

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-661

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

*Codification
District of
Columbia
Official Code*

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To regulate continuing care retirement communities to include licensing of a continuing care facility by the Department of Insurance, Securities, and Banking, the revocation of any license, the sale or transfer of ownership of a continuing care facility, contracts for continuing care and its specifications, operating reserves for continuing care facilities, the establishment of escrow accounts and the collection of deposits, disclosure requirements, and the rights of residents to organize; and to amend the Insurance Regulatory Trust Fund Act of 1993 to establish an account within the Insurance Regulatory Trust Fund for the purpose of administering this act and for reasonable expenses incurred in promoting the continuing care retirement community industry in the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Continuing Care Retirement Communities Act of 2004".

Title I.

Sec. 101. Definitions.

For the purposes of this title, the term:

- (1) "Assisted living" means an assisted living residence as defined in section 201(4) of the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code § 44-102.01(4)).
- (2) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.
- (3) "Continuing care facility" means a building, or complex of buildings under one management at one or more sites, if continuing care services are provided.
- (4) "Continuing care services" means the continuum of care, ranging from independent living to assisted living to nursing home care, provided pursuant to a contract for the life of the individual purchasing the services or for a period of not less than one year.

AN ACT
D.C. ACT 15-660

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

To establish, on an emergency basis, due to Congressional review, the Emancipation Day Parade and related activities to celebrate and commemorate District of Columbia Emancipation Day, and to establish the Emancipation Day Fund to accept and use gifts to fund the parade.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Emancipation Day Parade and Fund Congressional Review Emergency Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "District of Columbia Emancipation Day" means April 16th of each year.
- (2) "Emancipation Day Parade" means the parade, and associated activities, to celebrate and commemorate District of Columbia Emancipation Day.
- (3) "Fund" means the Emancipation Day Fund established in section 4.

Sec. 3. Establishment of Emancipation Day Parade.

There is established the Emancipation Day Parade to annually celebrate and commemorate District of Columbia Emancipation Day.

Sec. 4. Emancipation Day Fund.

(a) There is established the Emancipation Day Fund ("Fund") to receive monies to fund the Emancipation Day Parade and activities associated with the celebration and commemoration of District of Columbia Emancipation Day.

(b) The monies in the Fund shall not be a part of, or lapse into, the General Fund of the District of Columbia or any other fund of the District .

(c) By August 1st of each year, the Secretary of the District of Columbia shall submit a report to the Council that shall include a specific accounting of the expenditure of monies in the Fund and any remaining balance. The report shall include :

- (1) The name of any donors or list of anonymous contributions;
- (2) The amount of each contribution;
- (3) A description of any donated property;
- (4) A description of the use of monies for presenting the Emancipation Day

Parade;

(5) The costs of parade-related programs, activities, and functions for which the monies have been expended.

(d) Monies may only be expended from the Fund for the administration of the Emancipation Day Parade.

Sec. 5. Applicability.

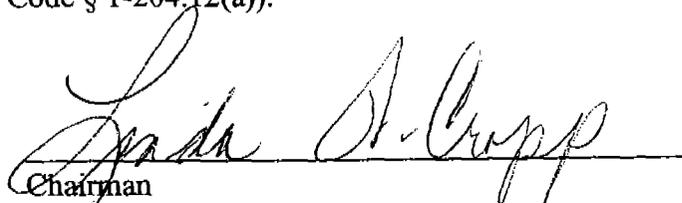
This act shall apply as of December 3, 2004.

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for Bill 16-670 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)).

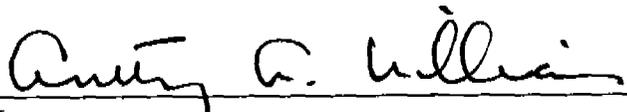
Sec. 7. Effective date.

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), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman

Council of the District of Columbia



Mayor

District of Columbia

APPROVED

December 29, 2004

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(5) "Entrance fee" means a payment that assures a resident a place in a facility for a term of at least a year or for life.

(6) "Hazardous financial condition" means a provider is insolvent or in imminent danger of becoming insolvent.

(7) "Independent living" means an individual residing in a continuing care facility's living unit with no need for specialized health care services beyond general preventative health care.

(8) "Living unit" means a room, apartment, cottage, or other area within a continuing care facility set aside for the exclusive use or control of one or more identified residents.

(9) "Nursing home" means a nursing home as defined in section 2(3) of the Health-Care and Community Residence Facility Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(3)).

