amended as follows:

(i) Subparagraph (A) is amended to read as follows:

"(A) Whenever the classification of real property subject to the new owner petition or appeal process under paragraph (3A) of this subsection shall:

"(i)(I) Change to Class 3 Property, the owner shall file a notification to change the classification with the Office of Tax and Revenue within 30 days after the change in the manner as may be prescribed by the Mayor.

"(II) The change in classification shall be retroactive to

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the half tax year when the Office of Tax and Revenue was so notified. If the owner fails to notify timely, the real property shall be reclassified for each tax year beginning with the half tax year when the classification should have changed; provided, that the periods subject to reclassification shall be limited to the current and 3 preceding tax years. Penalty and interest as prescribed under § 47-811(c) shall be assessed beginning 30 days after the date of the real property tax bill that issues after any administrative appeals have been exhausted; or

"(ii)(I) Cease to be Class 3 Property, the owner shall file a notification to change the classification with the Office of Tax and Revenue within 30 days after the change in the manner as may be prescribed by the Mayor.

"(II) If the notification is approved, the change in classification of the real property from Class 3 Property shall be retroactive to the half tax year when the Office of Tax and Revenue was so notified. If the notification is disapproved, the notice of classification under paragraph (3A) of this subsection shall be given to the owner.".

(ii) A new subparagraph (A-i) is added to read as follows:

"(A-i)(i) Whenever the classification of improved real property that is not used as a parking lot and appears on the list compiled under § 42-3131.16 shall change to Class 3 Property:

"(I) The owner shall notify the Department of Consumer and Regulatory Affairs within 30 days of the change by making application to register the property as vacant under §§ 42-3131.06 and 42-3131.07, and the change in classification of the real property to Class 3 Property shall be retroactive to the half tax year during which one of the following first occurred:

"(aa) The owner of the real property registered the real property as vacant under § 42-3131.06; or

"(bb) The owner of real property received a notice of final determination under § 42-3131.15;

"(II) The Office of Tax and Revenue shall re-classify the real property without limitation for each tax year or half tax year after receipt of the list under § 42-3131.16; and

"(III) Penalty and interest as prescribed under § 47-811(c) shall be assessed beginning 30 days after the date of the real property tax bill that issues after any administrative appeals have been exhausted.

"(ii) Whenever improved real property that is not used as a parking lot and appears on the list compiled under § 42-3131.16 shall cease to be Class 3 Property, the owner shall notify the Department of Consumer and Regulatory Affairs within 30 days after the change in the manner as may be prescribed by the Mayor. If the request for a change in classification is approved, the change in classification of the real property from Class 3 Property shall be retroactive to the half tax year when the Department of Consumer and Regulatory Affairs was so notified. If the request is denied, the owner shall have a right to

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administrative review of the determination as provided under § 42-3131.16 and § 47-825.01(f-1)(2A).".

(iii) Subparagraph (B) is amended as follows:

(I) Strike the phrase "subparagraph (A)" and insert the phrase "subparagraphs (A) and (A-i)" in its place.

(II) Strike the word "Mayor" and insert the phrase "applicable agency" in its place.

(E) Paragraph (6) is amended by striking the phrase "real property" and inserting the phrase "Class 3 Property " in its place.

(5) Subsection (d-2) is amended by striking the phrase "an erroneous or improper classification" and inserting the phrase "a change in classification to Class 3 Property" in its place.

(b) Section 47-825.01(f-1) is amended as follows: **Note, § 47-825.01**

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

"(2A) If an owner is aggrieved by a notice of final determination issued pursuant to § 42-3131.15 or a notice of final determination issued under § 47-813(d-1)(3A), the owner may file an appeal on the determination of vacancy with the Board within 45 days from the date of such notice. The Board shall render a decision on the appeal within 120 days of filing.".

(2) Paragraph (3) is amended by striking the word "Board" and inserting the phrase "Board and a petition to the Mayor for reconsideration of the designation of their building as vacant shall be a prerequisite for filing an appeal with the Board pursuant to § 42.3131.15" in its place.

(3) Paragraph (8) is amended by striking the phrase "value or classification" and inserting the phrase "value, classification, or determination of vacancy" in its place.

