

ENROLLED ORIGINAL

AN ACT

D.C. ACT 16-615

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 28, 2006*Codification
District of
Columbia
Official Code*

2001 Edition

2007 Winter
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To amend, on an 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, 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 2006".

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

Note,
§ 2-1831.03

Administrator and those cases under the jurisdiction of the Board or 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 the effective date of the Nuisance Properties Abatement Reform and Real Property Classification Temporary Amendment ct of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-1036), 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 the effective date of the Nuisance Properties Abatement Reform and Real Property Classification Temporary Amendment ct of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-1036), and subject to the time restriction and exclusion set forth in paragraphs (2) and (3) of this subsection.

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“(5) For 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 (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 title 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(a)) 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

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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.”.

(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 title 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. 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.

(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 benefiting from an exemption under subsection (c-6)(2)(C) of this section immediately preceding the effective date of the Nuisance Properties Abatement Reform and Real Property Classification Temporary Amendment ct of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-1036), 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 the effective date of the Nuisance Properties Abatement Reform and Real Property Classification Temporary Amendment ct of 2006, passed on 2nd reading on December 19, 2006

Note,
§ 47-813

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(Enrolled version of Bill 16-1036), 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.

“(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), 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

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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 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 the effective date of the Nuisance Properties Abatement Reform and Real Property Classification Temporary Amendment ct of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-1036), 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 the effective date of the Nuisance Properties Abatement Reform and Real Property Classification Temporary Amendment ct of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-1036), 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;

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“(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

“(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

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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 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 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 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, which 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.

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“(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 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:

(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 a 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) by striking the phrase “a reclassification” and inserting the phrase “an appeal of a Class 3 classification” in its place.

(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,
§ 47-825.01

Note,
§ 47-850.02

Note,
§ 47-863

Sec. 5. Applicability.

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

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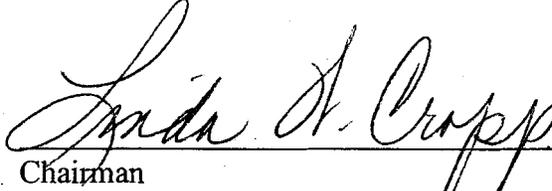
Sec. 6. Fiscal impact statement.

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)).

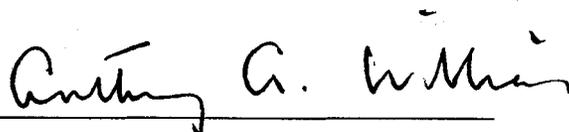
Sec. 7. Effective date.

(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.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 28, 2006

ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-616

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 28, 2006

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District of
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To create, on a temporary basis, a public/private partnership between the District of Columbia and New Town Development, LLC for the purpose of economic, social, and cultural revitalization, of creating a substantial number of workforce housing units, of creating a project labor agreement with a job training program for District residents, and of preserving certain buildings and business operations presently located on the approximately 24-acre site in Ward 5 that is bounded by Florida Avenue N.E., on the south, 6th Street, N.E., on the east, Penn Street, N.E., on the north, and the railroad tracks and metrorail on the west, hereinafter designated as "New Town at Capital City Market Project" in accordance with New Town at the Capital City Market: A Neighborhood Revitalization Initiative and Development Plan presented to the District government by New Town Development, LLC, and to authorize the Mayor to use tax incentives, economic and other development initiatives that may be provided by existing laws and regulations, and other existing laws and regulations to achieve the purpose and goals of this legislation within the footprint of New Town at the Capital City Market.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "New Town at Capital City Market Revitalization Development and Public/Private Partnership Temporary Act of 2006".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Capital City Market" "Market" means the approximately 24-acre site bounded by Florida Avenue N.E., on the south, 6th Street, N.E., on the east, Penn Street, N.E., on the north, and the railroad tracks and Metro rail on the west in northeast Washington, D.C., in Ward 5.
- (2) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia.
- (3) "Developer" means the New Town Development, LLC, a District of

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Columbia limited liability company.

(4) "DHCD" means the Department of Housing and Community Development.

(5) "Partnership" means the public/private partnership between the District and Developer to revitalize and develop the Capital City Market into a mixed-use, urban residential, retail, restaurants, entertainment, support facilities, office, government facilities, above and below-grade parking community; to create a substantial amount of workforce housing for teachers, policemen, firemen, and other District of Columbia residents; to preserve specific historic buildings; and to maintain the Market's historic retail and wholesale functions on the existing site in northeast Washington, D.C.

(6) "Revitalization Initiative and Development Plan" means the Initial Conceptual Plan for New Town at the Capital City Market: "A Neighborhood Revitalization Initiative and Development Plan".

(7) "Washington Beef Properties" means Parcel 129/32 and lots 5, 800, and 802 in square 3587.

(8) "Workforce housing" means housing units set aside for eligible renters or purchasers as defined by the appropriate agency of the District of Columbia and who are at 50% to 120% of the Area Median Income.

Sec. 3. Findings.

(a) The Revitalization and Development Plan presented by the Developer can be used as a model for developing large tracts of underutilized land to create workforce housing, needed community facilities and services, and jobs, and to increase the District's tax base.

(b) The Market was originally located on the National Mall where the Federal Triangle Complex now exists and was relocated to its present site shortly after World War I upon passage of the Union Station Act of 1910 and adoption of the MacMillan Plan for the Mall.

(c) While the Market has an active retail and wholesale business of local, national, and international food and meat products, the Market now is an underutilized resource of its neighborhood and the city.

(d) The Market has deteriorated and has deteriorating structures, defective and inadequate street layout, excessive vacant land, vacant buildings, unsanitary and unsafe conditions, diversity of ownership, and is becoming an attractive place for criminal activity and homeless inhabitants.

(e) The Market is located less than 350 yards from the new Metro entrance of New York/Florida Avenues Metro station.

(f) The Market's present condition, uses, and zoning substantially impair the sound growth of an underutilized site near a metrorail station and prevent the development of new housing and much needed workforce housing.

(g) The Market is an ideal site for transit-oriented development that will increase pedestrian-friendly residential density adjacent to transit facilities that is consistent with the

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District's goals of maximizing transit usage while reducing automobile dependency.

(h) The New Town at the Capital City Market Project will accomplish neighborhood revitalization and historic preservation and provide workforce housing and jobs.

(i) The Revitalization and Development Plan will create a substantial number of workforce housing units for renters and buyers that fall between 50% to 120% of the Area Median Income.

(j) The Revitalization and Development Plan will create a planned community of housing, office, retail wholesale, local, national and international restaurants, entertainment, recreational and support facilities, and government facilities.

(k) The Revitalization and Development Plan will help reduce traffic congestion, enhance the environment and improve the District's air quality by better planning for and deployment of vehicular traffic, green roof development, and other environmental initiatives.

(l) The Revitalization and Development Plan will allow existing property owners or lessees to invest in the project, become fee simple owners in the new retail and warehouse facility, allow existing property owners to do a like-kind property exchange under section 1031 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 302; 26 U.S.C. § 1031), and participate in other revitalization and development options.

(m) The Revitalization and Development Plan will allow the present retailers and wholesalers to continue their businesses in the new revitalized Capital City Market.

(n) The Revitalization and Development Plan will be carried out in such a way that it will cause minimal interference to the existing operators of retail and wholesale establishments and allow them to continue to operate during construction.

(o) The Revitalization and Development Plan will preserve the original Market buildings (Union Market) bounded by 4th and 5th Streets and Morse and Penn Streets unless it is found to be impractical to do so by the Developer and the Office of Planning.

(p) The Developer has agreed to require construction contractors to enter into a project labor agreement for the project with a training component for District residents.

(q) The construction of the project will take more than 5 years, which will allow District residents to be trained as apprentices for jobs created by the development and become full-fledged journeyman on the project.

(r) The Revitalization and Development Plan provides for a workforce housing set-aside of a minimum of 20% and a goal of 40%, which will have a significant impact on increasing the District's workforce housing supply by approximately 320 or 640 units, respectively.

(s) The Mayor is authorized to negotiate a land swap or sale with Gallaudet University and to use other means, such as property tax abatement, tax increment financing, and PILOT programs, to assist the Developer in achieving the 40% goal of workforce housing and other community needs.

(t) The Revitalization and Development Plan calls for 40% of the workforce housing to be set aside for teachers, policemen, firemen, and other critical District of Columbia employees

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and the remaining 60% to be set-aside for District of Columbia residents who are first-time home purchasers and are at 50% to 120% of the Area Median Income.

(u) The Revitalization and Development Plan will relocate the retail and wholesale operations of the existing Market into modern facilities in the northeast portion of the site which will allow for convenient ingress and egress access for large trailer trucks to and from New York Avenue and Florida Avenue while screening them from residential areas and pedestrian traffic.

(v) The Revitalization and Development Plan provides that the new facilities for the existing retail and wholesale operations will be constructed as condominiums or cooperatives to allow the retailers and wholesalers to own their retail or wholesale facilities.

(w) The Revitalization and Development Plan will provide enhanced services for the residents of New Town, the surrounding neighborhoods, and visitors, including, among other things, a state-of-the-art YMCA with a daycare center, teen center; programs for senior citizens, swimming pool, indoor basketball courts, and a fitness center; a state-of-the-art community health clinic and a state-of-the-art public library branch if the District determines they are needed; and an outdoor amphitheater (designed to convert to an ice skating rink in winter) to showcase local and national entertainers to District citizens and visitors.

(x) The Revitalization and Development Plan provides that the YMCA, library, and community health clinic will all operate on a 20-year lease-to-purchase agreement with ownership transferring to the leaseholders for \$1 at lease expiration.

(y) The Revitalization and Development Plan will create an array of new retail and restaurant businesses and create hundreds of new permanent jobs as well as hundreds of construction jobs.

(z) The Revitalization and Development Plan and its proposed concept is supported by the 3 Advisory Neighborhood Commissions in Ward 5 and the Brentwood Community Association, Inc.

(aa) The Developer is committed to enter into a First-Source Employment Agreement and a Local, Small, and Disadvantaged Business Enterprise Memorandum of Understanding with the appropriate District government agencies.

(bb) The Capital City Market footprint area is currently zoned C-1 for low-density, light-industry and commercial uses and must be re-zoned as C-3-C with an overlay to allow the height and density necessary to achieve the goals of the project and to allow residential and warehouse uses to co-exist as part of New Town at the Capital City Market.

(cc) Certain alleys within the footprint of the Capital City Market will have to be closed.

(dd) The Market is, or Revitalization and Development Plan will be, designated as a renewal area sufficient to be eligible for the most favorable HUD-guaranteed financing programs.

(ee) On May 7, 2002, the Council unanimously passed the Request for Proposals for the Disposition of the Washington Beef Properties, 1240-1248 4th Street, N.E., Lots 5, 800, and 802

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in Square 3587 Approval Resolution of 2002, effective May 7, 2002 (Res. 14-440; 49 DCR 5760).

(ff) On June 11, 2002, DHCD issued a request for proposals for the Washington Beef Properties located on the Capital City Market site.

(gg) On July 8, 2003, the Council unanimously passed the Unsolicited Proposal Submitted by Sang Oh & Company for the Negotiated Purchase and Disposition of Surplus Property at 375 Morse Street, N.E., also known as the Ironworks Parcel, Emergency Approval Resolution of 2003, effective July 8, 2003 (Res. 15-214; 50 DCR 6941).

(hh) On February 26, 2004, pursuant to that certain Land Disposition Agreement between Sang Oh & Company, Inc., and DHCD, Sang Oh & Company, Inc., was granted the development rights to the Washington Beef Properties.

(ii) Working with DHCD, ANC 5B, and the Ward 5 community, Sang Oh & Company, Inc., has completed architectural drawings for a proposed 11-story retail office and condominium building with a 20% percent affordable housing unit set-aside at 80% percent of the Area Median Income, and with community amenities for the Ward 5 community, that is, a 100-seat community meeting room, an office for ANC 5B, and space and signage for a Metropolitan Police Department substation.

(jj) The proposed development is consistent with the purposes and goals of the Revitalization and Development Plan and with architectural designs for New Town at the Capital City Market concept.

(kk) Sang Oh & Company, Inc., has completed demolition of the structures on the Washington Beef Properties site and has submitted its PUD application to the Zoning Commission.

Sec. 4. Office of Planning.

The Developer shall work with the Office of Planning and other appropriate agencies prior to and during the zoning process to ensure that the District's planning and other policy objectives and goals, to the extent that the project is not jeopardized financially, are achieved to the fullest extent possible.

Sec. 5. Authority of the Deputy Mayor for Economic Development.

The Deputy Mayor for Economic Development shall have the authority and responsibility of ensuring that the District's interests and goals, to the fullest extent possible, are achieved as set forth in this act. When the project is approved for construction, the Deputy Mayor and the Developer will develop a timetable for the development of the project and will provide detailed quarterly reports to the Mayor and the Council.

Sec. 6. Development of conceptual plan.

The Council directs the Mayor through the appropriate agencies working with the

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Developer, the affected community (Ward 5), and the landowners and renters of the Capital City Market to develop a Final Conceptual Plan and an Agreement between the District and the Developer within 180 days of the effective date of this act. Once the Final Conceptual Plan and the Agreement have received affirmative written approval from property owners representing 50% or more of the site of the Capital City Market, the Mayor shall submit the Final Conceptual Plan and Agreement to the Council for approval within 30 days of such affirmative written approval.

Sec. 7. Eminent domain.

The Mayor shall not use eminent domain for any aspect of the revitalization or development of this site without the prior approval of the Council.

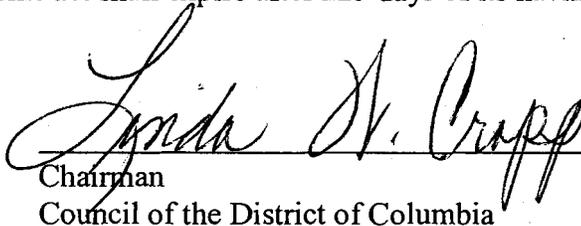
Sec. 8. Fiscal impact statement.