(10) "Provider" means the promoter, developer, or owner, whether a natural person, partnership, or other unincorporated association, however organized, trust, or corporation, whether operated for profit or not, or any other person, that solicits or undertakes to provide continuing care services.

(11) "Resident" means a purchaser of, a nominee of, or a subscriber to, a continuing care contract.

Sec. 102. License.

(a) No provider shall engage in the business of offering or providing continuing care in the District without a license from the Department of Insurance, Securities, and Banking indicating that the provider meets the financial requirements under this title for engaging in the business of providing continuing care services.

(b) No provider shall be licensed by the Department of Insurance, Securities, and Banking unless the applicant demonstrates to the satisfaction of the Commissioner that it has:

(1) A business plan that reasonably demonstrates that it shall be able financially to provide the services that it contracts to provide;

(2) Sufficient capitalization and predictable cash flow to carry out its business plan; and

(3) Experienced managers and qualified financial experts associated with the organization who are capable of ensuring the proper operation of the facility.

(c) Each provider shall file with the Commissioner an application for a license on forms prescribed by rule and within a period of time prescribed by rule. The application shall include the disclosure statement meeting the requirements of this title and other financial and facility development information required by the rule. The application for a license shall be accompanied by an application fee established by rule.

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(d) Upon receipt of the complete application for a license in proper form, the Commissioner shall, within 10 business days, issue a notice of filing to the applicant. Within 90 days of the notice of filing, the Commissioner shall enter an order issuing the license or rejecting the application. If the Commissioner fails to act within 90 days of the notice of filing, the application shall be deemed denied.

(e) If the Commissioner determines that any of the requirements of this title have not been met, the Commissioner shall notify the applicant of any defects in the application and the applicant shall have 30 days in which to correct the application. If the requirements are not met within the time allowed, the Commissioner may enter an order rejecting the application, which order shall include the findings of fact upon which the order is based and which shall not become effective until 20 days after the end of the 30-day period. During the 20-day period, the applicant may petition for reconsideration of the application and shall be entitled to a hearing.

(f) The provider shall provide to the Commissioner the report of an actuary that:

(1) Estimates the capacity of the provider to meet its contractual obligation to the residents; or

(2) Gives consideration to expected rates of mortality and morbidity, expected refunds, and expected capital expenditures in accordance with standards promulgated by the American Academy of Actuaries, within a 5-year forecast period.

(g) Any license issued pursuant to this section for a provider of continuing care services shall be issued as a Financial Services endorsement to a basic business license under the basic business license system as set forth in subchapter 1-A of Chapter 28 of Title 47 of the District of Columbia Official Code.

(h) Nothing in this title shall require the Commissioner to review the disclosure statement and the issuance of a license under this title shall not constitute an approval of the disclosure statement or of any of the statements therein.

Sec. 103. Revocation of license.

(a) The license of a provider shall remain in effect until revoked after notice and hearing, upon written findings of fact, that the provider has:

- (1) Willfully violated any provision of this title or of any related rule or order;
- (2) Failed to file an annual disclosure statement or standard form as required by law;
- (3) Failed to deliver to prospective residents the required disclosure statements;
- (4) Delivered to prospective residents a disclosure statement that makes an untrue statement or omits a material fact and the provider, at the time of the delivery of the disclosure statement, had actual knowledge of the misstatement or omission;
- (5) Failed to comply with the terms of a cease and desist order; or
- (6) Been or is in imminent danger of being determined to be in a hazardous financial condition.

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(b) The Commissioner may suspend the license of a provider, after notice and hearing, for any of the violations in subsection (a) of this section and set forth the conditions necessary to correct the violations, including whether a provider can enter into new continuing care service contracts while suspended.

(c) The Commissioner may, in lieu of suspension or revocation of the license of a provider issued pursuant to this title, after notice and hearing, order a provider to take corrective action or levy an administrative penalty in an amount not more than \$50,000 per violation.

(d) Upon review of an order of the Commissioner revoking a license, a court may determine whether a factual finding by the Commissioner is clearly erroneous.

(e) If there is good cause to believe that the provider is guilty of a violation for which revocation could be ordered, the Commissioner may first issue a cease and desist order. The cease and desist order shall be subject to notice and hearing within 10 days of the order. If the cease and desist order is not or cannot be effective in remedying the violation, the Commissioner may, after notice and hearing, issue an order that the license be revoked and surrendered. The provider may accept new applicant funds while the revocation order is under appeal provided the funds are escrowed pending results of the appeal.