(c) Section 47-850.02(b-1) is amended by striking the phrase "a reclassification" and inserting the phrase "an appeal of a Class 3 classification" in its place. **Note, § 47-850.02**

(d) Section 47-863(f-1) is amended by striking the phrase "a reclassification" and inserting the phrase "an appeal of a Class 3 classification" in its place. **Note, § 47-863**

Sec. 5. Applicability.

Sections 2 through 4 shall apply to real property tax years beginning after September 30, 2006.

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 7. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

Vincent C. Gray

Chairman
Council of the District of Columbia

Adrian Fenty

Mayor
District of Columbia
APPROVED
November 27, 2007

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AN ACT

D.C. ACT 17-222

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 21, 2007

To provide for the installation of bicycle parking spaces at the John A. Wilson Building to encourage alternate means of transportation and commuting for District employees and visitors, to require the Mayor to publish a study on bicycle parking availability at all buildings occupied by the District government, to require residential buildings to provide bicycle parking spaces, and to increase bicycle parking requirements for office, retail, and service buildings.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Bicycle Commuter and Parking Expansion Act of 2007".

Sec. 2. Definitions.

For the purposes of this act, the term "bicycle parking space" means a device or enclosure, located within a building or installation, or conveniently adjacent thereto, for securing a bicycle that is easily accessible, clearly visible and so located as to be reasonably secure from theft or vandalism.

Sec. 3. Bicycle parking space requirements.

(a) A bicycle parking space shall conform to the bike parking rack standard established by the District Department of Transportation, or be of such design that will enable the frame to be supported in 2 places, and allow for both wheels of a bicycle to be secured with ease by use of a U-lock, cable lock, or other security device. Exceptions to these standards may be approved by the Mayor.

(b) Bicycle parking spaces installed prior to the effective date of this act that do not meet the requirements of this act shall be permitted until one year after the effective date of this act.

Sec. 4. John A. Wilson Building bicycle parking requirements.

(a) Notwithstanding any other law or regulation, the Council shall increase the number of public bicycle parking spaces at the John A. Wilson Building.

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(b) The total number of public bicycle parking spaces provided at the John A. Wilson Building shall be no less than 16; provided, that:

(1) Design, purchase, and installation of the public bicycle parking spaces shall be done in coordination with the District Department of Transportation ("DDOT") from funds either already allocated to DDOT in fiscal year 2008 or already allocated to the Council in fiscal year 2008 for the maintenance of the John A. Wilson Building;

(2) The design of the bicycle parking spaces shall be consistent with the architectural style and beauty of the John A. Wilson Building; and

(3) At least one bicycle parking space shall be located adjacent to the public entrance on Pennsylvania Avenue, N.W., if this is determined to be consistent with historic preservation guidelines and National Park Service regulations.

Sec. 5. Mayor's report on bicycle parking at District government buildings.

(a) Within 180 days of the effective date of this act, the Mayor shall prepare and make public a report on the availability of bicycle parking spaces at buildings occupied by the District government, including office buildings occupied by District government agencies, public school buildings, public libraries and branches, recreation centers, and parks.

(b) The report shall include:

(1) The current number of parking spaces available for automobiles;

(2) The current number of parking spaces available for bicycles;

(3) The percentage of available bicycle parking spaces to available automobile parking spaces;

(4) A strategic plan to provide no less than a number of bicycle parking spaces that is equivalent to 10% of the available automobile parking spaces;

(5) A plan for providing a larger number of bicycle parking spaces at locations where it is warranted by current demand;

(6) An evaluation of bicycle travel lanes that lead riders to the facility or park; and

(7) A detailed report of the bicycle parking plans for the baseball stadium for the Washington Nationals.

Sec. 6. Residential building bicycle parking requirements.

(a)(1) A residential building owner shall provide secure bicycle parking spaces for all existing residential buildings with 8 or more units.

(2)(A) A residential building owner shall provide a reasonable number of bicycle parking spaces for all existing residential buildings within 30 days of one or more residents' written requests, unless an extension due to hardship is granted by the Mayor.

(B) Where complaints of noncompliance have been filed with the Mayor by one or more residents, the Mayor shall facilitate an agreement between the parties and determine the number of bicycle parking spaces that shall be provided.