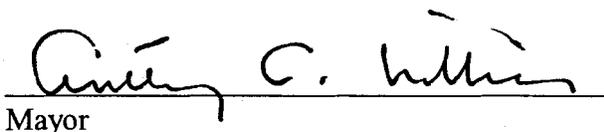
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 9. 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

December 28, 2006
 Codification District of Columbia Official Code, 2001 Edition

6

West Group Publisher, 1-800-328-9378.

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AN ACT
D.C. ACT 16-617

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 28, 2006

*Codification
District of
Columbia
Official Code*

2001 Edition

2007 Winter
Supp.

West Group
Publisher

To amend, on a temporary basis, the Advisory Neighborhood Commissions Act of 1975 to clarify that a Commission may provide reimbursements for authorized purchases made with credit cards.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Advisory Neighborhood Commissions Clarification Temporary Amendment Act of 2006".

Sec. 2. Section 16 of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.13), is amended to add a new subsection (f-1) to read as follows:

Note,
§ 1-309.13

(f-1) "A Commission may provide reimbursements for authorized and properly documented purchases made with credit cards."

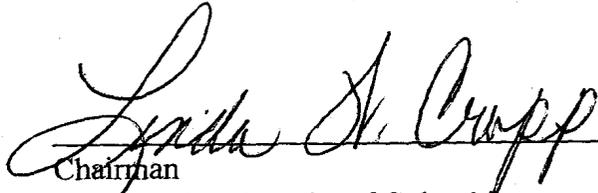
Sec. 3. Fiscal impact statement.
This legislation does not have a fiscal impact.

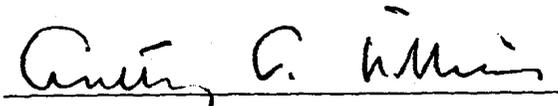
Sec. 4. Effective date.
(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

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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.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
December 28, 2006

ENROLLED ORIGINAL

AN ACT

D.C. ACT 16-618

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 28, 2006

*Codification
District of
Columbia
Official Code*

2001 Edition

2007 Winter
Supp.West Group
Publisher

To amend An Act To authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes to change the name of the District of Columbia Emergency Management Agency to the Homeland Security and Emergency Management Agency and to establish a Homeland Security Program within the agency to identify and mitigate threats, risks, and vulnerabilities within the District of Columbia ; to establish a District of Columbia Homeland Security Commission to evaluate and offer advice on homeland security matters within the District of Columbia; to provide for a civil action against transporters of certain hazardous materials that would hold them strictly liable for costs associated with the release or threatened release of those materials, and to provide for the awarding of punitive damages if the release or threatened release were the result of a wanton or reckless disregard for public safety, and to establish the Hazardous Materials Reimbursement Fund to be used to cover the costs incurred by the District as a result of a release or threatened release of the hazardous materials; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978, the District of Columbia Office of Energy Act of 1980, the Fiscal Year Budget Support Act of 2001, the Language Access Act of 2004, the Homeless Services Reform Act of 2005, the First Amendment Rights and Police Standards Act of 2004, An Act To authorize the Commissioners of the District of Columbia to appoint a member of the Metropolitan Police Department or a member of the Fire Department of the District of Columbia as Director of the District Office of Civil Defense, and for other purposes, and the District of Columbia Public Emergency Act of 1980, to make conforming amendments reflecting the change of the name of the District of Columbia Emergency Management Agency to the Homeland Security and Emergency Management Agency; to amend the Confirmation Act of 1978 to reflect the establishment of the Homeland Security Commission; and to establish the Comprehensive Homicide Elimination Strategy Task Force.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Homeland Security, Risk Reduction, and Preparedness Amendment

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Act of 2006".

TITLE I. ESTABLISHING A HOMELAND SECURITY PROGRAM WITHIN THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

Sec. 101. An Act To authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes, approved August 11, 1950 (64 Stat. 438; D.C. Official Code §§ 7-2201, 7-2202, 7-2205, 7-2206, 7-2207, and 7-2208), is amended as follows:

(a) Designate sections 1-6 as Title I.

(b) Section 2 (D.C. Official Code § 7-2202) is amended as follows:

Amend § 7-2202

(1) Subsection (a) is amended by striking the phrase "Office of Emergency Preparedness" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

(2) Subsection (b) is amended by striking the phrase "Office of Emergency Preparedness" each time it appears and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

(c) Section 3 (D.C. Official Code § 7-2205) is amended by striking the phrase "Office of Emergency Preparedness" in the lead-in text and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

Amend § 7-2205

(d) Section 6 (D.C. Official Code § 7-2208) is amended by striking the phrase "Office of Emergency Preparedness" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

Amend § 7-2208

(e) A new Title II is added to read as follows:

"TITLE II
"HOMELAND SECURITY

"Sec. 201. Findings.

"The Council finds that:

"(1) The District of Columbia has been designated a high-threat target city by the United States Department of Homeland Security, and needs commensurate capabilities for preventing, mitigating, and responding to terrorist attacks. These capabilities include risk-based strategic planning, threat and vulnerability analysis, and gap assessments.

"(2) It is the policy of the District of Columbia to warn, inform, and protect its residents by providing timely and accurate information before, during, and after times of emergency. Such information can save lives, reduce property losses, and speed economic recovery by providing residents with the information they need to make informed decisions and to take appropriate protective actions.

"(3) The District of Columbia seeks to promote transparency regarding homeland security efforts, in order that government officials and the public can assess the risks, adequacy of programs, the progress made, and gaps remaining.

"(4) Risks and vulnerabilities identified through an ongoing program of analysis

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should be addressed expeditiously and comprehensively.

“(5) The Final Report of the National Commission on Terrorist Attacks Upon the United States outlined appropriate roles for the federal government and its counterparts at the local government level, and concluded that homeland security priorities and assistance should be based strictly on an assessment of risks and vulnerabilities.

“Sec. 202. Definitions.

“For the purposes of this title, the term:

“(1) “Agency” means the Homeland Security and Emergency Management Agency.

“(2) “Director” means the Director of the Homeland Security and Emergency Management Agency.

“(3) “Program” means the Homeland Security Program created by section 203.

“Sec. 203. Homeland Security Program.

“(a) The Director shall develop a Homeland Security Program to identify and mitigate threats, risks, and vulnerabilities within the District of Columbia. The program shall include, but not be limited to:

“(1) Identifying public infrastructure and other public assets in the District that need protection, assessing vulnerability, and addressing priority needs;

“(2) Establishing measurable readiness priorities and targets that balance the potential threat and magnitude of terrorist attacks, major disasters, and other emergencies with the resources required to prevent, respond to, and recover from them;

“(3) Establishing readiness metrics and performance measures for preparedness in the areas of prevention, protection, response, and recovery;

“(4) Assisting residents and public and private entities in emergency preparedness;

“(5) Coordinating with federal, state, and regional authorities, and with private entities; and

“(6) Developing a budget to implement the Program.

“(b) Within one year of the effective date of the Homeland Security, Risk Reduction, and Preparedness Act of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-242), the Director shall contract for a baseline threat and vulnerability assessment of the District of Columbia to include risks associated with, but not limited to, terrorism (including bioterrorism), radiological weapons and their potential transport into the District of Columbia, food and water supply, cybersecurity, fire and rescue capability; an assessment of actions already taken to address security issues and recommendations on whether additional safety and security enforcement actions are needed; and recommendations for additional legislation needed to enhance the security of District residents.

“(c) Beginning one year after the establishment of the Program, the Mayor shall submit an annual report to the Council describing the current level of the preparedness of the District of Columbia, including reports on the District’s homeland security capabilities, priority unmet

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needs and the cost of meeting those needs, relevant training and readiness exercises, resident education, and the utilization of mutual aid.

“Sec. 204. Public information and involvement program.

“(a) The Mayor shall:

“(1) Disseminate homeland security information to the public and engage residents in homeland security emergency planning;

“(2) Solicit resident input in vulnerability assessment and planning activities;
and

“(3) Offer periodic training opportunities to members of the public.

“Sec. 205. District of Columbia government employee security training program.

“(a) The Director, in consultation with other District of Columbia agencies, law enforcement, security, and terrorism experts, and representatives of public employees, shall develop and issue guidelines for a public employee security training program to meet requirements established in the District of Columbia Emergency Response Plan.

“(b) At the request of the Director, District government agencies shall submit employee training programs to the Director for annual review.

“Sec. 206. Large building security.

“(a) In consultation with organizations representing property owners, property managers, and building operators and managers, the Director shall develop guidance for building operators and managers to enhance the security of large commercial and residential buildings.

“(b) In consultation with the Director of the Department of Consumer and Regulatory Affairs and organizations representing property owners, property managers, and building operators and managers, the Director shall occasionally review the building code to determine potential changes that could improve building security.

“Sec. 207. Exercises.

“The Agency shall coordinate a regular program of readiness exercises to test the District of Columbia’s emergency preparedness, propose action to address any gap in preparedness, and coordinate with regional, federal, and private entities.

“Sec. 208. Public notification of emergencies.

“The Agency shall establish and implement an effective homeland security public warning and information capability that can be used during emergencies to warn residents timely and to disseminate emergency information to residents, both indoors and outdoors, at any time and regardless of residents’ special needs. The Agency shall also pay particular attention to the needs of senior citizens and low-income residents in establishing an effective homeland security public warning and information capability.

“Sec. 209. Private sector vulnerability assessments and mitigation plans.

“The Director shall request the voluntary sharing of information from private entities on best practices for prevention, mitigation, response, and recovery from a terrorist or other security incident, including information on relocation and other business continuity plans and

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programs, for the purpose of collaboration to improve public and private preparedness.”.

TITLE II. ESTABLISHMENT OF THE DISTRICT OF COLUMBIA HOMELAND SECURITY COMMISSION

Part A.

Sec. 201. Definitions.

For the purposes of this title, the term:

- (1) “Agency” means the Homeland Security and Emergency Management Agency.
- (2) “Commission” means the Homeland Security Commission established by section 202.
- (3) “Director” means the Director of the Homeland Security and Emergency Management Agency.

Sec. 202. Establishment of District of Columbia Homeland Security Commission; membership.

(a) There is established a District of Columbia Homeland Security Commission, which shall consist of 7 persons with expertise in security, transportation, communication, chemical safety, risk assessment, terrorism (including bioterrorism), or occupational safety and health.

(b)(1) Commission members shall be nominated by the Mayor and confirmed by the Council for terms of 3 years, in accordance with section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)).

(2) The Mayor shall establish through rulemaking that Commission members shall be subject to pre-nomination inquiries and security-clearance requirements.

(3) The terms of the members first appointed shall begin on the date a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

(4) Commission member’s terms shall be staggered so that either 4 positions or 3 positions will expire on the year’s anniversary date.

(c) Members shall receive no salary for their service on the Commission but shall be reimbursed for administrative costs associated with membership.

(d) The Agency shall provide staff to the Commission.

Sec. 203. Responsibilities.

(a) The Commission shall:

(1) Gather and evaluate information on the status of homeland security in the District of Columbia;

(2) Measure progress and gaps in homeland security preparedness;

(3) Recommend security improvement priorities in consultation with major public and private entities; and

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(4) Advise the District of Columbia government on the Homeland Security Program.

(b) The Director may submit to the Commission and the Commission may request from the Director for periodic review, after-action reports on District of Columbia and other governmental homeland security exercises, assessments of regional homeland security efforts, and other documents relevant to the Commission's responsibilities.

(c) The Commission, in consultation with the Director, shall use any information collected under this title to make recommendations for improvements in security and preparedness.

Sec. 204. Confidentiality of proceedings.

(a) Commission proceedings shall be closed to the public and shall not be subject to section 742 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 831; D.C. Official Code § 1-207.42), when the Committee is discussing specific public and private vulnerability assessments or where the information discussed would:

(1) Reveal a trade secret or privileged or confidential commercial or financial information; or

(2) Be detrimental to public safety.

(b)(1) Persons other than Commission members who attend any Commission meeting which, pursuant to this section, is not open to the public, shall not disclose what occurred at the meeting to anyone who was not in attendance, except insofar as disclosure is necessary for that person to comply with a request for information from the Commission.

(2) Commission members who attend meetings not open to the public shall not disclose what occurred with anyone who was not in attendance (except other Commission members), except insofar as disclosure is necessary to carry out the duties of the Commission.

(3) Any party who discloses information pursuant to this subsection shall take all reasonable steps to ensure that the information disclosed, and the person to whom the information is disclosed, are as limited as possible.

(c) Members of the Commission, persons attending a Commission meeting, and persons who present information to the Commission may not be required to disclose, in any administrative, civil, or criminal proceeding, information presented at or opinions formed as a result of a Commission meeting.

Sec. 205. Confidentiality of information.

(a) All information and records generated by the Commission, including statistical compilations and reports, and all information and records acquired by, and in the possession of, the Commission are confidential.

(b) Except as permitted by this section, information and records of the Commission shall not be disclosed voluntarily, pursuant to a subpoena, in response to a request for discovery in

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any adjudicative proceeding, or in response to a request made under Title II of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), nor shall it be introduced into evidence in any administrative, civil, or criminal proceeding.

(c) Commission information and records may be disclosed only as necessary to carry out the Commission's duties and purposes. The information and records may be disclosed by the Commission to another Homeland Security Commission if the other commission is governed by confidentiality provisions which afford the same or greater protections as those provided in this act.

(d) Information and records presented to the Commission shall not be immune from subpoena or discovery, or prohibited from being introduced into evidence, solely because the information and records were made available to the Commission, if the information and records could have been obtained through other sources.

Sec. 206. Records.

All records and information obtained by the Commission pursuant to this title shall be destroyed by the Commission one year after publication of the Commission's annual report.

Sec. 207. Report to the Mayor, Council, and the public.

(a) The Commission shall report on an annual basis to the Mayor and Council on the work of the Commission and areas of the Homeland Security Program in need of improvement and shall make the annual report available to the public.

Part B.

Sec. 231. Section 204(a) of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534(a)), is amended as follows:

Amend
§ 2-534

(a) Paragraph (11) is amended by striking the word "and" at the end.