Sec. 104. Sale or transfer of ownership.

(a) No provider or other owning entity shall sell or transfer ownership of the facility, or enter into a contract with a third-party provider for management of the facility, unless the transfer or contract has been approved by the Commissioner. The Commissioner shall have 90 days from receipt of the transfer documents or contract in which to review and to approve or disapprove the transfer or contract. If the transfer or sales contract or third-party management contract is approved, the new provider or third-party manager shall have 90 days in which to meet the licensing requirements and to obtain a license to operate the facility in their own name. The Commissioner, with the consent of the applicant, may extend this 90-day period for up to an additional 60 days.

(b) Upon receipt of an application for the sale or transfer of ownership of the facility or for execution of a contract with a third-party provider for management of the facility, the Commissioner shall, within 10 business days, issue a notice of filing to the applicant. Within 90 days of the notice of filing, the Commissioner shall enter an order issuing the license or rejecting the application. If the Commissioner fails to act within 90 days of the notice of filing, the application shall be deemed denied.

Sec. 105. Disclosure statement.

(a) At least 30 days prior to the execution of a contract to provide continuing care, or 30 days prior to the transfer of any money or other property to a provider by or on behalf of a prospective resident, whichever occurs first, the provider shall deliver a current disclosure statement to the person with whom the contract is to be entered into. This 30-day period may be

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waived at the sole request of the prospective resident. The text of the disclosure statement shall contain at least:

- (1) The name and business address of the provider and a statement of whether the provider is a partnership, corporation, or other type of legal entity;
- (2) The names and business addresses of the officers, directors, trustees, managing general partners, any person having a 10% or greater equity or beneficial interest in the provider, and any person who shall be managing the facility on a day-to-day basis, and a description of these persons' interests in or occupations with the provider;
- (3) The following information on all persons named in response to paragraph (2) of this subsection:
 - (A) A description of the business experience, if any, of this person, in the operation or management of similar facilities;
 - (B) The name and address of any professional service firm, association, trust, partnership, or corporation in which the person has a 10% or greater interest and which it is presently intended shall currently or in the future provide goods, leases, or services to the facility, or to residents of the facility, including a description of the goods, leases, or services; and
 - (C) A description of any matter in which the person:
 - (i) Has been convicted of a felony or pleaded nolo contendere to a felony charge, or been held liable or enjoined in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or
 - (ii) Is subject to a currently effective injunctive or restrictive court order, or within the past 5 years, had any state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency or department, if the order or action arose out of or related to business activity of health care, including actions affecting a license to operate a foster care facility, nursing home, retirement home, home for aged, or facility subject to this title or a similar law in another state;
- (4) A statement as to whether the provider is, or is not, affiliated with a religious, charitable, or other nonprofit organization, the extent of the affiliation, if any; the extent to which the affiliate organization shall be responsible for the financial and contract obligations of the provider; and the provision of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*), if any, under which the provider or affiliate is exempt from the payment of income tax;
- (5) The location and description of the physical property of the facility, existing or proposed, and to the extent proposed, the estimated completion date, whether construction has begun, and the contingencies subject to which construction may be deferred;
- (6) The services provided or proposed to be provided pursuant to the contracts for continuing care at the facility, including the extent to which medical care is furnished, and a

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statement of which services are included for specified basic fees for continuing care and which services are made available at or by the facility at extra charge;

(7) A description of all fees required of residents, including the entrance fee and periodic charges, if any, which description shall include:

(A) A statement of the fees that shall be charged if the resident marries while at the facility, and a statement of the terms concerning the entry of a spouse or non-spouse to the facility and the consequences if the spouse or non-spouse does not meet the requirements for entry;

(B) The circumstances under which the provider may discharge or evict a resident for failure or inability to pay any amount due under the contract or for other violations of the contract;

(C) The terms and conditions under which a contract for continuing care at the facility may be canceled by the provider or by the resident, and the conditions, if any, under which all or any portion of the entrance fee or any other fee shall be refunded if the contract is cancelled by the provider or by the resident or if the resident dies prior to or following occupancy of a living unit;

(D) The conditions under which a living unit occupied by a resident may be made available by the facility to a different or new resident other than on the death of the prior resident; and