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(C) The bicycle parking spaces shall be provided within 30 days of the Mayor's determination, unless an extension due to hardship is granted by the Mayor.

(3) Where it can be demonstrated that providing bicycle parking spaces required under this subsection is not physically practical, that undue economic hardship would result from strict compliance with the regulation, or that the nature of the building use is such that bicycle parking spaces would not be used, the Mayor may grant, upon written application of the owner of the building, an appropriate exemption or reduced level of compliance. In such cases, a certificate documenting the exemption or reduced level of compliance shall be issued to the building owner.

(b)(1) A residential building owner shall provide at least one secure bicycle parking space for each 3 residential units for all new residential buildings and substantially rehabilitated buildings with 8 or more units.

(2) Where it can be demonstrated in a substantially rehabilitated building that providing bicycle parking spaces is not physically practical, that undue economic hardship would result from strict compliance with the regulation, or that the nature of the building use is such that bicycle parking would not be used, the Mayor may grant, upon written application of the owner of the building, an appropriate exemption or reduced level of compliance. In such cases, a certificate documenting the exemption or reduced level of compliance shall be issued to the building owner.

(3) For the purposes of this subsection, "substantially rehabilitated" means any improvement to or renovation of a residential building for which the improvement or renovation equals or exceeds 50% of the assessed value of the building before the rehabilitation. Existing bicycle parking spaces before rehabilitation shall be considered in calculating the total number of required parking spaces under this subsection.

(c) The Mayor shall identify categories that are eligible for appropriate exemption or reduced level of compliance. The categories include "elderly housing", "assisted living facilities", and "nursing homes" as defined in section 2 of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501).

(d) Any residential buildings that have been exempted from the regulation due to the nature of the use of the building shall provide a minimum number of bicycle parking spaces equal to at least 5% of the number of people employed at the building.

Sec. 7. Increased bicycle parking spaces for office, retail, and service uses.

(a) An owner of a building with office, retail, or service use shall provide a minimum number of bicycle parking spaces at least equal to 5% of the number of automobile parking spaces provided for the building.

(b) If the utilization of the minimum number of bicycle parking spaces is reaching 90% or higher during peak usage periods, the owner of a building with office, retail, or service use

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shall provide bicycle parking spaces at least equal to 10% of the number of automobile parking spaces provided for the building.

(c) Where it can be demonstrated that providing bicycle parking spaces is not physically practical, that undue economic hardship would result from strict compliance with the regulation, or that the nature of the building use is such that bicycle parking spaces would not be used, the Mayor may grant, upon written application of the owner of the building, an appropriate exemption or reduced level of compliance. In such cases, a certificate documenting the exemption or reduced level of compliance shall be issued to the building owner.

Sec. 8. Rules; Council review.

(a) Within 90 days of the effective date of this act, the Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

(b) All rules promulgated under this act shall be submitted to the Council for review and approval.

Sec. 9. Applicability.

Rules promulgated pursuant to this act shall apply to existing, substantially rehabilitated, and new residential, retail, office, and service buildings 6 months after the effective date of this act.

Sec. 10. Zoning regulations.

Nothing in this act shall supplant any requirements of the Zoning Regulations.

Sec. 11. Subject to appropriation.

Section 4 of this act shall be subject to appropriation.

Sec. 12. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 13. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat.813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Vincent C. Gray

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
November 21, 2007

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AN ACT

D.C. ACT 17-223

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 28, 2007

To require all exploratory committees to file informational reports with the Office of Campaign Finance, to establish individual and aggregate contribution limits, to treat exploratory contributions as campaign contributions, and to establish a time limit for the operation of an exploratory committee; and to amend the District of Columbia Campaign Finance Reform and Conflict of Interest Act to clarify when an individual shall be deemed a candidate.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Exploratory Committee Regulation Amendment Act of 2007".

Sec. 2. Definitions.

For the purposes of this act, the term "exploratory committee" means any individual, or group of individuals, organized for the purpose of examining or exploring the feasibility of becoming a candidate for an elective office in the District of Columbia.

Sec. 3. Reports of exploratory committees.