(b) Paragraph (12) is amended by striking the period at the end and inserting a semicolon in its place.

(c) A new paragraph (13) is added to read as follows:

"(13) Information exempt from disclosure by section 204 of the Homeland Security, Risk Reduction, and Preparedness Act of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-242); and".

TITLE III. STRICT LIABILITY FOR RELEASE OF HAZARDOUS MATERIALS DURING TRANSPORT

Sec. 301. Definitions.

For the purposes of this title, the term:

(1) "Carrier" means the person who owns the locomotive or motor vehicle,

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excluding the trailer or rail car, used in transporting any of the hazardous materials identified in section 302.

(2) "Fund" means the Hazardous Materials Reimbursement Fund established by section 307.

(3) "Motor vehicle" means any vehicle propelled by internal-combustion engine, electricity, or steam, other than a vehicle designed to run only on rails or tracks, that is intended or used for moving freight, merchandise, or other commercial loads or property. The term "motor vehicle" shall include any trailer attached to the motor vehicle.

(4) "Person" shall have the same meaning as in section 3(5) of the District of Columbia Hazardous Waste Management Act of 1977, effective March 23, 1978 (D.C. Law 2-64; D.C. Official Code § 8-1302(5)).

(5) "Rail car" means any vehicle without motor power that is intended or used for moving freight, merchandise, or other commercial loads or property on rails or tracks and is drawn by a locomotive.

(6) "Trailer" means a vehicle without motor power intended or used for carrying freight, merchandise, or other commercial loads or property and drawn or intended to be drawn by a motor vehicle, whether such vehicle without motor power carries the weight of the property wholly on its own structure or whether a part of such weight rests upon or is carried by a motor vehicle.

(7) "Transport" means movement by a rail car or motor vehicle.

Sec. 302. Strict liability for release of hazardous materials during transport.

Subject only to the exclusions and limitations set forth in sections 304 and 305, and in addition to any other remedies available to the government of the District of Columbia, a carrier who transports into the District any of the hazardous materials listed in this section shall be strictly liable for all costs incurred by the District of Columbia in responding to a release or threatened release of any of the following within the geographic boundaries of the District of Columbia:

(1) Explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms;

(2) Flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters;

(3) Poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116;

(4) Poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133;

(5) Infectious agents, assigned to risk group 4 in 49 C.F.R. § 173.134 unless the infectious agent is the subject of an exception identified in 49 C.F.R. § 173.134; and

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(6) Radioactive materials in a concentration greater than that specified by the United States Nuclear Regulatory Commission in 10 C.F.R. § 30.70 (exempt concentrations), or in a quantity required to be labeled under 10 C.F.R. Part 30, Appendix B, or requiring the consideration of the need for an emergency plan for responding to a release under 10 C.F.R. § 30.72.

Sec. 303. Costs recoverable by the District of Columbia.

Costs recoverable by the District of Columbia under section 302 shall include all costs related to:

- (1) Containment of the gasses, explosives, and materials identified in section 302;
- (2) Necessary cleanup and restoration of the site and the surrounding environment;
- (3) Removal of the gasses, explosives, and materials identified in section 302;
- (4) Such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of any of the gasses, explosives, and materials identified in section 302, or to mitigate damage to the public health or welfare that may otherwise result from a release or threat of a release;
- (5) Natural resource damages;
- (6) Attorney's fees and costs;
- (7) Reimbursement for private collection firm's services, when used; and
- (8) Applicable interest on all costs and expenses incurred.

Sec. 304. Civil action.

(a) The Attorney General of the District of Columbia may institute an action in the Superior Court of the District of Columbia against any person liable pursuant to section 302 to recover all costs incurred by the District of Columbia.

(b) Notwithstanding the rights of the District of Columbia to institute an action as provided in subsection (a) of this section, any person who has expended funds to remedy environmental damage resulting from the release of any of the gasses, explosive, or materials identified in section 302 may also bring an action in the Superior Court of the District of Columbia against any person who may be liable for such damage pursuant to section 302. Such person's right to recover costs shall be limited to expenditures that are incurred for the purposes described in section 303 and that are consistent with the laws and rules of the District of Columbia. A person's right to recovery under this subsection shall not be barred by the fact that the party bringing the action is itself liable to the District of Columbia under this section.

Sec. 305. Defenses to liability.

(a) There shall be no liability under section 302 for a person otherwise liable who can establish by a preponderance of the evidence that the costs resulting from their acts or

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omissions were caused solely by:

- (1) An act of God;
- (2) An act of War;
- (3) An act or omission of a third party other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant, if the defendant establishes by a preponderance of the evidence that the defendant:

(A) Exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of such hazardous substance, in light of all relevant facts and circumstances; and

(B) Took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or

- (4) Any combination of the foregoing paragraphs.

Sec. 306. Punitive damages.

In addition to the damages authorized elsewhere in this title, punitive damages may be awarded, if it is proved that the plaintiff's injuries were caused by the defendant's wanton or reckless disregard for public safety in the transportation of the gasses, explosives, and materials identified in section 302.

Sec. 307. Establishment of Hazardous Materials Reimbursement Fund

(a) There is established within the General Fund of the District of Columbia a segregated, nonlapsing fund to be known as the Hazardous Materials Reimbursement Fund. All funds as set forth in subsection (b) of this section shall be deposited into the Fund without regard to fiscal year limitation and shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section. The Fund shall be administered by the Mayor.

(b) The Chief Financial Officer shall deposit into the Fund all costs recovered by the District of Columbia pursuant to this title.

(c) All funds deposited shall be available for use by the Mayor to reimburse District of Columbia agencies for costs incurred by the release or threatened release of the hazardous materials identified in section 302.

TITLE IV . CONFORMING AMENDMENTS

Sec. 401. Section 301(q)(17) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(17)(Q)), is amended by striking the phrase "Emergency Management Agency" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

Amend
§ 1-603.01

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Sec. 402. Section 5(g) of the District of Columbia Office of Energy Act of 1980, effective March 4, 1981 (D.C. Law 3-132; D.C. Official Code § 2-904(g)), is amended as follows:

Amend
§ 2-904

(a) Paragraph (1) is amended by striking the phrase "Office of Emergency Preparedness" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

(b) Paragraph (3) is amended by striking the phrase "Office of Emergency Preparedness" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

Sec. 403. Section 305(b)(7) of the Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 2-1374(b)(7)), is amended by striking the phrase "Emergency Management Agency" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

Amend
§ 2-1374

Sec. 404. Section 2(3)(B)(ix) of the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1931(3)(B)(ix)), is amended by striking the phrase "Emergency Management Agency" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

Amend
§ 2-1931

Sec. 405. Section 4(b)(2)(J) of the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-752.01(b)(2)(J)), is amended by striking the phrase "District of Columbia Emergency Management Agency" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

Amend
§ 4-752.01

Sec. 406. Section 106(a)(2) of the First Amendment Rights and Police Standards Act of 2004, effective April 13, 2005 (D.C. Law 15-352; D.C. Official Code § 5-331.06(a)(2)), is amended by striking the phrase "District of Columbia Emergency Management Agency" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

Amend
§ 5-331.06

Sec. 407. Section 1 of An Act To authorize the Commissioners of the District of Columbia to appoint a member of the Metropolitan Police Department or a member of the Fire Department of the District of Columbia as Director of the District Office of Civil Defense, and for other purposes, approved July 6, 1953 (67 Stat. 139; D.C. Official Code § 7-2203), is amended as follows:

Amend
§ 7-2203

(a) Strike the phrase "Commissioners of the District of Columbia are" and insert the phrase "Mayor of the District of Columbia is" in its place.

(b) Strike the phrase "any office or agency of the government of the District of Columbia, to which office or agency there may be transferred the functions of the Office of Civil Defense (authorized to be abolished by Reorganization Plan Number 5 of 1952)," and

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insert the phrase "the Homeland Security and Emergency Management Agency," in its place.

(c) Strike the phrase "in such office or agency succeeding to the functions of the Office of Civil Defense" and insert the phrase "in the Homeland Security and Emergency Management Agency" in its place.

(d) Strike the phrase "in such office or agency" and insert the phrase "in the Homeland Security and Emergency Management Agency" in its place.

Sec. 408. Section 3 of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2302(a)), is amended by striking the phrase "District of Columbia Emergency Management Agency" and inserting the phrase "Homeland Security and Emergency Management Agency" in its place.

Amend
§ 7-2302

Sec. 409. Section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)), is amended by adding a new paragraph (29) to read as follows:

Amend
§ 1-523.01

"(29) Homeland Security Commission."

TITLE V. ESTABLISHMENT OF COMPREHENSIVE HOMICIDE ELIMINATION STRATEGY TASK FORCE.

Sec. 501. Comprehensive Homicide Elimination Strategy Task Force.

(a) There is established a Comprehensive Homicide Elimination Strategy Task Force ("Task Force"). The Task Force shall consider the most effective elements of a comprehensive plan that would lead to the elimination of murder in Washington.

(b) The Task Force shall be comprised of representatives appointed by the Mayor from the government, non-profit organizations, business, schools, victims services organizations, arts, social services, religious, mental health, organized labor, Advisory Neighborhood Commission, and criminology professionals. The Mayor shall designate 2 co-chairs of the Task Force, one each from the government and non-government sectors.

(c) The Task Force shall hold at least 3 public meetings, and shall present a report to the Mayor and the Council at the end of one year.

TITLE VI. APPROPRIATIONS CONTINGENCY

Sec. 601. Appropriations contingency.

This act shall be subject to the availability of appropriations.

TITLE VII. FISCAL IMPACT STATEMENT

Sec. 701. Fiscal impact statement.

The Council adopts the December 19, 2006 fiscal impact statement of the Chief Financial Officer 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-

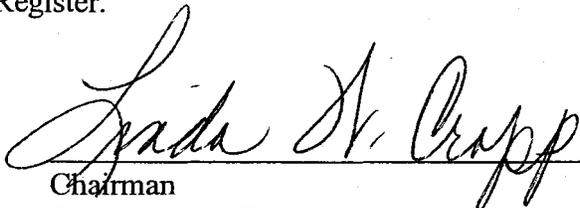
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206.02(c)(3)).

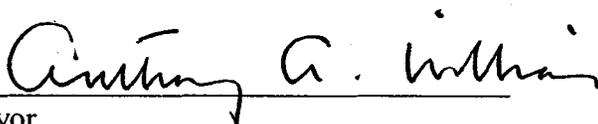
TITLE VIII. EFFECTIVE DATE

Sec. 801. 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.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 28, 2006

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AN ACT

D.C. ACT 16-619

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 28, 2006

Codification
District of
Columbia
Official Code

2001 Edition

2007 Winter
Supp.

West Group
Publisher

To amend AN ACT To provide for regulation of certain insurance rates in the District of Columbia, and for other purposes to require prior approval of rate increases exceeding 7%, to authorize refunds to physicians who have paid excessive rates, to enable physicians and consumers to challenge rate increases, and to make rate filings public information; to amend the District of Columbia Health Occupations Revision Act of 1985 to establish reporting requirements for physicians found liable for medical malpractice and for health care providers who discipline a physician employed by the health care provider, to authorize the Board of Medicine to establish a new physician license fee, and to improve the performance of the Board of Medicine by requiring the Mayor to dedicate a minimum number of full-time employees whose sole responsibility shall be to support the Board of Medicine; to require the creation of a centralized database for the collection of information for the analysis of adverse medical events to reduce medical errors and improve health care delivery; to require individuals who intend to file suit alleging medical malpractice to file with potential defendants a 90-day notice of intent to file suit in the Superior Court of the District of Columbia; to require parties to the suit to engage in mediation early in the litigation process; to make inadmissible as an admission of medical malpractice liability certain benevolent gestures made by the defendant; and to examine all closed liability claims against Obstetricians/Gynecologists in order to identify ways to improve health care delivery and share best practices.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Medical Malpractice Amendment Act of 2006".

TITLE I. MEDICAL MALPRACTICE RATEMAKING

Sec. 101. AN ACT To provide for regulation of certain insurance rates in the District of Columbia, and for other purposes, approved May 20, 1968 (62 Stat. 242; D.C. Official Code § 31-2701 *et seq.*), is amended as follows:

(a) Section 1 (D.C. Official Code § 31-2701) is amended by adding a new paragraph to

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read as follows:

““Medical malpractice insurer” means an insurer licensed to underwrite medical malpractice insurance.”

Note,
§ 31-2701

(b) Section 3 (D.C. Official Code § 31-2703) is amended by adding a new subsection (f-1) to read as follows:

Note,
§ 31-2703

“(f-1)(1)(A) Every final rate or premium charge proposed to be used by a medical malpractice insurer shall be filed with the Commissioner and shall be adequate, not excessive, and not unfairly discriminatory. A medical malpractice rate shall be excessive if the rate is unreasonably high for the insurance provided. In determining whether rates are adequate, not excessive, and not unfairly discriminatory, due consideration shall be given to:

“(i) Past and prospective loss experience within the District;

“(ii) A reasonable margin for underwriting profit and contingencies;

“(iii) Dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers;

“(iv) Past and prospective expenses in the District;

“(v) All investment income reasonably attributable to medical malpractice insurance in the District.

“(B) If District experience is not credible, the Commissioner may consider experience outside the District. The Commissioner shall promulgate rules setting forth the extent to which and the circumstances under which an insurer may rely on experience outside the District.

“(2) If a medical malpractice insurer wishes to change a rate, it shall file a complete rate application with the Commissioner. A complete rate application shall include all information, including all actuarial data, projections, and assumptions, that the medical malpractice insurer has relied on in calculating its proposed rates. All such information shall be made available when filed in accordance with the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*).

“(3) The Commissioner shall notify the public of any application by a medical malpractice insurer for a rate change increase. The application shall be deemed approved 60 days after public notice unless the proposed rate change increase exceeds 10%. If the proposed rate change increase exceeds 10%, the Commissioner shall hold a hearing on the proposed change and shall issue an order approving, denying, or modifying the proposed change within 90 days after public notice of the proposed change. Any person shall have a right to testify in a hearing held by the Commissioner. The Commissioner shall promulgate rules governing the public hearing.