(E) The manner by which the provider may adjust periodic charges or other recurring fees and the limitations on these adjustments, if any, if the facility is already in operation, or if the provider or manager operates one or more similar continuing care locations within the District, tables shall be included showing the frequency and average dollar amount of each increase in periodic charges, or other recurring fees at each facility or location for the previous 5 years, or such shorter period as the facility or location may have been operated by the provider or manager);

(8) The health and financial condition required for an individual to be accepted as a resident and to continue as a resident once accepted, including the effect of any change in the health or financial condition of a person between the date of entering into a contract for continuing care and the date of initial occupancy of a living unit by the person;

(9) The provisions that have been made or shall be made to provide reserve funding or security to enable the provider to perform its obligations fully under contracts to provide continuing care at the facility, including the establishment of escrow accounts, trusts, or reserve funds, the manner in which these funds shall be invested, and the names and experience of any individuals in the direct employment or on the board of directors of the provider who shall make the investment decisions;

(10) Financial statements of the provider, certified by an independent certified public accountant as of the end of the most recent fiscal year or such shorter period of time as the provider shall have been in existence; provided, that if the provider's fiscal year ended more

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than 120 days prior to the date of the disclosure statement, interim financial statements as of a date not more than 90 days prior to the date of the statement shall be included, but need not be certified by an independent certified public accountant;

(11) If the facility has had an actuarial report prepared within the prior 2 years of the date of the disclosure statement, the summary of a report of an actuary that estimates the capacity of the provider to meet its contractual obligations to the residents;

(12) Financial forecasts for the facility for the next 5 years, including a balance sheet, a statement of operations, a statement of cash flows, and a statement detailing all significant assumptions, compiled by an independent certified public accountant;

(13) The estimated number of residents of the facility to be provided services by the provider pursuant to the contract for continuing care;

(14) Proposed or development stage facilities shall additionally provide:

(A) The summary of the report of an actuary estimating the capacity of the provider to meet its contractual obligation to the residents;

(B) Narrative disclosure detailing all significant assumptions used in the preparation of the forecast financial statements, including:

(i) Details of any long-term financing for the purchase or construction of the facility, including interest rate, repayment terms, loan covenants, and assets pledged;

(ii) Details of any other funding sources, including the provider of the funds and other funding sources, that the provider anticipates using to fund any start-up losses or to provide reserve funds to assure full performance of the obligations of the provider under contracts for the provision of continuing care;

(iii) The total life occupancy fees to be received from or on behalf of, residents at, or prior to, commencement of operations, and anticipated accounting methods used in the recognition of revenues from, and expected refunds of, life occupancy fees;

(iv) A description of any equity capital to be received by the facility;

(v) The cost of the acquisition of the facility or, if the facility is to be constructed, the estimated cost of the acquisition of the land and construction cost of the facility;

(vi) Related costs, such as financing any development costs that the provider expects to incur or become obligated for prior to the commencement of operations;

(vii) The marketing and resident acquisition costs to be incurred prior to commencement of operations;

(viii) A description of the assumptions used for calculating the estimated occupancy rate of the facility and the effect on the income of the facility of government subsidies for health care services; and

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(ix) Whether there are any plans anticipated to use any funds or to pledge any assets of this facility in the purchase or construction of any other facility or the purchase of any property not a part of this facility and for the purposes of the residents of this facility;

(15) Any other material information concerning the facility or the provider necessary to make the disclosed information not misleading; and

(16) In addition to any other requirements of this section, if a provider's continuing care agreement includes a provision to provide assisted living program services or nursing home services, and the provider does not execute a separate assisted living agreement, the disclosure statement shall contain, with regard to the assisted living program:

(A) The name and address and a description of each facility that the provider operates;

(B) A statement regarding the relationship of the provider to other providers or services if the relationship affects the care of the resident;

(C) A description of any special programming, staffing, and training provided by the program for individuals with particular needs or conditions, such as cognitive impairment or confinement to bed;

(D) The security practices and procedures which the provider shall implement to protect the resident and the resident's property;

(E) A statement of the obligations of the provider and the obligations and added charges, if any, to the resident or the resident's agent as to:

(i) Arranging for or overseeing medical care;

(ii) Monitoring the health status of the resident; and

(iii) Purchasing or renting essential or desired equipment and supplies; and

(F) An explanation of the assisted living program's and the nursing home component's complaint or grievance procedure.