(a) Each exploratory committee shall file an informational report with the Office of Campaign Finance that lists the following:

(1) Each contributor's full name and the contribution received by the committee;

(2) Itemized expenditures by category, including polling, travel, office rent, and administrative costs; and

(3) The balance of the exploratory committee fund.

(b)(1) The informational report shall be filed semiannually, on January 31st and July 31st; provided, that within 12 months of an election for the office that is the subject of the exploratory committee, reports shall be filed on the last day of each month.

(2) A final informational report shall be filed within 30 days of the termination of an exploratory committee.

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Sec. 4. Fund balance requirements.

(a) Any balance in the exploratory committee fund shall only be transferred to an established principal campaign committee, political committee, or charitable organization in accordance with D.C. Official Code § 47-1803.03(a)(8).

(b) Exploratory committee fund balances shall not be deemed the personal funds of any individual, including the individual seeking elective office.

Sec. 5. Aggregate and individual contribution limits.

(a) Exploratory committees shall not receive aggregate contributions in excess of:

(1) $200,000 for a Mayoral exploratory committee;

(2) $150,000 for a Chairman of the Council exploratory committee;

(3) $100,000 for an at-large member of the Council exploratory committee;

(4) $50,000 for a Ward Councilmember or President of the State Board of Education exploratory committee; and

(5) $20,000 for a member of the State Board of Education exploratory committee.

(b) Exploratory committees shall not receive individual contributions in excess of:

(1) $2,000 for a Mayoral exploratory committee;

(2) $1,500 for a Chairman of the Council exploratory committee;

(3) $1,000 for an at-large member of the Council exploratory committee;

(4) $500 for a Ward Councilmember or President of the State Board of Education exploratory committee; and

(5) $200 for a member of the State Board of Education exploratory committee.

Sec. 6. Contribution prohibition.

When an individual decides to run for office and becomes a candidate, contributions received during the exploratory period shall apply to the campaign contribution limits for the candidate as provided under section 3 of the District of Columbia Campaign Contribution Limitation Initiative of 1992, effective March 17, 1993 (D.C. Law 9-204; D.C. Official Code § 1-1131.01).

Sec. 7. Time limit for the operation of an exploratory committee.

The duration of an exploratory committee shall not exceed 18 months for any one office. Once a candidate's exploratory committee reaches the maximum duration of 18 months, the candidate shall file a declaration of candidacy and form a principal political campaign committee or terminate the exploratory committee.

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Sec. 8. Section 102 (2)(C) of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1101.01(2)(C)), is amended by striking the phrase "for that purpose." and inserting the phrase "for that purpose; provided, that an individual shall not be deemed a candidate if he notifies each person who has received contributions or made expenditures that such individual is only testing the waters, has not yet made any decision whether to seek nomination or election to public office, and is not a candidate." in its place. **Amend § 1-1101.01**

Sec. 9. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 10. Effective date.

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

Vincent C. Gray

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 28, 2007

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AN ACT

D.C. ACT 17-224

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 28, 2007

Codification District of Columbia Official Code

2001 Edition

2008 Winter Supp.

West Group Publisher

To amend, on a temporary basis, the Prevention of Child Abuse and Neglect Act of 1977 to include limited grant-making authority among the duties and powers of the Director of the Child and Family Services Agency.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Child and Family Services Grant-making Temporary Amendment Act of 2007".

Note, § 4-1303.03

Sec. 2. Section 303(a-1) of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1303.03(a-1)), is amended by adding a new paragraph (3A) to read as follows:

"(3A) To issue grants to community and neighborhood-based groups for programs that deliver prevention and intervention services;".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
November 28, 2007

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Codification District of Columbia Official Code

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AN ACT

D.C. ACT 17-225

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

NOVEMBER 29, 2007

To require the divestment, and prohibit the investment, of public funds in the stocks, securities, or other obligations of certain companies which do business with the Government of Sudan and to provide for the identification of companies doing business with the Government of Sudan.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Prohibition of the Investment of Public Funds in Certain Companies Doing Business with the Government of Sudan Act of 2007".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Active Business Operations" means all Business Operations that are not Inactive Business Operations.

(2) "Business Operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(3) "Company" means any sole proprietorship, for-profit or nonprofit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for for-profit or nonprofit purposes.