“(4) If the Commissioner finds, after a hearing, that a rate used by a medical malpractice insurer does not comply with this subsection, the Commissioner shall order the insurer to discontinue using the rate and to issue a refund to any policyholder who has paid the

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rate to the extent that the Commissioner has found it excessive.”.

(c) Section 4(c) (D.C. Official Code § 31-2704(c)) is amended to read as follows:

Note,
§ 31-2704

“(c)(1) After an investigation of the rates, the Commissioner shall, before ordering an adjustment, hold a hearing upon not less than 10 days’ written notice specifying the matters to be considered at the hearing, to every company and rating organization which filed the rates; provided, that the Commissioner shall not be required to hold the hearing if he or she is advised by every such company and rating organization that they do not desire the hearing. The cost of the hearing shall be borne by the insurance company requesting the rate increase. If, after the hearing, the Commissioner determines that any or all of the rates are excessive or inadequate, he or she shall order an adjustment. Pending the investigation and order of the Commissioner, the rates shall be deemed to have been made in accordance with the terms of this act.

“(2)(A) An order of adjustment shall not affect any contract or policy made or issued prior to the effective date of the order unless:

“(i) The adjustment is substantial and exceeds the cost to the companies of making the adjustment; and

“(ii) The order is made after the prescribed investigation and hearing and within 30 days after the filing of rates affected.

“(B) An order of adjustment shall not affect an existing contract or policy other than:

“(i) A medical malpractice, workmen's compensation, or automobile liability insurance policy required by law, order, rule, or regulation of a public authority; or

“(ii) A contract or policy of any type as to which the rates are not, by general custom of the business or because of rarity and peculiar characteristics, written according to normal classification or rating procedure.”.

TITLE II. IMPROVED PERFORMANCE BY THE BOARD OF MEDICINE; MANDATORY ADVERSE EVENT REPORTING

Sec. 201. The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), is amended as follows:

(a) Section 203(a)(7) (D.C. Official Code § 3-1202.03(a)(7)) is amended as follows:

Note,
§ 3-1202.03

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

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

“(B) On or before January 1, 2007, in addition to the executive director, the Mayor shall require, at a minimum, that an investigator, an attorney, and 2 clerical support staff be hired, which persons shall be full-time employees of the District and whose work shall be limited solely to administering and implementing the orders of the Board in accordance with

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this act and rules and regulations issued pursuant to this act. The mandatory minimum number of employees established under this section shall not restrict the Mayor's ability to authorize additional staff."

(b) Section 409 (D.C. Official Code § 3-1204.09) is amended by striking the phrase "District law." and inserting the phrase "District law; provided, that the fee for the issuance of a medical license shall be set by the Board of Medicine; provided further, that the fee shall be no less than \$500 and shall be sufficient to fund the programmatic needs of the Board." in its place.

Note,
§ 3-1204.09

(c) A new section 513a is added to read as follows:

"Sec. 513a. Physician and health care provider notice requirements, penalty for noncompliance; settlement agreement not a bar to filing a complaint or testifying.

"(a)(1) A physician licensed by the Board shall report to the Board within 60 days of the occurrence of any of the following:

"(A) Notice of a judgment against a physician named in a medical malpractice suit or notice of a confidential settlement of a medical malpractice claim to be paid by a physician, an insurer, or other entity on behalf of the physician; or

"(B) Disciplinary action taken against the physician by a health care licensing authority of another state.

"(2)(A) A health care provider who employs a physician who is licensed in the District of Columbia shall report to the Board any disciplinary action taken against the physician within 10 days of the action being taken. The resignation of a physician that occurs while the physician is being investigated by the health care provider shall also be reported to the Board by the health care provider within 10 days of the resignation.

"(B) The Board shall impose a penalty not to exceed \$2,500 on a health care provider for failure to comply with the provisions of this paragraph.

"(b) Nothing in a confidential settlement agreement shall operate to prevent the parties to the agreement from filing a complaint with the Board or from testifying in any investigation conducted by the Board."

Sec. 202. Mandatory adverse event reporting.

(a) For the purposes of this section, the term:

(1) "Adverse event" means an event, occurrence, or situation involving the medical care of a patient by a health care provider that results in death or an unanticipated injury to the patient.

(2) "Healthcare provider" means an individual or entity licensed or otherwise authorized under District law to provide healthcare service, including a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long-term care facility, behavior health residential treatment facility, health clinic, clinical laboratory, health center, physician, physician assistant, nurse practitioner,

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clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner.

(3) "Medical facility" means a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long-term care facility, behavior health residential treatment facility, health clinic, clinical laboratory, or health center.

(4) "Primary health record" means the record of continuing care maintained by a health professional, group practice, or health care facility or agency containing all diagnostic and therapeutic services rendered to an individual patient by the health professional, group practice, or health care facility, or agency.

(b) On or before July 1, 2007, the Mayor shall establish, within the Department of Health, a centralized system for the collection and analysis of adverse events in the District of Columbia.

(c) The Mayor shall appoint an employee of the Department of Health to administer the system, whose responsibilities shall include:

(1) Collecting, organizing, and storing data on adverse events occurring at medical facilities in the District of Columbia;

(2) Tracking, assessing, and analyzing the incoming reports, findings, and corrective action plans;

(3) Identifying common adverse event patterns or trends;

(4) Recommending methods to reduce systematic adverse events;

(5) Providing technical assistance to healthcare providers and medical facilities on the development and implementation of patient safety plans to prevent adverse events;

(6) Disseminating information and advising healthcare providers and medical facilities in the District of Columbia on medical best practices;

(7) Monitoring national trends in best practices and disseminating relevant information and advice to healthcare providers and medical facilities in the District of Columbia; and

(8) Publishing an annual report that includes summary data of the number and types of adverse events of the prior calendar year by type of healthcare providers and medical facility, rates of change, and other analyses and communicating recommendations to improve health care delivery in the District of Columbia.

(d)(1) Pursuant to this section, healthcare providers and medical facilities providing services in the District of Columbia shall submit biannual reports, on January 1 and July 1 of each calendar year, on adverse events to the system administrator. Each report shall contain, for each adverse event, the patient's full primary health record; provided, that medical information with respect to the patient's identity shall be de-identified and anonymous.

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(2) Failure to submit a report as required by this section shall be punishable by a penalty of not less than \$500 or more than \$2,500.

(e)(1) Except as otherwise provided by this section, the files, records, findings, opinions, recommendations, evaluations, and reports of the system administrator, information provided to or obtained by the system administrator, the identity of persons providing information to the system administrator, and reports or information provided pursuant to section 204 shall be confidential, shall not be subject to disclosure pursuant to any other provision of law, and shall not be discoverable or admissible into evidence in any civil, criminal, or legislative proceeding. The information shall not be disclosed by any person under any circumstances. This subsection shall not preclude use of reports or information provided under section 204 by a board regulating a health profession or the Mayor in proceedings by the board or the Mayor.

(2) No person who provided information to the system administrator shall be compelled to testify in any civil, criminal, or legislative proceeding with respect to any confidential matter contained in the information provided to the system administrator.

(3) Notwithstanding subsections (a) or (b) of this section, a court may order a system administrator to provide information in a criminal proceeding in which an individual is accused of a felony if the court determines that disclosure is essential to protect the public interest and that the information being sought can be obtained from no other source. In determining whether disclosure is essential to protect the public interest, the court shall consider the seriousness of the offense with which the individual is charged, the need for disclosure of the party seeking it, and the probative value of the information. If the court orders disclosure, the identity of any patient shall not be disclosed without the consent of the patient or his or her legal representative.

(f) Implementation of this title shall be funded through the licensure fees collected by the Board of Medicine.

TITLE III. MEDICAL MALPRACTICE PROCEEDINGS

Sec. 301. This title may be cited as the "Medical Malpractice Proceedings Act of 2006".

Sec. 302. Title 16 of the District of Columbia Official Code is amended by adding a new Chapter 28 is added to read as follows:

"Chapter 28. Medical Malpractice.

"Subchapter I. Generally.

"Sec.

- "16-2801. Definitions.
- "16-2802. Notice of intention to file suit.
- "16-2803. Extension of statute of limitations.
- "16-2804. Unknown defendant.

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"Subchapter II. Mediation

- "16-2821. Requirement for mediation.
- "16-2822. Mediation costs.
- "16-2823. Mediators.
- "16-2824. Attendance at mediation session.
- "16-2825. Mediation statements.
- "16-2826. Mediator's report.
- "16-2827. Confidentiality.

"Subchapter III. Evidence.

- "16-2841. Inadmissibility of benevolent gestures.

"Subchapter I. Generally.**"§ 16-2801. Definitions.**

"For the purposes of this chapter, the term:

"(1) "Court" means the Superior Court of the District of Columbia.

"(2) "Healthcare provider" means an individual or entity licensed or otherwise authorized under District law to provide healthcare service, including a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner's office, long-term care facility, behavior health residential treatment facility, health clinic, birth center, clinical laboratory, health center, physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner.

"§ 16-2802. Notice of intention to file suit.

"(a) Any person who intends to file an action in the court alleging medical malpractice against a healthcare provider shall notify the intended defendant of his or her action not less than 90 days prior to filing the action. Notice may be given by service on an intended defendant at his or her last known address registered with the appropriate licensing authority. Upon a showing of a good faith effort to give the required notice, the court may excuse the failure to give notice within the time prescribed.

"(b) The notice required in subsection (a) of this section shall include sufficient information to put the defendant on notice of the legal basis for the claim and the type and extent of the loss sustained, including information regarding the injuries suffered. Nothing herein shall preclude the person giving notice from adding additional theories of liability based upon information obtained in court-conducted discovery or adding injuries or loss which become known at a later time.

"(c) A legal action alleging medical malpractice shall not be commenced in the court unless the requirements of this section have been satisfied.

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"§ 16-2803. Extension of statute of limitations.

"If the notice required under § 16-2802 is served within 90 days of the expiration of the applicable statute of limitations, the time for the commencement of the action shall be extended 90 days from the date of the service of the notice.

"§ 16-2804. Unknown defendant or unlicensed defendant.

"(a) Section 16-2802 shall not apply to:

(1) Any intended defendant whose name is unknown or who was not licensed at the time of the alleged occurrence or is unlicensed at the time notice is given;

(2) Any claim that is unknown to the person at the time of filing his or her notice; or

(3) Any intended defendant who is identified in the notice by a misnomer.

"(b) Nothing indicated herein shall prevent the court from waiving the requirements of

"§ 16-2802 upon a showing of good faith effort to comply or if the interests of justice dictate.

"Subchapter II. Mediation.

"§ 16-2821. Requirement for mediation.

"After an action is filed in the court against a healthcare provider alleging medical malpractice, the court shall require the parties to enter into mediation, without discovery or, if all parties agree with only limited discovery that will not interfere with the completion of mediation within 30 days of the Initial Scheduling and Settlement Conference ("ISSC"), prior to any further litigation in an effort to reach a settlement agreement. The mediation schedule shall be included in the scheduling conference order following the ISSC. Unless all parties agree, the stay of discovery shall not be more than 30 days after the ISSC.

"§ 16-28223. Mediator costs.

Unless otherwise agreed by the parties, the costs of mediation, if any, shall be equally shared by the parties.

"§ 16-2823. Mediators.

"(a) The court shall assign the parties to court-provided mediation and provide a roster of medical malpractice mediators from which the parties may hire an eligible medical malpractice mediator. In the alternative, all parties can agree to hire another individual outside the roster. To be eligible for inclusion in the roster of medical malpractice mediators, an individual shall be a judge or lawyer with at least 10 years of significant experience in medical malpractice litigation.

"(b) If the parties cannot agree on the selection of a mediator, the court shall appoint one.

"§ 16-2824. Attendance at mediation session.

"(a) For the purposes of this section, the term "a representative with settlement authority" means an individual with control of the financial settlement resources for the case and the authority to pledge those resources to settle the case on behalf of a party.

"(b) All parties shall personally attend mediation sessions.

"(c) If a party is not an individual, a representative with settlement authority for the party shall attend the mediation session.

"(d) In cases involving an insurance company, a representative of the company with settlement authority shall attend the mediation session.

"(e) Attorneys representing each party with primary responsibility for the case shall attend the mediation session.

"§ 16-2825. Mediation statements.

"(a) Each party shall submit a confidential mediation statement to the mediator no later than 10 days prior to the initial mediation session. The parties shall not send copies of the mediation statement to the clerk, the assigned judge, or the other parties.

"(b) Unless not already stated in the complaint and answer, the mediation statement shall:

"(1) Include a brief summary of facts;

"(2) Identify the issues of law and fact in dispute and summarize the party's position on those issues;

"(3) Discuss whether there are issues of law or fact the early resolution of which could facilitate early settlement or narrow the scope of the dispute;

"(4) Identify the attorney who will represent the party at the mediation session and the person with settlement authority who will attend the mediation session;

"(5) Include any documents or materials relevant to the case which may assist the mediator and advance the purposes of the mediation session; and

"(6) Present any other matters that may assist the mediator and facilitate the mediation.

"(c) Mediation statements are intended solely to facilitate the mediation and shall not be filed with the court.

"§ 16-2826. Mediator's report.

"A mediator's report shall be filed with the court no later than 10 days after the mediation has terminated, informing the court regarding:

"(1) Attendance;

"(2) Whether a settlement was reached; or

"(3) If a settlement was not reached, any agreements to narrow the scope of the dispute, limit discovery, facilitate future settlement, hold another mediation session, or otherwise reduce the cost and time of trial preparation.

"§ 16-2827. Confidentiality.

"(a) The mediation session shall be confidential. All proceedings at the mediation, including any statement made by any party, attorney, or other participant, shall be privileged and shall not be construed as an admission against interest. Any statement at such proceedings shall not be used in court in connection with the case or any other litigation. A party shall not be

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bound by anything said or done at the mediation unless a settlement is reached.

"(b) A mediator shall not be compelled to provide evidence of a mediation communication in any subsequent trial.