(b) The cover page of the disclosure statement shall state, in a prominent location and in boldface type, the date of the disclosure statement, the last date through which that disclosure statement may be delivered if not earlier revised, and that the delivery of the disclosure statement to a contracting party before the execution of a contract for the provision of continuing care is required by this title but that the disclosure statement has not been reviewed or approved by any government agency or representative to ensure accuracy or completeness of the information set forth.

(c) A copy of the standard form of contract for continuing care used by the provider shall be attached to each disclosure statement.

(d) Rules adopted under this title may prescribe a standardized format for the required disclosure statement. The Mayor shall, when promulgating rules for standardized forms under

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this title, attempt to seek clarity and require that disclosure statements be written in language reasonably designed to be understandable to potential residents.

Sec. 106. Contract for continuing care; specifications.

(a) Each contract for continuing care shall provide that:

(1) The resident may rescind the contract within 30 days following the execution of the contract or the receipt of a disclosure statement that meets the requirements of this title, whichever is later, and the resident to whom the contract pertains shall not be required to move into the facility before the expiration of the 30-day period;

(2) If a resident dies before occupying a living unit in the facility, or if, on account of illness, injury, or incapacity, a resident would be precluded from occupying a living unit in the facility under the terms of the contract for continuing care, the contract shall be automatically canceled; and

(3) Except as provided in paragraph (4) of this subsection, for rescinded or canceled contracts under this title, the resident or the resident's legal representative shall receive a refund of all money or property transferred to the provider, less:

(A) Periodic charges specified in the contract and applicable only to the period a living unit was actually occupied by the resident;

(B) Those nonstandard costs specifically incurred by the provider or facility at the request of the resident and described in the contract or any contract amendment signed by the resident;

(C) Nonrefundable fees, if set forth in the contract; and

(D) A reasonable service charge, if set forth in the contract, not to exceed the greater of \$1,000 or 2% of the entrance fee; and

(4) A provider shall not deduct from a refund due for a rescinded or canceled contract non-refundable fees set forth in the rescinded or canceled contract or any service charge if the contract performance by the resident becomes impossible due to death or morbidity, and the resident did not occupy a living unit in the facility.

(b) Each contract shall include provisions that specify the following:

(1) The total consideration to be paid;

(2) Services to be provided and whether there shall be additional charges for services not included in the monthly fees;

(3) The procedures the provider shall follow to change the resident's accommodation if necessary for the protection of the health or safety of the resident or the general and economic welfare of the residents and the procedures the resident can use to contest the provider's decision to change the resident's accommodations;

(4) The policies to be implemented if the resident cannot pay the periodic fees;

(5) The terms governing the refund of any portion of the entrance fee if there is a discharge by the provider or cancellation by the resident;

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- (6) The policy regarding increasing the periodic fees;
- (7) The description of the living quarters;
- (8) Any religious or charitable affiliations of the provider and the extent, if any, to which the affiliate organization shall be responsible for the financial and contractual obligations of the provider;
- (9) Any property rights of the resident, including the right, if any, to an equity interest in the property;
- (10) The policy, if any, regarding fee adjustments if the resident is voluntarily absent from the facility;
- (11) A requirement, if any, that the resident have Medicare, Medicare supplement, or other medical or long-term care insurance apply for Medicaid, public assistance, or any public benefit program;
- (12) The policy of ownership of pets;
- (13) A requirement, if any, that the resident have Medicare, Medicare supplement, or other medical or long-term care insurance;
- (14) The procedures the residents shall follow to file a grievance and the procedures the provider shall follow to resolve the grievance and that the resident shall not be subject to retaliatory action for filing a grievance; and
- (15) The right of residents to bring a civil action to recover for injury resulting from violations of this title and its regulations.

(c) If a resident's continuing care agreement provides for assisted living services and, if the provider does not have an assisted living bed available at the facility when the resident needs the promised care, the provider shall provide the assisted living services the resident needs:

- (1) At the same rate the resident would have to pay if an assisted living bed was available; and
- (2) At the provider's option:
 - (A) In the resident's independent living unit; or
 - (B) In a nearby licensed assisted living facility.

(d) If a resident's continuing care agreement promises the provider shall provide the resident with comprehensive nursing care services if the resident needs them and, if the provider does not have a nursing care bed available when the resident needs the promised care, the provider shall provide the nursing care services needed as follows:

- (1) At the same rates a resident would have paid if a nursing bed were available; and
- (2) At the provider's option:
 - (A) In the resident's independent or assisted living unit; or
 - (B) In a nearby licensed comprehensive care facility.