(4) "Complicit" means taking actions during any preceding 20-month period which have directly supported or promoted the genocidal campaign in Darfur, including preventing Darfur's victimized population from communicating with each other, encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur, or actively working to deny, cover up, or alter the record on human rights abuses in Darfur.

(5) "Direct Holdings" in a company means all securities of that company held directly by the Public Fund or in an account or fund in which the Public Fund owns all shares or

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interests.

(6) "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or after October 13, 2006 (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan. The term "Government of Sudan" shall not include the regional government of southern Sudan.

(7) "Inactive Business Operations" means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such purpose.

(8) "Indirect Holdings" in a company means all securities of that company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the Public Fund, in which the Public Fund owns shares or interests together with other investors not subject to the provisions of this act.

(9) "Marginalized Populations Of Sudan" include the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan's North-South civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

(10) "Military Equipment" means:

(A) Weapons, arms, military supplies, and equipment that readily may be used for military purposes, including radar systems or military-grade transport vehicles; or

"(B) Supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.

(11) "Mineral Extraction Activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, and facilitating such activities, including by providing supplies or services in support of such activities.

(12)(A) "Oil-Related Activities" include:

(i) Owning rights to oil blocks;

(ii) Exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil;

(iii) Constructing, maintaining, or operating a pipeline, refinery, or other oil-field infrastructure; and

(iv) Facilitating such activities, including by providing supplies or services in support of such activities.

(B) The mere retail sale of gasoline and related consumer products shall not be considered Oil-Related Activities.

(13) "Power Production Activities" means any Business Operations that involve

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a project commissioned by the National Electricity Corporation of Sudan or other similar Government of Sudan entity whose purpose is to facilitate power generation and delivery, including establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, and facilitating such activities, including by providing supplies or services in support of such activities.

(14) "Public Fund" means the assets of the District of Columbia Retirement Board, the Board of Trustees in charge of the District of Columbia Retirement Board.

(15) "Scrutinized Company" means a company, other than a Social Development Company which is not complicit in the Darfur genocide, that meets the criteria set forth in any of the following subparagraphs:

(A)(i) The company has Business Operations that involve contracts with, or provision of supplies or services, to:

(I) The Government of Sudan;

(II) Companies in which the Government of Sudan has any direct or indirect equity share;

(III) Government of Sudan-commissioned consortiums or projects; or

(IV) Companies involved in Government of Sudan-commissioned consortiums or projects; and

(ii)(I)(aa) More than 10% of the company's revenues or assets linked to Sudan involve Oil-Related Activities or Mineral Extraction Activities;

(bb) Less than 75% of the company's revenues or assets linked to Sudan involve contracts with, or provision of Oil-Related or Mineral Extracting products or services to, the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and

(cc) The company has failed to take Substantial Action; or

(II)(aa) More than 10% of the company's revenues or assets linked to Sudan involve Power Production Activities;

(bb) Less than 75% of the company's Power Production Activities include projects whose intent is to provide power or electricity to the Marginalized Populations Of Sudan; and

(cc) The company has failed to take Substantial Action;

(B) The company is complicit in the Darfur genocide;

(C) The company supplies Military Equipment within Sudan, unless it clearly shows that the Military Equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, including, through post-sale

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tracking of the equipment by the company, certification from a reputable and objective third party that the equipment is not being used by a party participating in armed conflict in Sudan, or sale of the equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

(16) "Scrutinized Companies List" means a list of Scrutinized Companies compiled in accordance with section 3.

(17) "Social Development Company" means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to Oil-Related Activities, Mineral Extraction Activities, or Power Production Activities.

(18) "Substantial Action" means:

(A) Adopting, publicizing, and implementing a formal plan to cease Business Operations within one year and to refrain from any new Business Operations;

(B) Undertaking significant humanitarian efforts on behalf of one or more Marginalized Populations Of Sudan; or

(C) Through engagement with the Government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

Sec. 3. Identification of companies.