"Subchapter III. Evidence.

"§ 16-2841. Inadmissibility of benevolent gestures.

"For the purpose of any civil action or administrative proceeding alleging medical malpractice against a healthcare provider, an expression of sympathy or regret made in writing, orally, or by conduct made by or on behalf of the healthcare provider to a victim of the alleged medical malpractice, any member of the victim's family, or any individual who claims damages by or through that victim, is inadmissible as an admission of liability. Nothing herein shall preclude the court from permitting the introduction of an admission of liability into evidence."

TITLE IV. MEDICAL MALPRACTICE ANALYSIS OF CLOSED OBSTETRICIAN/GYNECOLOGIST CLAIMS

Sec. 401. Short title.

This title may be cited as the "Medical Malpractice Analysis of Closed Obstetrician/Gynecologist Claims Act of 2006".

Sec. 402. Closed claim analysis.

(a) Within 180 days of the effective date of this title, the Mayor shall submit legislation to the Council for the establishment of a database of closed obstetrician/gynecologist malpractice claims reports to be submitted by providers of medical malpractice insurance.

(b) The legislation shall include a plan which shall:

(A) Contain provisions to identify trends and develop recommendations for preventative action for adverse Obstetrician/Gynecologist events;

(B) Ensure dissemination of best practices among Obstetrician/Gynecologist practitioners and facilities and shall include provisions for ensuring the implementation of these practices; and

(C) Include provisions to study recommendations based on closed Obstetrician/Gynecologist malpractice claims in other jurisdictions."

TITLE V. FISCAL IMPACT STATEMENT; EFFECTIVE DATE

Sec. 501. Fiscal impact statement.

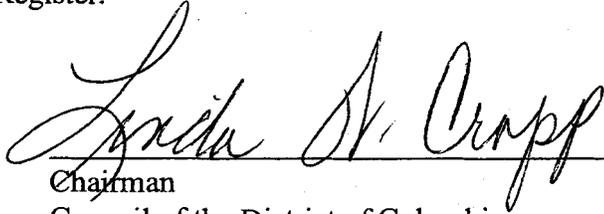
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

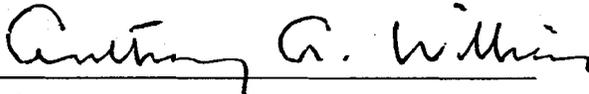
DISTRICT OF COLUMBIA REGISTER

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Sec. 502. 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.


Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 28, 2006

AN ACT
D.C. ACT 16-620

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 28, 2006

*Codification
 District of
 Columbia
 Official Code*

2001 Edition

2007 Winter
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West Group
 Publisher

To establish the Department on Disability Services and provide for its composition, staff, powers, and duties; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to add the Department on Disability Services to the list of subordinate agencies; and to make conforming amendments to the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Developmental Disabilities Services Management Reform Amendment Act of 2006".

TITLE I. ESTABLISHMENT OF DEPARTMENT ON DISABILITY SERVICES

Sec. 101. Short title.

This title may be cited as the "Department on Disability Services Establishment Act of 2006".

Sec. 102. Definitions.

For the purposes of this title, the term:

(1) "Community-based services" means non-residential specialized or generic services for the evaluation, care, and habilitation of persons with mental retardation, in a community setting, directed toward the intellectual, social, personal, physical, emotional, or economic development of a person with mental retardation. Such services shall include, but not be limited to, diagnosis, evaluation, treatment, day care, training, education, sheltered employment, recreation, counseling of the person with mental retardation and his or her family, protective and other social and socio-legal services, information and referral, and transportation to assure delivery of services to persons of all ages with mental retardation.

(2) "Consumer" means a resident of the District of Columbia who is receiving, or eligible to receive, services from the Department on Disability Services.

(3) "Department" or "DDS" means the Department on Disability Services established by section 103.

(4) "DHS" means the Department of Human Services.

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(5) "Director" means the Director of the Department on Disability Services.

(6) "Habilitation" means the process by which a person is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, including, in the case of a person committed under section 406a of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective October 17, 2002 (D.C. Law 14-199; D.C. Official Code § 7-1304.06a), to refrain from committing crimes of violence or sex offenses, and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency. The term "habilitation" includes, but is not limited to, the provision of community-based services.

(7) "Home and community-based services waiver" means a Medicaid home and community-based services waiver approved under section 1915(c) of the Social Security Act, approved August 13, 1981 (95 Stat. 809; 42 U.S.C. §1396n).

(8) "Medical Assistance Administration" or "MAA" means the division of the Department of Health responsible for administering the District's Medical Assistance Program, or its successor agency.

(9) "Medical Assistance Program" and "Medicaid Program" mean the program described in the Medicaid State Plan and administered by the Medical Assistance Administration pursuant to section 1(b) of An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02(b)), and Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. §1396 *et seq.*).

(10) "Mental retardation" or "persons with mental retardation" means a substantial limitation in capacity that manifests before 18 years of age and is characterized by significantly subaverage intellectual functioning, existing concurrently with 2 or more significant limitations in adaptive functioning.

(11) "MRDDA" means the former Mental Retardation and Developmental Disabilities Administration within the Department of Human Services.

(12) "Resident of the District of Columbia" shall have the same meaning as provided in section 103(22) of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.03(22)).

(13) "RSA" means the Rehabilitation Services Agency within the Department of Human Services.

Sec. 103. Establishment and purpose of the Department on Disability Services. Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Department on Disability Services is

established as a separate Cabinet-level agency, subordinate to the Mayor, within the executive branch of the District of Columbia, for the purpose of:

(1) Leading the reform of the District's mental retardation and developmental disabilities system by coordinating the collaborative efforts of government agencies, contractor providers, Medicaid waiver providers, labor, and community leaders to improve the care and habilitation services provided to consumers;

(2) Ensuring that District laws, regulations, programs, policies, and budgets are developed and implemented to promote inclusion and integration, independence, self-determination, choice, and participation in all aspects of community life for individuals with developmental disabilities and their families; and

(3) Promoting the well-being of individuals with developmental disabilities throughout their life spans, through the delivery of individualized, high-quality, safe services and supports.

Sec. 104. Organization.

(a) The Department shall have sufficient staff, supervisory personnel, and resources to accomplish the purposes of this title.

(b) The Director shall have the authority to organize the Department as the Director may determine is necessary and appropriate to carry out the Department's mission.

Sec. 105. Duties.

The Department shall:

(1) Provide services and supports to consumers in accordance with:

(A) 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.*); and

(B) Section 109 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, approved October 30, 2000 (114 Stat. 1692; 42 U.S.C. § 15009);

(2) No later than June 30, 2007, provide services and supports in accordance with the Rehabilitation Services Program Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-332; D.C. Official Code § 32-331 *et seq.*);

(3) Establish rules, quality standards, and policies for all services and supports, including Medicaid-funded services;

(4) Execute provider agreements and, in consultation with MAA, establish rates for all services and supports, including Medicaid-funded services;

(5) In conjunction with other District agencies and directed by a comprehensive quality management plan which makes clear that facility licensure and certification is an integral component of the Department's overall responsibility, monitor the provision of all services and

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supports and investigate, remediate, and enforce quality standards for all services and supports, including Medicaid-funded services; and

(6) Identify federal and other appropriate funding opportunities for services and supports for individuals with developmental disabilities and their families, and directly pursue, and recommend and encourage other agencies to pursue, funding opportunities, where appropriate.

Sec. 106. Appointment and authority of the Director.

(a) The Department shall be headed by a Director who shall report to the Mayor. The Mayor shall appoint the Director with the advice and consent of the Council pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

(b) The Director shall:

(1) Hold at least a master's degree or its equivalent in human services, clinical services, human service management, public administration, social work, or a related field;

(2) Have relevant work experience; and

(3) Possess:

(A) Demonstrated knowledge of current best-practice policies, programs, services, and supports for individuals with developmental disabilities;

(B) Familiarity with local and federal funding streams supporting services to people with developmental disabilities; and

(C) Experience managing human service programs.

(c) The Director shall serve as the administrative chief of the Department, and may organize personnel, re-delegate authority, develop programs, and take any other action, consistent with appropriations, as warranted to accomplish the purpose and mission of the Department or to satisfy the requirements of applicable court orders.

(d) The Mayor shall delegate to the Director all personnel authority, including full authority to hire, retain, and terminate personnel, and the Director shall exercise that personnel authority independent of the Office of Personnel and consistent with applicable court orders.

(e) The Mayor shall delegate to the Director all procurement authority, including contracting and contracting oversight, and the Director shall exercise that procurement authority independent of the Office of Contracting and Procurement and consistent with applicable court orders.

(f) The Mayor shall fix the compensation of the Director pursuant Title X-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective June 10, 1998 (D.C. Law 12-124; D.C. Official Code §§ 1-610.51 - 1-610.63).

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Sec. 107. Medicaid services.

(a) The Department and the Medical Assistance Administration shall enter into an agreement for the Department to direct policy development and design of services and supports provided under the home and community-based services waiver, including policies, services, and supports related to the operation of intermediate care facilities for persons with mental retardation.

(b) Nothing in this act shall affect the status of the Medical Assistance Administration as the single state agency for the administration of the Medicaid Program under section 1902(a)(5) of the Social Security Act, approved July 30, 1965 (79 Stat. 344; 42 U.S.C. § 1396a(a)(5)).

Sec. 108. Transfers of authority.

(a) All real or personal property, leased or assigned to the Department of Human Services on behalf of the Mental Retardation and Developmental Disabilities Administration, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to those powers, duties, functions, and operations of the DHS as set forth in, and utilized to carry out, section III(U) of the Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to MRDDA, are transferred to the Department.

(b) No later than June 30, 2007, all real or personal property, leased or assigned to the Department of Human Services on behalf of the Rehabilitation Services Administration, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to those powers, duties, functions, and operations of the DHS as set forth in, and utilized to carry out, section III(V) and those functions and operations of the DHS pertaining only to social security disability and social security income eligibility determinations as set forth in, and utilized to carry out, section III(T) of the Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to RSA, shall be transferred to the Department.

(c) The Chief Financial Officer shall promptly create within the system of accounting and reporting a separate account for the appropriations and expenditures of the Department, distinct from the accounts of DHS.

(d)(1) All of the authority and functions of the DHS as set forth in section III(U) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, are transferred to the Department.

(2) No later than June 30, 2007, all of the authority and functions of the DHS as set forth in section III(V) and the authority and functions pertaining to social security disability and social security income eligibility determinations as set forth in section III(T) of the Reorganization Plan No. 3 of 1986, effective January 3, 1987, shall be transferred to the Department.

Sec. 109. Rulemaking and contracting authority.

(a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules as necessary to implement the provisions of this title.

(b) Pursuant to the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), the Mayor may execute contracts, grants, and other legally binding documents to implement the provisions of this title.

Sec. 110. Delegation and redelegation of authority.

The Department and its Director shall be the successors to all mental retardation and developmental disabilities-related authority delegated to the DHS and its Director, and the Director of the Department shall be authorized to act, either personally or through a designated representative, as a member of any committees, commissions, boards, or other bodies that include as a member the Director of the DHS with respect to mental retardation and developmental disabilities-related authority.

Sec. 111. Rescission.

All organizational orders and parts thereof in conflict with any of the provisions of this title are rescinded, except that any regulations adopted or promulgated by virtue of the authority granted by such orders shall remain in force until revised, amended, or repealed.

TITLE II. SUBORDINATE AGENCY STATUS CONFORMING AMENDMENTS

Sec. 201. Section 301(q) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(17)), is amended as follows:

(a) Paragraph (54) is amended by striking the word "and" at the end.

(b) Paragraph (55) is amended by striking the phrase "established by Reorganization Plan No. 1 of 2003." and inserting the phrase "established by Reorganization Plan No. 1 of 2003; and" in its place.

(c) A new paragraph (56) is added to read as follows:

"(56) Department on Disability Services."

TITLE III. RIGHTS OF MENTALLY RETARDED CITIZENS CONFORMING AMENDMENTS

Sec. 301. The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.01 *et seq.*), is amended as follows:

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

(1) A new paragraph (8C) is added to read as follows:

"(8C) "Department on Disability Services" or "DDS" means the Department on Disability Services established by section 103 of the Department on Disability Services Establishment Act of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-398)."

(2) Paragraph (19A) is repealed.

(b) Section 303 (D.C. Official Code § 7-1303.03) is amended by striking the phrase "Department of Human Services" wherever it appears and inserting the phrase "Department on Disability Services" in its place.

(c) Section 304 (D.C. Official Code § 7-1303.04) is amended as follows:

(1) Subsection (b)(3) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(2) Subsection (c) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(d) Section 305 (D.C. Official Code § 7-1303.05) is amended by striking the phrase "Department of Human Services" wherever it appears and inserting the phrase "Department on Disability Services" in its place.

(e) Section 306 (D.C. Official Code § 7-1303.06) is amended as follows:

(1) Subsection (a)(3) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(2) Subsection (b) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(f) Section 309 (D.C. Official Code § 7-1303.09) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "Department of Human Services" wherever it appears and inserting the phrase "Department on Disability Services" in its place.

(2) Subsection (c) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(g) Section 312a (D.C. Official Code § 7-1303.12a) is amended by striking the word "MRDDA" wherever it appears and inserting the word "DDS" in its place.

(h) Section 314(a) (D.C. Official Code § 7-1303.14(a)) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(i) Section 406a(d) (D.C. Official Code § 7-1304.06a(d)) is amended by striking the word "MRDDA" and inserting the word "DDS" in its place.

(j) Section 411 (D.C. Official Code § 7-1304.11) is amended as follows:

(1) Subsection (a)(2) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

ENROLLED ORIGINAL

(2) Subsection (a-1) is amended by striking the word "MRDDA" and inserting the word "DDS" in its place.

(3) Subsection (b) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(k) Section 504 (D.C. Official Code § 7-1305.04) is amended as follows:

(1) Subsection (b) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(2) Subsection (c) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(l) Section 509 (D.C. Official Code § 7-1305.09) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(m) Section 512 (D.C. Official Code § 7-1305.12) is amended by striking the phrase "Department of Human Services" in the lead-in text and inserting the phrase "Department on Disability Services" in its place.