(e) A provider shall pay any contractual entrance fee refund due under a continuing care agreement to which it is a party within 60 days of the agreement being terminated by a

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resident's election or death if, on the termination date, the unit has been occupied by or reserved for another resident who has paid an entrance fee.

(f) The resident's continuing care contract shall permit the resident to identify the resident's estate or the person or persons to whom payment shall be made if a refund is due by reason of the resident's death.

Sec. 107. Annual disclosure statement revision.

(a) Within 150 days following the end of each fiscal year, the provider shall file with the Commissioner a revised disclosure statement setting forth current information required. The provider shall also make the revised disclosure statement available to all the residents of the facility. The revised disclosure statement shall include a narrative describing any material differences between:

(1)(A) The forecast statements of revenues and expenses and cash flows or other forecast financial data filed pursuant to law as a part of the disclosure statement filed most immediately subsequent to the start of the provider's most recently completed fiscal year; and

(B) The actual results of operations during that fiscal year; and

(2) The revised forecast statements of revenues and expenses and cash flows or other forecast financial data being filed as a part of the revised disclosure statement filed at any other time if, in the opinion of the provider, revision is necessary to prevent an otherwise current disclosure statement from containing a material misstatement of fact or omitting a material fact required to be stated therein.

(b) Only the most recently recorded disclosure statement, with respect to a facility, and in any event, only a disclosure statement dated within one year plus 150 days prior to the date of delivery, shall be considered current for purposes of the law or delivered pursuant to this title.

Sec. 108. Operating reserves.

(a) All continuing care facilities shall maintain, after opening, operating reserves equal to 20% of the total operating costs projected for the 12-month period following the period covered by the most recent annual disclosure statement filed. The forecast statements as required shall serve as the basis for computing the operating reserve. In addition to total operating expenses, total operating costs shall include debt service, consisting of principal and interest payments and taxes and insurance on any mortgage loan or other long-term financing, but shall exclude depreciation, amortized expenses, and extraordinary items as may be approved by regulation. If the debt service portion is accounted for by way of another reserve account, the debt service portion may be excluded. The operating reserves may be funded by cash, invested cash, commercial paper, or by investment grade securities, including bonds, stocks, United States Treasury obligations, or obligations of United States government agencies.

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(b) A provider that has begun construction, has permanent financing in place, or is in operation on the effective date of this section has up to 5 years to meet the operating reserve requirements.

(c) The Commissioner may require a provider not meeting its reserve requirements established by subsection (a) of this section to place the reserves in an escrow account with a bank, trust company, or other escrow agent approved by the Commissioner.

(d) The notes to the provider's annual audited financial statements shall state whether or not the reserve requirements have been met.

(e) The Commissioner may allow withdrawal or borrowing from the reserves in an amount not greater than 20% of the provider's total reserves. The withdrawal or borrowing may be approved by the Commissioner only if required for making an emergency repair or replacement of equipment, to cover catastrophic loss that is not able to be covered by insurance, or for debt service in a potential default situation. No withdrawal or borrowing may be made from a reserve without the approval of the Commissioner pursuant to subsection (f) of this section. All funds borrowed shall be repaid to the reserve within 18 months in accordance with a payment plan approved by the Commissioner.

(f) Operating reserves shall only be released upon the submission of a detailed request from the provider or facility and shall be approved by the Commissioner. The request shall be submitted in writing for review by the Commissioner at least 10 business days prior to the date of withdrawal.

Sec. 109. Escrow, collection of deposits.

(a) All continuing care facilities both prior to and after opening shall maintain escrow accounts for the total amount of any entrance fee, or any other fee or deposit that may be applied toward the entrance fee, in the following instances:

(1) The amounts received if an applicant for residence in a continuing care facility or their guardian provide a deposit with their application prior to the applicant taking up residence in the continuing care facility;

(2) If an applicant for residence in a continuing care facility or their guardian provide a deposit with their application prior to the construction or occupancy of the facility; and

(3) If a revocation order for the provider's license as a continuing care facility is under appeal.

(b)(1) If an escrow account is required by this title, a provider shall establish an escrow account with:

(A) A bank;

(B) A trust company; or

(C) Another independent person or entity agreed upon by the provider and the resident, unless such account arrangement is prohibited by law.

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(2) The continuing care services contract shall provide that the total amount of any entrance fee, or any other fee or deposit that may be applied toward the entrance fee, received by the provider be placed in the escrow account. A facility may place a letter of credit, negotiable securities, or a security bond equal to the total amount of any entrance fee or any other fee or deposit in escrow in lieu of any other requirement of this section.