(a) Within 90 days after the effective date of this act, the Public Fund shall make its best efforts to identify all Scrutinized Companies in which the Public Fund has Direct Holdings, Indirect Holdings, or could possibly have such holdings in the future. Such efforts shall include, as appropriate:

(1) Reviewing and relying, as appropriate in the Public Fund's judgment, on publicly available information regarding companies with Business Operations in Sudan, including information provided by nonprofit organizations, research firms, international organizations, and government entities;

(2) Contacting asset managers contracted by the Public Fund that invest in companies with Business Operations in Sudan;

(3) Contacting other institutional investors that have divested from, or engaged with, companies that have Business Operations in Sudan.

(b) By the first meeting of the Public Fund following the 90-day period set forth in subsection (a) of this section, the Public Fund shall compile all Scrutinized companies identified into a Scrutinized Companies List.

(c) The Public Fund shall update the Scrutinized Companies List on a quarterly basis based on information from sources, including those listed in subsection (a) of this section.

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Sec. 4. Required actions.

(a) Except as provided in subsections (c) and (d) of this section, during the period that a company on the scrutinized Company List has Active Business Operations, the Public Fund shall sell, redeem, divest, or withdraw all publicly-traded securities of the company according to the following schedule:

(1) At least 50% of the assets shall be removed from the Public Fund's assets under management by 6 months after the company's most recent appearance on the Scrutinized Companies List.

(2) All of such assets shall be removed from the Public Fund's assets under management within 12 months after the company's most recent appearance on the Scrutinized Companies List.

(b) Except as provided in subsections (c) and (d) of this section, the Public Fund shall not acquire securities of companies on the Scrutinized Companies List that have Active Business Operations.

(c) A company which the United States government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Sudan shall not be subject to the divestment or investment prohibition of subsections (a) and (b) of this section.

(d) Notwithstanding anything herein to the contrary, subsections (a) and (b) of this section shall not apply to Indirect Holdings in actively-managed investment funds; provided, that the Public Fund shall submit letters to the managers of actively-managed investment funds containing companies with Scrutinized Active Business Operations requesting that they consider removing such companies from the fund or create a similar actively-managed fund with Indirect Holdings devoid of such companies; provided further, that if the manager creates a similar fund, the Public Fund shall replace all applicable investments with investments in the similar fund in an expedited time period consistent with prudent investing standards. For the purposes of this section, private equity funds shall be deemed to be actively-managed investment funds.

Sec. 5. Reporting.

(a) The Public Fund shall transmit a publicly-available report to the Council and the Mayor that includes the Scrutinized Companies List within 30 days after the list is created.

(b) Annually thereafter, the Public Fund shall transmit a publicly-available report to the Council and the Mayor and send a copy of the report to the United States Presidential Special Envoy to Sudan (or an appropriate designee or successor) that includes:

(1) All investments sold, redeemed, divested, or withdrawn in compliance with section 4(a);

(2) All prohibited investments under section 4(b); and

(3) Any progress made under section 4(d).

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Sec. 6. Other legal obligations.

With respect to actions taken in compliance with this act, including all good faith determinations regarding companies as required by this act, the Public Fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations in respect to choice of asset managers, investment funds, or investments for the Public Fund's securities portfolios.

Sec. 7. Reinvestment in certain companies with Active Business Operations.

(a)(1) Notwithstanding anything herein to the contrary, the Public Fund shall be permitted to cease divesting from certain Scrutinized Companies pursuant to section 4(b) or reinvest in certain Scrutinized Companies from which it divested pursuant to section 4(a) if clear and convincing evidence shows that the value for all assets under management by the Public Fund becomes equal to or less than .50% (50 basis points) of the hypothetical value of all assets under management by the Public Fund assuming no divestment for any company had occurred under section 4(a).

(2) Cessation of divestment, reinvestment, or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in paragraph (1) of this subsection.

(b) For any cessation of divestment, reinvestment, or subsequent ongoing investment authorized by this section, the Public Fund shall provide a written report to the Council and the Mayor in advance of initial reinvestment, updated semiannually thereafter, as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, reinvest, or remain invested in companies with Active Business Operations.

(c) This section shall not apply to reinvestment in companies on the ground that they have ceased to have Active Business Operations.

Sec. 8. Enforcement.

The Mayor shall enforce this act and may bring such legal action as is necessary to do so.