(n) Section 515 (D.C. Official Code § 7-1305.15) is amended by striking the word "MRDDA" and inserting the word "DDS" in its place.

TITLE IV. FISCAL IMPACT STATEMENT

Sec. 401. Fiscal impact statement.

The Council adopts the December 18, 2006 fiscal impact statement of the Chief Financial Officer 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)).

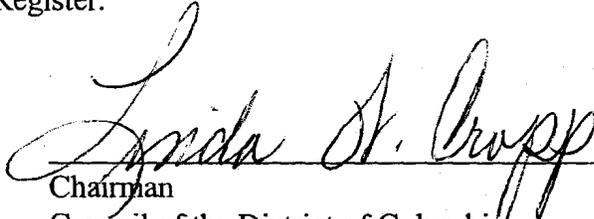
TITLE V. EFFECTIVE DATE

Sec. 501. Effective date.

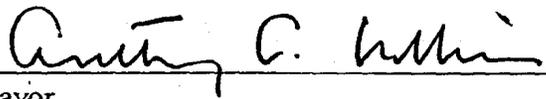
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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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.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 28, 2006

ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-621

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 28, 2006

*Codification
District of
Columbia
Official Code*

2001 Edition

2007 Winter
Supp.

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Publisher

To amend the Childhood Lead Poisoning Screening and Reporting Act of 2002 to increase the length of time during which a first blood lead level screening shall be taken.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Childhood Lead Screening Amendment Act of 2006".

Sec. 2. Section 2003(b) of the Childhood Lead Poisoning Screening and Reporting Act of 2002, effective October 1, 2002 (D.C. Law 14-190; D.C. Official Code § 7-871.03(b)), is amended by striking the phrase "between 6 months and 9 months" and inserting the phrase "between 6 months and 14 months" in its place.

Amend
§ 7-871.03

Sec. 3. Fiscal impact statement.

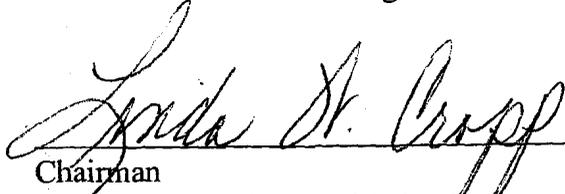
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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

ENROLLED ORIGINAL

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


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
December 28, 2006

AN ACT
D.C. ACT 16-622

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 28, 2006

Codification
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To amend the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005 to define a longtime resident business as a business that has been continuously eligible for certification as a local business enterprise for 20 consecutive years or as a small business enterprise for 15 consecutive years, and to require an agency evaluating proposals to award 5 points for a resident business enterprise and an agency evaluating bids to grant a 5% price reduction for a resident business enterprise.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Longtime Resident Business Definition Amendment Act of 2006".

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(13) (D.C. Official Code § 2-218.02(13)), is amended by striking the phrase "years." and inserting the phrase "years, or a small business enterprise, as defined in section 2332, for 15 consecutive years." in its place.

Amend
§ 2-218.02

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

Amend
§ 2-218.43

(1) Paragraph (1)(B) is amended by striking the word "Three" and inserting the word "Five" in its place.

(2) Paragraph (2)(B) is amended by striking the word "Three" and inserting the word "Five" in its place.

Sec. 3. Fiscal impact statement.

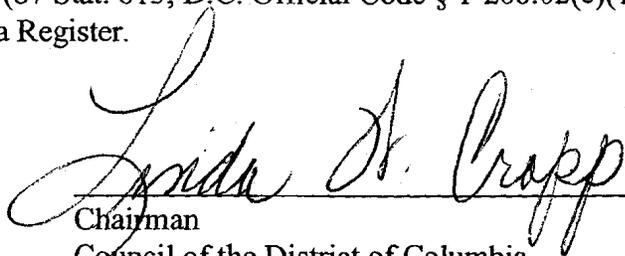
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

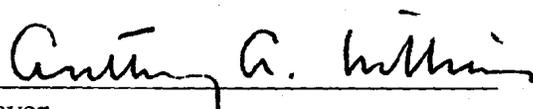
Sec. 4. Effective date.

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

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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.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
December 28, 2006

ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-623

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 28, 2006

*Codification
District of
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Official Code*
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Publisher

To amend the District of Columbia Procurement Practices Act of 1985 to provide that the Inspector General for the Office of the Inspector General shall be paid at a rate established by the Mayor.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Rate of Pay for the Position of Inspector General for the Office of the Inspector General Amendment Act of 2006".

Sec. 2. Section 208(a)(1)(E) of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-302.08 (a)(1)(E)) is amended to read as follows:

Amend
§ 2-302.08

“(E)(i) The Inspector General shall be paid at a rate established by the Mayor, subject to Council approval by resolution.

“(ii) On or after the effective date the Rate of Pay for the Position of Inspector General for the Office of the Inspector General Amendment Act of 2006, passed on 2nd reading December 19, 2006, the Mayor may re-determine the compensation of the incumbent Inspector General retroactive to the date of his appointment.”.

Sec. 3. Fiscal impact statement.

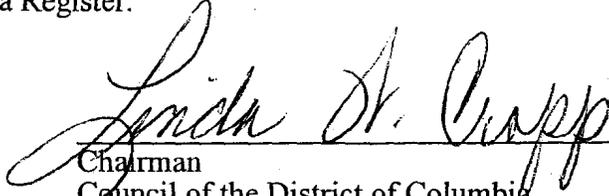
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D. C. Official Code 1-206.02(c)(3)).

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.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
December 28, 2006

ENROLLED ORIGINAL

AN ACT

D.C. ACT 16-624

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 28, 2006

Codification
District of
Columbia
Official Code

2001 Edition

2007 Winter
Supp.West Group
Publisher

To amend the District of Columbia Nonprofit Corporation Act to authorize the involuntary dissolution of a nonprofit corporation operating a public charter school when the charter for the school has been revoked, not renewed, or voluntarily relinquished, and to provide that a plan of distribution for such a nonprofit corporation be developed and executed by the chartering authority in accordance with procedures established by the Public Charter Schools Act of 1996 and the District of Columbia School Reform Act of 1995; to amend the Public Charter Schools Act of 1996 and the District of Columbia School Reform Act of 1995 to require that a nonprofit corporation operating a public charter school dissolve if the charter for the school is revoked, not renewed, or voluntarily relinquished, and to establish procedures for the dissolution, to clarify that the powers conferred upon a public charter school can only be used for the purposes of operating the public charter school, and to clarify that the only purpose for the nonprofit corporation is operating the public charter school; to amend An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia to authorize the Board of Library Trustees to accept donations, gifts, grants, and other assets for the benefit of the District of Columbia Public Library; to amend the Acceptance of use of gifts by District Entities Act of 2002 to authorize the Board of Library Trustees to accept and use gifts to the District of Columbia Public Library without prior approval by the Mayor.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public Charter School Assets and Facilities Preservation Amendment Act of 2006".

Sec. 2. The District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.*), is amended as follows:

(a) Section 49 (D.C. Official Code § 29-301.49) is amended as follows:

(1) The lead-in text is amended by striking the word "A" and inserting the phrase "Except as provided in subsection (b) of this section, a" in its place.

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

Amend
§ 29-301.49

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“(b) A plan of distribution for a corporation organized under this act for the purpose of operating a public charter school pursuant to either the Public Charter Schools Act of 1996, effective May 29, 1996 (D.C. Law 11-135; D.C. Official Code § 38-1701.01 *et seq.*)(“Public Charter Schools Act”), or the District of Columbia School Reform Act of 1995, approved April 12, 1996 (110 Stat. 1321-107; D.C. Official Code § 38-1800.01 *et seq.*) (“School Reform Act”), shall be developed and executed in accordance with sections 210a and 2213a of those acts, respectively.”

(b) Section 53 (D.C. Official Code § 29-301.53) is amended by adding a new subsection (c) to read as follows: Amend
§ 29-301.53

“(c) A corporation organized under this act for the purpose of operating a public charter school pursuant to either the Public Charter Schools Act or the School Reform Act shall be dissolved involuntarily by a decree of the court in an action instituted by the Mayor or his designee in the name of the District of Columbia if the charter for the public charter school has been revoked, has not been renewed, or has been voluntarily relinquished and the corporation has failed to voluntarily dissolve as required by sections 210a and 2213a of those acts, respectively.”

Sec. 3. The Public Charter Schools Act of 1996, effective May 29, 1996 (D.C. Law 11-135; D.C. Official Code § 38-1701.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 38-1701.01) is amended by adding a new paragraph (10A) to read as follows: Amend
§ 38-1701.01

“(10A) “Nonprofit Corporation Act” means the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.*)”.

(b) Section 202 (D.C. Official Code § 38-1702.02) is amended as follows:

(1) Subsection (a)(11) is amended by striking the phrase “school;” and inserting the phrase “school, which shall include provisions governing the distribution of the corporation’s assets upon dissolution that comply with the requirements of section 210a;” in its place. Amend
§ 38-1702.02

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

(A) Paragraph (1) is amended by striking the word “and” at the end.

(B) Paragraph (2) is amended by striking the period at the end and inserting the phrase “; and” in its place.

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

“(3) The articles of incorporation and bylaws of the nonprofit corporation operating the charter school, which shall contain provisions satisfying the requirements of section 210a.”

(c) Section 205 (D.C. Official Code § 38-1702.05) is amended as follows: Amend
§ 38-1702.05

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

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“(b-1) Each power conferred upon a public charter school under subsection (b) of this section can only be used for the sole purpose of operating the public charter school.”

(2) Subsection (p) is amended to read as follows:

“(p)(1) A charter school shall be organized under the Nonprofit Corporation Act and its sole purpose shall be the operation of the public charter school.

“(2) The charter school shall not be deemed, considered, or construed to be an entity of the District of Columbia government.”

(d) A new section 210a is added to read as follows:

“Sec. 210a. Mandatory dissolution.

“(a) A nonprofit corporation operating a charter school shall dissolve if the charter for the school:

“(1) Has been revoked by the Board;

“(2) Has not been renewed by the Board; or

“(3) Has been voluntarily relinquished by the charter school.

“(b) The distribution of assets upon dissolution required by subsection (a) of this section shall be in accordance with section 48 of the Nonprofit Corporation Act and this section.

“(c)(1) Except as provided in paragraph (2) of this subsection, the articles of incorporation or the bylaws of a nonprofit corporation operating the charter school shall require that:

“(A) The corporation shall dissolve if the charter for the charter school has been revoked, has not been renewed, or has been voluntarily relinquished; and

“(B) Any assets to be distributed pursuant to a plan of distribution under section 48(3) of the Nonprofit Corporation Act shall be transferred to the State Education Office of the District of Columbia, to be controlled by the Office of Education Facilities and Partnerships and used solely for educational purposes.

“(2) A nonprofit corporation with an existing charter as of the effective date of the Public Charter School Assets and Facilities Preservation Amendment Act of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-624), shall not be required to amend its articles of incorporation or bylaws to comply with the requirements of this section until the time of its charter renewal under section 201.

“(3) Nothing in this subsection shall be construed as exempting the corporation from any other requirements of this section.

“(d)(1) The chartering authority, in consultation with the Board of Trustees, shall develop and execute a plan for:

“(A) Liquidating the corporation’s assets in a timely fashion and in a manner that will achieve maximum value;

“(B) Discharging the corporation’s debts; and

“(C) Distributing any remaining assets in accordance with this section and section 48(3) of the Nonprofit Corporation Act.

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“(2) The plan shall:

“(A) Provide that assets to be distributed pursuant to section 48(3) of the Nonprofit Corporation Act be transferred or conveyed to the District of Columbia, to be controlled by the Office of Education Facilities and Partnerships within the State Education Office and used solely for educational purposes; and

“(B) Be in accordance with the terms of existing creditor agreements and applicable laws, and creditors shall retain all rights, powers, and remedies available to them to cure default as defined in their agreements with the charter school.

“(3) As soon as feasible after closure of the school, the Board of Trustees shall complete and submit to the chartering authority a closeout audit, which shall include:

“(A) An account of the present value of the charter school’s liabilities held by all of its creditors, including:

“(i) Banking institutions;

“(ii) Vendors; and

“(iii) State pension and health benefits agencies; and

“(B) An account of the present value of the charter school’s assets, including:

“(i) Books;

“(ii) Supplies;

“(iii) Motor vehicles;

“(iv) Furnishings;

“(v) Equipment; and

“(vi) Facilities.

“(4) Nothing in this subsection shall be construed as making the chartering authority or the District of Columbia liable for debts incurred by the corporation.

“(e) The authorizing entity, in consultation with the Board of Trustees, shall arrange for the transfer and storage of necessary student records in the possession of the charter school.

“(f) The authorizing entity may utilize assets of the charter school to provide for:

“(1) The transfer and storage of student records pursuant to subsection (e) of this section; and

“(2) Any other actual expenses incurred by the authorizing entity as a result of the dissolution of the nonprofit organization operating the charter school.”

Sec. 4. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-107; D.C. Official Code § 38-1800.01 *et seq.*), is amended as follows:

(a) Section 2002 (D.C. Official Code § 38-1800.02) is amended by adding a new paragraph (24A) to read as follows:

Amend
§ 38-1800.02

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“(24A) NONPROFIT CORPORATION ACT. - The term “Nonprofit Corporation Act” means the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.*).

(b) Section 2202(8) (D.C. Official Code § 38-1802.02(8)) is amended by striking the phrase “school;” and inserting the phrase “school, which shall include provisions governing the distribution of the corporation’s assets upon dissolution that comply with the requirements of section 2213a;” in its place.

Amend
§ 38-1802.02

(c) Section 2204 (D.C. Official Code § 38-1802.04) is amended as follows:

Amend
§ 38-1802.04

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

“(b-1) *Limitation on powers* – Each power conferred upon a public charter school under subsection (b) of this section can only be used for the sole purpose of operating the public charter school.”