(3) If the funds are collected prior to the construction or occupancy of the facility, the funds shall be released only as follows:

(A) The first 25% of escrowed funds may be released when:

(i) The provider has pre-sold at least 50% of the independent living units, having received a minimum 10% deposit on the pre-sold units;

(ii) The provider has received a commitment for any permanent mortgage loan or other long-term financing, and any conditions of the commitment prior to disbursement of funds thereunder have been substantially satisfied; and

(iii) Aggregate entrance fees received or receivable by the provider pursuant to binding continuing care contracts, plus the anticipated proceeds of any first mortgage loan or other long-term financing commitment, are equal to:

(I) Not less than 90% of the aggregate cost of constructing or purchasing, equipping, and furnishing the facility; and

(II) Not less than 90% of the funds estimated in the statement of cash flows submitted by the provider as that part of the disclosure statement required by this title to be necessary to fund start-up losses and assure full performance of the obligations of the provider pursuant to continuing care contracts.

(B) The remaining 75% of escrowed funds may be released when:

(i)(I) The provider has pre-sold a minimum of 75% of the independent living units, having received a minimum 10% deposit on the pre-sold units, or has maintained an independent living unit occupancy of a minimum of 75% for at least 60 days;

(II) Construction or purchase of the independent living unit has been completed and an occupancy permit, if applicable, has been issued; and

(III) The living unit becomes available for occupancy by the new resident; or

(ii) The provider submits a plan of reorganization that is accepted and approved.

(c) If funds are escrowed under subsection (a)(1) or (3) of this section, upon receipt by the escrow agent of a request by the provider for the release of the funds, the escrow agent shall approve release of the funds within 5 working days unless the escrow agent finds that the requirements of subsection (b) of this section have not been met and notifies the provider of the basis for this finding. The request for release of the escrow funds shall be accompanied by any documentation the fiduciary requires.

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(d) Release of any escrowed funds that may be due to the subscriber or resident shall occur upon 5 working days' notice of death, nonacceptance by the facility, or voluntary cancellation. If voluntary cancellation occurs after construction has begun, the refund may be delayed until a new subscriber is obtained for that specific unit; provided, that the period for refund shall not exceed 2 years.

(e) If the provider fails to meet the requirements for release of funds held in the escrow account within a time period the escrow agent considers reasonable, the funds shall be returned by the escrow agent to the persons who have made payment to the provider. The escrow agent shall notify the provider of the length of this time period when the provider requests release of the funds.

(f) Facilities that currently meet the 75% pre-sales or the 75% occupancy requirements, as set forth in subsection (b)(3)(B) of this section, shall not be required to escrow entrance fees, unless otherwise required by the Commissioner.

(g) During any period exceeding 90 days during a calendar year, that the total value of any letter of credit, negotiable securities, or a security bond deposited in an escrow account by a provider pursuant to subsection (b) of this section is less than 5% of the total amount of any entrance fee or any other fee or deposit that may be applied toward the entrance fee received by the provider, the Commissioner may order the provider to:

(1) Increase the value of any letter of credit, negotiable securities, or a security bond deposited in an escrow account so that the total value of the deposits is equal to all entrance fees or any other fees or deposits that may be applied toward the entrance fee received by the provider;

(2) Provide substitute deposits in order that the total value in the escrow account is equal to all entrance fees or any other fees or deposits that may be applied toward the entrance fee received by the provider; or

(3) Deposit in the escrow account an amount of cash equal to all entrance fees or any other fees or deposits that may be applied toward the entrance fee received by the provider.

Sec. 110. Right to organization.

(a) A resident living in a facility registered under this title has the right of self-organization, the right to be represented by an individual of the resident's own choosing, and the right to engage in concerted activities to keep informed on the operation of the facility in which he or she is a resident or for other mutual aid or protection. Responsible family members and legal guardians of residents in the assisted living and nursing components have the same rights of organization.

(b) The facility shall provide space and other appropriate accommodations, including heat, light, and furnishings, for residents' organizations.

(c) The board of directors or other governing body of a continuing care facility or its designated representative shall hold annual meetings with the residents of the continuing care

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facility for free discussions of subjects including income, expenditures, and financial trends and problems as they apply to the facility and discussions of proposed changes in policies, programs, and services. Residents and guardians, legal representatives, or designees of residents shall be entitled to at least 7 days advance notice of each meeting. Residents in the assisted living and nursing components shall receive these notices, which also shall be sent to the legal guardians or responsible family members. An agenda and any materials that shall be distributed by the governing body at the meetings shall remain available upon request to residents and to guardians, legal representatives, or designees of residents.