Sec. 9. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 10. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Vincent C. Gray

Chairman
Council of the District of Columbia

Mayor Adrian Fenty

Mayor
District of Columbia
APPROVED
November 29, 2007

ENROLLED ORIGINAL

AN ACT

D.C. ACT 17-226

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 3, 2007

Codification District of Columbia Official Code

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To permit a student with a valid medication action plan to possess and self-administer asthma or anaphylaxis medications while at school, at school-sponsored activities, and while on school-sponsored transportation, to permit a trained school employee or agent to administer medication to a student with a valid medication action plan, to permit a trained school employee or agent to administer medication to any student in emergency circumstances, in accordance with a doctor's standing order, to require schools to maintain student medical records in an easily accessible location, to allow schools to store additional medication for self-administering students, to prohibit the misuse of self-administered medications, and to require the Mayor to promulgate rules to implement the provisions of this act; and to repeal the Administration of Medication by Public School Employees Act of 1993.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Student Access to Treatment Act of 2007".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Emergency circumstances" means reasonably apparent circumstances that indicate that any delay in treatment would endanger the health or life of the student.

(2) "Medication" means any prescription or non-prescription drug used to treat conditions and illnesses covered by this act.

(3) "Medication action plan" means a written medical treatment plan for an individual student that is developed and submitted to a school in accordance with section 4.

(4) "Responsible person" means, in the case of a student under 18 years of age, a parent, legal guardian, legal custodian, foster parent, or other adult charged with the ongoing care and supervision of the student, and, in the case of a student 18 years of age or older, the student himself or herself.

(5) "School" means:

(A) Any public school operated under the authority of the Mayor of the

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District of Columbia; and

(B) Any charter school, parochial school, or private school in the District.

Sec. 3. Possession and self-administration of medication.

A student may possess and self-administer medication at the school in which the student is currently enrolled, at school-sponsored activities, and while on school-sponsored transportation, in order to treat asthma, anaphylaxis, or other illness; provided, that:

(1) The responsible person has submitted a valid medication action plan to the school; and

(2) All other conditions set forth in this act are met.

Sec. 4. Medication action plan.

(a) A valid medication action plan shall include:

(1) Written medical authorization, signed by a licensed health practitioner, that states:

(A) The name of the student;

(B) Emergency contact information for the responsible person;

(C) Contact information for the licensed health practitioner;

(D) The name, purpose, and prescribed dosage of the medication;

(E) The frequency that the medication is to be administered;

(F) The possible side effects of the medication as listed on the label;

(G) Special instructions or emergency procedures; and

(H) In the case of self-administered medication, confirmation that the student has been instructed in the proper technique for self-administration of the medication and has demonstrated the ability to self-administer the medication effectively.

(2) Written authorization, signed by the responsible person, that states:

(A) A trained employee or agent of the school may administer medication to the student in accordance with rules established by the Mayor; or

(B) In the case of self-administration, the student may possess and self-administer the medication at the school in which the student is currently enrolled, at school-sponsored activities, and while on school-sponsored transportation; and

(C) The name of the student may be distributed to appropriate school staff, as determined by the principal; and

(3) Written acknowledgment that the District, a school, or an employee or agent of a school shall be immune from civil liability for the good-faith performance of responsibilities under this act; except, that no immunity shall extend to criminal acts, intentional wrongdoing, gross negligence, or wanton or willful misconduct.

(b) Immediately following any changes regarding the health or treatment of the student,

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the responsible person shall submit to the school an amended medication action plan.

(c) The medication action plan shall be updated at least annually, in accordance with a schedule determined by the Mayor.

Sec. 5. Medication administration training program.

(a) By July 1, 2008, the Mayor shall develop and implement a medication administration training program, which shall provide training and certification of employees and agents of a school to:

(1) Administer medication to students with valid medication action plans who are not authorized to possess that medication or are not competent to self-administer the medication; and

(2) Administer medication in emergency circumstances to any student suffering an acute episode of asthma, anaphylaxis, or other illness.

(b) All training provided pursuant to subsection (a) of this section shall be conducted by a health-care professional licensed in the District of Columbia.