(2) Subsection (c)(16) is amended by striking the phrase “the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 *et seq.*)” and inserting the phrase “the Nonprofit Corporation Act and its sole purpose shall be the operation of the public charter school” in its place.

(d) Section 2206(c) (D.C. Official Code § 38-1802.06(c)) is amended by striking the period at the end and inserting the phrase “, or to an applicant who is a child of a member of the public charter school’s founding board, so long as enrollment of founders’ children is limited to no more than 10% of the school’s total enrollment or to 20 students, whichever is less.” in its place.

Amend
§ 38-1802.06

(e) Section 2212 (D.C. Official Code § 38-1802.12) is amended by adding a new paragraph (3) to read as follows:

Amend
§ 38-1802.12

“(3) The articles of incorporation and bylaws of the nonprofit corporation operating the charter school, which shall contain provisions satisfying the requirements of section 2213a.”

(f) A new section 2213a is added to read as follows:

“Sec. 2213a. Mandatory dissolution.

“(a) A nonprofit corporation operating a charter school shall dissolve if the charter for the school:

“(1) Has been revoked by the authorizing entity;

“(2) Has not been renewed by the authorizing entity; or

“(3) Has been voluntarily relinquished by the charter school.

“(b) The distribution of assets upon dissolution required by subsection (a) of this section shall be in accordance with section 48 of the Nonprofit Corporation Act and this section.

“(c)(1) Except as provided in paragraph (2) of this subsection, the articles of incorporation or the bylaws of a nonprofit corporation operating the charter school shall require that:

“(A) The corporation shall dissolve if the charter for the charter school has been revoked, has not been renewed, or has been voluntarily relinquished; and

“(B) Any assets to be distributed pursuant to a plan of distribution under section 48(3) of the Nonprofit Corporation Act shall be transferred to the State Education Office of the District of Columbia, to be controlled by the Office of Education Facilities and Partnerships and used solely for educational purposes.

“(2) A nonprofit corporation with an existing charter as of the effective date of the Public Charter School Assets and Facilities Preservation Amendment Act of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-624), shall not be required to amend its articles of incorporation or bylaws to comply with the requirements of this section until the time of its charter renewal under section 2212.

“(3) Nothing in this subsection shall be construed as exempting the corporation from any other requirements of this section.

“(d)(1) The chartering authority, in consultation with the Board of Trustees, shall develop and execute a plan for:

“(A) Liquidating the corporation’s assets in a timely fashion and in a manner that will achieve maximum value;

“(B) Discharging the corporation’s debts; and

“(C) Distributing any remaining assets in accordance with this section and section 48(3) of the Nonprofit Corporation Act.

“(2) The plan shall:

“(A) Provide that assets to be distributed pursuant to section 48(3) of the Nonprofit Corporation Act be transferred or conveyed to the District of Columbia, to be controlled by the Office of Education Facilities and Partnerships within the State Education Office and used solely for educational purposes; and

“(B) Be in accordance with the terms of existing creditor agreements and applicable laws, and creditors shall retain all rights, powers, and remedies available to them to cure default as defined in their agreements with the charter school.

“(3) As soon as feasible, the Board of Trustees shall complete and submit to the authorizing entity a closeout audit, which shall include:

“(A) An account of the present value of the charter school’s liabilities held by all of its creditors, including:

“(i) Banking institutions;

“(ii) Vendors; and

“(iii) State pension and health benefits agencies; and

“(B) An account of the present value of the charter school’s assets,

including:

“(i) Books;

“(ii) Supplies;

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- “(iii) Motor vehicles;
- “(iv) Furnishing;
- “(v) Equipment; and
- “(vi) Facilities.

“(4) Nothing in this subsection shall be construed as making the chartering authority or the District of Columbia liable for debts incurred by the corporation.

“(e) The chartering authority, in consultation with the Board of Trustees, shall arrange for the transfer and storage of necessary student records in the possession of the charter school.

“(f) The chartering authority may utilize assets of the charter school to provide for:

“(1) The transfer and storage of student records pursuant to subsection (e) of this section; and

“(2) Any other actual expenses incurred by the authorizing entity as a result of the dissolution of the nonprofit organization operating the charter school.”

Sec. 5. An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-101 *et seq.*), is amended as follows:

(a) Section 1 (D.C. Official Code § 39-101) is amended by striking the phrase “and the Mayor of the said District is authorized on behalf of said District to accept and take title to all gifts, bequests, and devises for the purpose of aiding in the maintenance or endowment of said library”.

Amend
§ 39-101

(b) A new section 7a is added to read as follows:

“Sec. 7a. Authority to accept donations and gifts.

“(a) The Board of Library Trustees may accept donations, gifts by devise or bequest, grants, and any other type of asset, except real property as defined in section 1a of An Act authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, effective March 15, 1990 (D.C. Law 8-96; D.C. Official Code § 10-801.01), from individuals, clubs, groups, corporations, partnerships, and other governmental entities. The Board shall approve any donation, gift, grant, or asset with a value of \$10,000 or more, but may delegate the acceptance of any donation, gift, grant, or asset with a value of less than \$10,000 to the librarian of the public library.

“(b) The Board shall manage the property or funds in accordance with the provisions or conditions of the donation, gift, grant, or other type of asset, including the investment of the principal of the property or funds.

“(c) All monetary donations permitted under subsection (a) of this section shall be made available to the District of Columbia Public Library through the private grant revenue source included in the District of Columbia Public Library’s annual operating budget.

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“(d) The Board shall issue rules to implement this section. The rules shall govern the acceptance and use of donations and gifts, record-keeping requirements, audit procedures, accessibility of records for public inspection, and any other areas that the Board considers appropriate.”

Sec. 6. Section 4602 of the Acceptance and use of gifts by District Entities Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 1-329.01), is amended by adding a new subsection (e) to read as follows:

Amend
§ 1-329.01

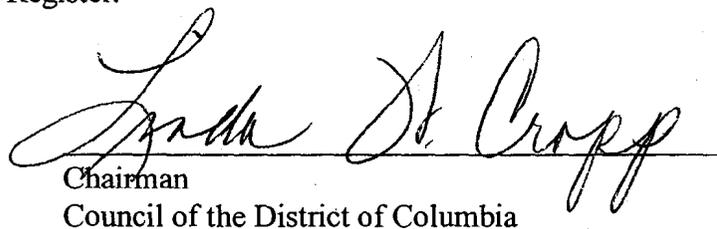
“(e) This section shall not apply to the Board of Library Trustees, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the District of Columbia Public Library without prior approval by the Mayor.”

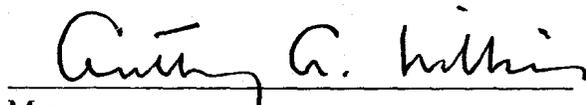
Sec. 7. Fiscal impact statement.

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. 8. 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.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED

ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-625

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 28, 2006*Codification
District of
Columbia
Official Code*

2001 Edition

2007 Winter
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To establish the circumstances under which a student with a disability can be placed and publicly funded in a nonpublic special education school or program, to grant the District of Columbia Public Schools, as the state education agency, the authority to issue certificates of approval to nonpublic schools or programs serving students with disabilities with funding from the District of Columbia government, and to authorize the Mayor, or his or her designee, to set rates for the payment of tuition and related services to nonpublic schools that serve students with disabilities who reside in the District of Columbia; and to repeal the Special Education Assessment and Placement Act of 1998.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Placement of Students with Disabilities in Nonpublic Schools Amendment Act of 2006".

TITLE I

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Certificate of Approval" means the document issued by the SEA to the legal authority responsible for governing and operating a nonpublic special education school or program upon determination that the nonpublic special education school or program is in compliance with the requirements of section 107.

(2) "DCPS" means the public local education system under the control of the Board of Education. The term "DCPS" does not include public charter schools.

(3) "Free appropriate public education" means special education and related services that:

(A) Have been provided at public expense, under public supervision and direction, and without charge;

(B) Meet the standards of the State Education Agency;

(C) Include an appropriate preschool, elementary school, or secondary school education; and

(D) Are provided in conformity with the individualized education plan.

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(4) "IDEA" means the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1400 *et seq.*), and its implementing regulations.

(5) "Individualized education plan" or "IEP" means a written plan that specifies the special education programs and services to be provided to meet the unique educational needs of a student with a disability, as required under section 614(d) of the IDEA.

(6) "Least restrictive environment" means a placement of a student with a disability that:

- (A) Provides the special education needed by the student;
- (B) Provides for the education of the student, to the maximum extent appropriate, with other students who do not have disabilities;
- (C) Is based upon consideration of the proximity of the placement to the student's place of residence; and
- (D) Is in accordance with section 612(a)(5)(A) of the IDEA.

(7)(A) "Nonpublic special education school or program" means a privately owned or operated preschool, school, educational organization, or program, no matter how titled, that maintains or conducts classes for the purpose of offering instruction, for a consideration, profit, or tuition, to students with disabilities.

(B) The term "nonpublic special education school or program" shall not include a privately owned or operated preschool, elementary, middle, or secondary school whose primary purpose is to provide educational services to students without disabilities, even though the school may serve students with disabilities in a regular academic setting.

(8) "Panel" means the Rate Reconsideration Panel established by section 114.

(9) "Rates" are the annual or per-diem costs paid to each nonpublic special education school or program, for tuition and for each unit of related service delivered.

(10) "Related services" shall have the same meaning as provided in section 602(26) of the IDEA.

(11) "Residential child care facility" means a program that provides care for children 24 hours a day with a structured set of services and activities designed to achieve objectives related to the needs of the children served.

(12) "Special education" shall have the same meaning as provided in section 602(29) of the IDEA.

(13) "State education agency" or "SEA" means the District of Columbia Public Schools, or any successor agency that has primary responsibility for the state-level supervisory functions for special education that are typically handled by a state department of education or public instruction, a state board of education, a state education commission, or a state education authority.

(14) "Student with a disability" means a student determined to have:

- (A) Autism;
- (B) Deaf-blindness;
- (C) A developmental delay;

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(D) A hearing impairment, including deafness;
(E) Mental retardation;
(F) Multiple disabilities;
(G) An orthopedic impairment or other health impairment;
(H) An emotional disturbance;
(I) A severe disability;
(J) A specific learning disability;
(K) A speech or language impairment;
(L) A traumatic brain injury;
(M) A visual impairment, including blindness; or
(N) Any other condition, disability, or impairment described in section 602(3) of the IDEA, or in section 7(8) of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 359; 29 U.S.C. § 706(8)).

Sec. 102. Assessment and placement of a students with a disability - General.

(a) DCPS shall assess or evaluate a student who may have a disability and who may require special education services within 120 days from the date that the student was referred for an evaluation or assessment.

(b) DCPS shall place a student with a disability in an appropriate special education school or program in accordance with this act, and the IDEA.

(c) Special education placements shall be made in the following order or priority; provided, that the placement is appropriate for the student and made in accordance with the IDEA and this act:

- (1) DCPS schools, or District of Columbia public charter schools pursuant to an agreement between DCPS and the public charter school;
- (2) Private or residential District of Columbia facilities; and
- (3) Facilities outside of the District of Columbia.

Sec. 103. Placement and funding of a student with a disability in a nonpublic special education school or program.

(a) DCPS shall be responsible for the placement and funding of a student with a disability in a nonpublic special education school or program when:

- (1) DCPS cannot implement the student's IEP or provide an appropriate placement in conformity with DCPS rules, the IDEA, and any other applicable laws or regulations; and
- (2) The nonpublic special education school or program to which the student has been referred:
 - (A) Has been approved by the SEA in accordance with section 107;
 - (B) Can implement the student's IEP; and
 - (C) Represents the least restrictive environment for the student.

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(b)(1) No student with a disability whose education, including special education and related services, is funded by the District government shall be placed in a nonpublic special education school or program that has not received and maintained a valid Certificate of Approval from the SEA in accordance with section 107, unless the placement has been ordered by a District of Columbia court, a federal court, or a hearing officer pursuant to the IDEA.

(2) A hearing officer may make a placement in a nonpublic special education school or program that lacks a valid Certificate of Approval from the SEA only if the hearing officer has determined that:

(A) There is no public school or program able to provide the student with a free appropriate public education; and

(B) There is no nonpublic special education school or program with a valid Certificate of Approval that meets the requirements of subsection (a)(2) of this section.

(c) In conformity with the IDEA, DCPS is not responsible for paying the cost of education, including special education and related services, of a student with a disability who attends a nonpublic special education school or program if:

(1) DCPS made a free appropriate public education available to the student; and

(2) The student's parent or guardian elected to place the student in a nonpublic special education school or program.

Sec. 104. Funding of a placement of a student with disabilities in a nonpublic special education school or program made by other District of Columbia government agencies.

(a) If another District of Columbia government agency places a student with a disability in a nonpublic special education school or program, DCPS shall fund the placement unless and until the other agency agrees to fund the placement.

(b) The District of Columbia shall comply with section 612(a)(12) of the IDEA and 34 C.F.R. § 300.154 by developing appropriate mechanisms for interagency coordination between DCPS and other District government agencies to ensure that all necessary services are provided and funded by the appropriate agency.

(c) Nothing in this section shall be construed as removing DCPS's liability for providing and paying for special education and related services if another public agency fails to provide or pay for them.

Sec. 105. Resolution of assessment, evaluation, placement, and funding disputes.

(a) The due process procedures set forth in Chapter 30 of Title 5 of the District of Columbia Municipal Regulations and the IDEA shall govern any disputes between a student's parent or guardian and DCPS regarding the assessment, evaluation, placement, and funding of a student with a disability in a nonpublic special education school or program.

(b) In conformity with the IDEA, DCPS may not terminate funding for the last approved nonpublic placement of a student while an administrative or judicial review of a recommended

placement is pending.

Sec. 106. Participation of DCPS in development or review of the IEP.

When a student is receiving education and related services from a nonpublic special education school or program that is approved by the SEA under section 107 and receives funding from the District of Columbia government, DCPS shall participate in the initial meeting to develop an IEP. For any subsequent meeting to review or revise the IEP, the failure or inability of a DCPS representative to attend the IEP meeting after the meeting has been set shall not prevent the meeting from taking place as planned.

Sec. 107. Certificate of Approval for nonpublic special education schools or programs—General.

(a) The SEA shall develop and administer a Certificate of Approval process for nonpublic schools or programs that serve District of Columbia students with disabilities with funding from the District of Columbia government. The SEA shall issue a Certificate of Approval to a nonpublic special education school or program after determining that the school or program complies with the regulations set forth in Chapters 22, 25, 30, and 38 of Title 5 of the District of Columbia Municipal Regulations, this act, and any applicable fire safety, building code, health, and sanitation requirements.

(b) Any nonpublic special education school or program that will be affected by the Certificate of Approval process shall be allowed to participate in the development and revision of applicable standards pursuant to the IDEA.

(c) A Certificate of Approval shall be for a period not to exceed 3 years.

(d) The SEA shall develop and maintain a list of approved nonpublic special education schools and programs, and shall display this list along with appropriate information about each nonpublic special education school or program on the Internet site of the District of Columbia Public Schools.

(e) The initial application and the Certificate of Approval shall include the following information:

- (1) Name of the school or program;
- (2) Location of the school or program;
- (3) The name and address of the individual or entity responsible for governing and operating the school or program;
- (4) The classification of the educational school or program to include, but not be limited to, one or more of the following:
 - (A) Nursery school;
 - (B) Kindergarten;
 - (C) Elementary school with sequential grades specified;
 - (D) Secondary school with sequential grades specified; and
 - (E) Special education and related services; and

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(5) Any additional information the SEA requires.

(f) A school or program shall operate in a manner that is consistent with the specifications recorded on the Certificate of Approval issued to the individual or entity with legal responsibility for governing and operating the school or program.

(g) The SEA may issue a provisional Certificate of Approval to schools or programs that meet minimum requirements to be established by SEA regulations.

(h) When placing District of Columbia students with disabilities in a nonpublic special education school or program outside the District, the SEA may adopt a certificate of approval or license established by that jurisdiction's state education agency, if the standards of that state are substantially similar to the District of Columbia's Certificate of Approval standards.

(i) In issuing Certificates of Approval to residential child care facilities, or when otherwise required, the SEA shall coordinate with the Department of Mental Health, the Department of Human Services, the Child and Family Services Agency, the Department of Youth Rehabilitation Services, and the Medical Assistance Administration of the Department of Health, or any other appropriate public agency.

Sec. 108. Certificate of Approval – Compliance.

(a) All nonpublic special education schools or programs serving students with disabilities with funding provided by the District of Columbia government shall come into full compliance with this act by August 15, 2007, for the 2007-2008 academic school year.

(b) To continue receiving funding from the District of Columbia government in the 2007-2008 academic school year, all nonpublic special education schools or programs shall submit an initial application for a Certificate of Approval to the SEA no later than 90 days after the effective date of this act.

(c) For the 2008-2009 academic school year and each subsequent school year, a nonpublic special education school or program seeking a Certificate of Approval shall submit an initial application to the SEA no later than 45 days prior to the start of the school year.

(d) Not later than 45 days prior to the start of each school year, a school or program granted a Certificate of Approval by the SEA shall certify its annual compliance with this act, and regulations issued pursuant to this act, by filing a certificate of compliance with the SEA.

Sec. 109. Certificate of Approval – Inspection.

(a) The SEA shall schedule periodic monitoring visits to each nonpublic special education school or program at least once every 3 years. The employees of the SEA may make unannounced visits to a school or program during the 3-year period.

(b) A nonpublic special education school or program approved by the SEA shall be subject to inspection by the SEA or its designee for the following reasons:

(1) To verify compliance with this act and its implementing regulations for the purpose of reviewing an application for a Certificate of Approval;

(2) To verify compliance with this act and its implementing regulations when a

nonpublic special education school or program receives District of Columbia government funds for its educational program;

- (3) To investigate complaints relating to this act or violations of the IDEA; and
- (4) To determine compliance with DCPS regulations or to monitor program

quality.

Sec. 110. Certificate of Approval - Renewal.

(a) Nonpublic schools and programs for special education students may have their Certificates of Approval renewed for a period not to exceed 3 years.

(b) If a Certificate of Approval has not been renewed by the SEA on or before the renewal anniversary date, the Certificate of Approval shall expire and the DCPS Superintendent of Schools shall take immediate steps to determine an appropriate placement, in accordance with the IDEA, to any DCPS-funded students who attended the nonpublic special education school or program with the expired Certificate of Approval.

Sec. 111. Certificate of Approval – Denial, revocation, refusal to renew, or suspension.

(a) The SEA may deny, revoke, refuse to renew, or suspend a Certificate of Approval for any one or combination of the following causes:

(1) Violating any provision of this act, applicable rules of the SEA or DCPS, or applicable federal laws or regulations, except that noncompliance with section 112 shall not be grounds for denial, revocation, refusal to renew, or suspension;

(2) Providing false, misleading, or incomplete information, or failing to provide information requested by the SEA or DCPS;

(3) Violating any commitment made in an application for a Certificate of Approval;

(4) Failing to provide or maintain the premises or equipment of the special education school or program in a safe and sanitary condition as required by applicable law or regulation;

(5) Failing to maintain adequate programs or to retain adequate, qualified instructional staff; and

(6) Failing within a reasonable time to provide information requested by DCPS or the SEA as a result of a formal or informal complaint, or as a supplement to an initial application for a Certificate of Approval.

(b)(1) If the SEA determines a nonpublic special education school or program is in violation of subsection (a) of this section, the SEA shall provide the nonpublic special education school or program written notice of the violations before denying, revoking, refusing to renew, or suspending the Certificate of Approval.

(2) A nonpublic special education school or program determined to be in violation of subsection (a) of this section may request a hearing before an independent panel of the SEA. The request shall be in writing and submitted to the SEA within 30 days of receipt of

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the written notice required under paragraph (1) of this subsection. The panel that reviews the SEA decision shall not contain any individual who participated in the decision to issue the original notice.

(3) The SEA shall hold a hearing within 30 days of receiving a written request, and shall issue its decision no later than 10 days after the hearing. The decision of the SEA panel shall be final and not appealable.

(4) Pursuant to the IDEA, while review is pending, the nonpublic special education school or program shall continue to provide special education and related services to enrolled students.

(c) The Mayor shall conduct a study of how to improve the process of appealing the SEA's decision to deny, revoke, refuse to renew, or suspend a Certificate of Approval. The study shall include the options of review of SEA decisions by the Office of Administrative Hearings or the courts. The Mayor shall provide a report to the Council, including recommendations for legislative and operations changes, by January 1, 2009.

Sec. 112. Rate-setting for nonpublic schools.

(a) The Mayor, or his or her designee, shall administer and implement a rate-setting process for the payment of tuition and related services to nonpublic special education schools and programs that provide special education and related services to students with disabilities funded by the District of Columbia.

(b) In establishing fair and reasonable rates, the Mayor, or his or her designee, shall consider a variety of factors, including historical data, the rates established by surrounding jurisdictions, and administrative costs.

(c) The Mayor, or his or her designee, may adopt the rates established by surrounding jurisdictions and apply those rates to nonpublic special education schools or programs that have already been approved to provide services with public funds by a surrounding jurisdiction.

(d) A nonpublic special education school or program serving students who are funded by the District government shall enter into a contract with the District government accepting rates set by the Mayor, or his or her designee, except that a contract is not required for a student whose placement has been ordered by a District of Columbia court, a federal court, or a hearing officer pursuant to the IDEA.

Sec. 113. Rate-setting for nonpublic schools--Reconsideration.

(a) A nonpublic special education school or program may request reconsideration of a rate approved by the Mayor, or his or her designee, by the Rate Reconsideration Panel established by section 114. A rate is eligible for reconsideration only for matters that relate to the ability of the nonpublic special education school or program to meet the requirements of an IEP for a student placed by a District government agency.

(b) The opportunity to request rate reconsideration shall apply only to an aggregate rate for students funded by the District government and the rate may not be reconsidered for

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individual students, except that the Panel may make case-by-case exceptions for a student the Panel determines has unique or highly specialized needs that cannot be properly addressed and funded through an aggregate rate.

(c) A request for reconsideration shall be filed within 30 days of the nonpublic special education school or program's notification of rates from the Mayor, or his or her designee. The reconsideration request shall include the relief requested, the basis for the relief, and sufficient and appropriate information to allow an analysis of the claim.

(d) The decision of the Panel is final and binding.

Sec. 114. Rate Reconsideration Panel.

(a) A Rate Reconsideration Panel shall be established to review requests for rate reconsideration. The Panel shall be comprised of the following individuals:

- (1) One individual designated by the Superintendent of Schools;
- (2) One individual designated by the State Education Officer;
- (3) One individual designated by the Chief Financial Officer;
- (4) One individual designated by the Director of the Department of Health;
- (5) Two parents of students with disabilities, designated by the Mayor; and
- (6) One representative of a nonpublic special education school or program

serving students from the District of Columbia, designated by the Mayor.

(b) The members of the Panel shall elect the Chairman of the Panel.

(c) The presence of at least 4 members of the Panel shall constitute a quorum necessary for the Panel to conduct official business.

(d) The representative of the nonpublic special education school or program shall recuse himself or herself from any cases involving his or her school or program.

Sec. 115. Rules.

(a) Not later than 90 days after the effective date of this act, the Mayor shall issue regulations to implement the powers and duties assigned to the Mayor by this act.

(b) Not later than 90 days after the effective date of this act, DCPS shall issue regulations to implement its powers and duties pursuant to this act.

TITLE II

Sec. 201. The Special Education Assessment and Placement Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2501), is repealed.

Repeal
§ 38-2501

TITLE III

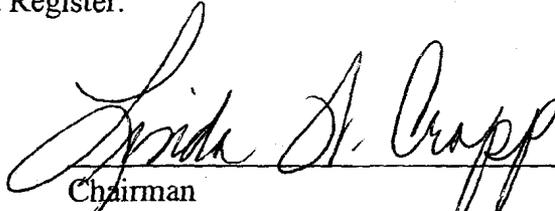
Sec. 301. Fiscal impact statement.

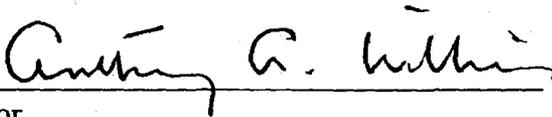
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 302. 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.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
December 28, 2006

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AN ACT

D.C. ACT 16-626

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 28, 2006

*Codification
District of
Columbia
Official Code*

2001 Edition

2007 Winter
Supp.

West Group
Publisher

To amend An Act To establish a code of law for the District of Columbia to grant domestic partners similar rights and responsibilities currently held by married individuals in the area of property rights; and to amend Chapter 5 of Title 15 of the District of Columbia Official Code to clarify that certain debt instruments upon real property are binding and valid without the signature of a non-titled spouse or a non-titled domestic partner.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Property Interest Amendment Act of 2006".

Sec. 2. Section 1154 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1374; D.C. Official Code § 46-601), is amended to read as follows:

Amend
§ 46-601

"Sec. 1154. Rights enumerated.

"(a) For the purposes of this section, the term:

"(1) "Domestic partner" shall have the same meaning as provided in section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)).

"(2) "Domestic partnership" shall have the same meaning as provided in section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)).

"(b)(1) The fact that a person is or was married or registered as a domestic partner shall not impair the rights and responsibilities of such person, which rights and responsibilities are hereby granted or confirmed, to acquire from anyone, and to hold and dispose of, in any manner, as his or hers, property of any kind, or to accept and be bound by any covenant or agreement relating to any property or debt, or to contract or engage in any trade, occupation, or business arrangement or in any civil litigation of any sort (whether in contract, tort, or otherwise) with or against anyone, including such person's spouse or domestic partner, to the same extent as an unmarried person.

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“(2) A person’s spouse or domestic partner and the property of a person’s spouse or domestic partner shall not be liable because of any contract or tort by that person in which the spouse or domestic partner has not directly or indirectly participated, except that both spouses or domestic partners shall be liable on any debt, contract, or engagement entered into by either of them during their marriage or the term of the domestic partnership for necessities for either of them or for their dependent children.

“(3) Except as otherwise provided by law, a married minor shall be subject to the same disabilities, including the requirement for appointment of a guardian of the minor’s estate, as an unmarried minor.

“(c) This section shall not be deemed to affect the law relating to ownership of property held by the spouses as tenants by the entireties, inheritance of property, actions for loss of consortium, family relations, or, except as to necessities purchased during marriage, obligations for marital support.”.

Sec. 3. Chapter 5 of Title 15 of the District of Columbia Official Code is amended as follows:

(a) Section 15-501(a)(14) is amended by striking the phrase “debtor.” and inserting the phrase “debtor, except nothing relative to these exemptions shall impair the following debt instruments on real property: deed of trust, mortgage, mechanic’s lien, or tax lien.” in its place.

Amend
§ 15-501

(b) Section 15-502(a) is amended by adding the sentence “This section shall not apply to instruments related to property exempted in § 15-501(a)(14).” at the end.

Amend
§ 15-502

Sec. 4. Applicability.

Section 3 shall apply as of April 27, 2001.

Sec. 5. Fiscal impact statement.

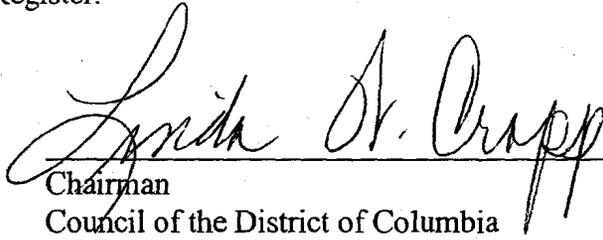
The Council adopts the December 1, 2006 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

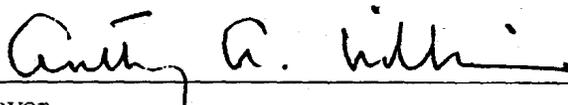
Sec. 6. Effective date.

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.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
December 28, 2006