(c) A health-care professional shall provide a school with written certification of successful completion of the training for each employee or agent of the school. The certification shall be valid for 3 years.

Sec. 6. Administration of medication.

An employee or agent trained and certified pursuant to section 5 may administer medication to a student with a valid medication action plan; provided, that:

(1) The responsible person has delivered the medication to be administered to the school;

(2) The employee or agent is under the general supervision of licensed health practitioner; and

(3) Except in emergency circumstances, the responsible person has administered the initial dose of a new medication.

Sec. 7. Administration of medication in emergency circumstances.

(a) No employee or agent of a school shall administer medication in emergency circumstances to any student unless he or she has been trained and certified pursuant to section 5. (b) The Mayor shall obtain a standing order signed by at least one practicing physician licensed in the District that identifies the specific medications that may be administered in emergency circumstances and provides appropriate administration instructions.

(c) A student need not have a known diagnosis or a medication action plan to receive treatment in emergency circumstances from a trained employee or agent of the school.

(d) The Mayor shall develop a procedure by which the responsible person may request that a minor student not receive treatment in emergency circumstances.

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Sec. 8. Posting of emergency response information.

By July 1, 2008, the Mayor shall develop a standardized form for posting emergency response information. The information shall be posted in all schools and shall include:

(1) An explanation of the symptoms and possible consequences of conditions covered by this act;

(2) The names of all the employees or agents of the particular school who are trained and certified to administer medication in emergency circumstances; and

(3) The emergency response steps, as identified by the Mayor, to be taken by the school.

Sec. 9. Maintenance of records.

(a) A school shall keep the medication action plans in the school health suite or other designated, easily accessible location.

(b) A school shall create and maintain a list of students with valid medication action plans, including the emergency contact information for each student. The principal of the school may distribute the list among appropriate employees or agents of the school.

(c) A school shall maintain accurate records of all its employees and agents who are certified to administer medication.

(d) A school shall maintain accurate records of all incidents where medication was administered to a student in an emergency circumstance.

Sec. 10. Storage of medication.

(a) A school may procure medication for the treatment of asthma, anaphylaxis, or other illness for use in emergency circumstances. The medication shall be properly stored and maintained in an easily accessible location.

(b)(1) A school may receive medication to store for the treatment of asthma, anaphylaxis, or other illness from the responsible person for a student with a valid medication action plan.

(2) The medication shall be:

(A) Properly stored at the school in a location to which the student has immediate access in case of an emergency; and

(B) Labeled with the:

(i) Name of the student;

(ii) Name of the medication;

(iii) Dosage;

(iv) Time of administration; and

(v) Duration of medication.

(3) No school shall be required to store more than a 3-school-day supply of

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medication for any one student.

Sec. 11. Misuse.

(a) A school may deny a medication action plan pursuant to terms established by the Mayor.

(b) A student who self-administers medication while at school, at a school-sponsored activity, or while on school-sponsored transportation for a purpose other than his or her own treatment may be subject to disciplinary action by the school; provided, that disciplinary action shall not limit or restrict the access of a student to his or her prescribed medication. The school shall promptly notify the responsible person of any disciplinary action imposed.

Sec. 12. Liability.

The District, a school, or an employee or agent of a school shall be immune from civil liability for the good-faith performance of responsibilities under this act; except, that no immunity shall extend to criminal acts, intentional wrongdoing, gross negligence, or wanton or willful misconduct.

Sec. 13. Rules.

(a) The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

(b) The Mayor may establish, by regulation, additional types of medication that a student may self-administer and other illnesses for which a student may self-administer medication other than those provided in this act.

(c) All existing rules and regulations promulgated pursuant to the Administration of Medication by Public School Employees Act of 1993, effective November 20, 1993 (D.C. Law 10-55; D.C. Official Code § 38-631 *et seq.*), shall remain in effect until rules promulgated pursuant to this act become effective.

Sec. 14. Repealer.

Repeal §§ 38-631 - 38-634

The Administration of Medication by Public School Employees Act of 1993, effective November 20, 1993 (D.C. Law 10-55; D.C. Official Code § 38-631 *et seq.*), is repealed.

Sec. 15. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 16. Effective date.

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

Vincent C. Gray

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 3, 2007