(d) A provider that has a governing body shall include at least one resident as a full and regular member of the governing body who shall be selected by vote of the residents of the facility.

Sec. 111. Rehabilitation or liquidation.

(a) Application may be made to the Superior Court of the District of Columbia or to the federal bankruptcy court that may have previously taken jurisdiction over the provider or facility for an order directing or authorizing the appointment of a trustee to rehabilitate or to liquidate a facility if, at any time, it is determined, after notice and an opportunity for the provider to be heard, that:

(1) A portion of an entrance fee escrow account required to be maintained under this title has been or is proposed to be released in violation of this title;

(2) A provider has been or shall be unable, in such a manner as may endanger the ability of the provider, to fully perform its obligations pursuant to contracts for continuing care, to meet the financial forecasts previously filed by the provider;

(3) A provider has failed to maintain the escrow account required under this title; or

(4) A facility is bankrupt or insolvent, or in imminent danger of becoming bankrupt or insolvent.

(b) An order to rehabilitate a facility shall direct a trustee to take possession of the property of the provider and to conduct the business thereof, including the employment of such managers or agents as may be considered necessary and to take such steps as the court may direct toward removal of the causes and conditions which have made rehabilitation necessary.

(c) If, at any time, the court finds, upon petition of the trustee or provider, or on its own motion, that the objectives of an order to rehabilitate a facility have been accomplished and that the facility can be returned to the provider's management without further jeopardy to the residents of the facility, the court may, upon a full report and accounting of the conduct of the facility's affairs during the rehabilitation and of the facility's current financial condition, terminate the rehabilitation and, by order, return the facility and its assets and affairs to the provider's management.

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(d) If, at any time, it is determined that further efforts to rehabilitate the provider would be useless, application may be made to the court for an order of liquidation.

(e) An order to liquidate a facility:

(1) May be issued upon application of the Mayor whether or not there has been issued a prior order to rehabilitate the facility;

(2) Shall act as a revocation of the license of the facility under this title; and

(3) Shall include an order directing a trustee to marshal and liquidate all of the provider's assets located within the District.

(f) Unless preempted by federal law, the first \$500 of compensation or wages owed to an officer or employee of a continuing care provider for services rendered within 3 months before the commencement of a delinquency proceeding against the continuing care provider shall be paid before payment of any other debt or claim.

(g) Effective at the time a facility is first occupied by any resident, there shall exist a lien on the real and personal property of the provider or facility to secure the obligations of the provider pursuant to existing and future contracts for continuing care. A lien under this section shall be effective for a period of 10 years. The lien may be foreclosed upon the liquidation of the facility or the insolvency or bankruptcy of the provider and in that event the proceeds shall be used in full or partial satisfaction of obligations of the provider.

(h) If a provider is bankrupt or insolvent or has filed for protection from creditors under any federal bankruptcy or insolvency law, any resident or association of residents, or the legal representative of a resident or association of residents, may apply to the federal bankruptcy court for an order directing the appointment of a trustee to rehabilitate or liquidate a facility.

(i) In applying for an order to rehabilitate or liquidate a facility, in addition to the provisions of subsection (h) of this section, due consideration shall be given in the application to the manner in which the welfare of persons who have previously contracted with the provider for continuing care may be best served.

(j) An order for rehabilitation under this section shall be refused or vacated if the provider posts a bond, by recognized surety authorized to do business in the District and executed on behalf of persons who may be found to be entitled to a refund of entrance fees from the provider or other damages if the provider is unable to fulfill its contracts to provide continuing care at the facility, in an amount determined by the Court to be equal to the reserve funding that would otherwise need to be available to fulfill such obligations.

Sec. 112. Investigations and subpoenas.

For the purposes of any investigation or proceeding under this title, any person may be required or permitted by the Commissioner to file a statement in writing, under oath or otherwise, as to any of the facts and circumstances concerning the matter to be investigated.

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Sec. 113. Examinations; financial statements.

(a) Each provider shall keep and make available to the Commissioner at the provider's place of business any books and records that the Commissioner, by rule or regulation, requires to enable the Commissioner to enforce this title and any rule or regulation adopted under this title.

(b) Each provider shall retain for at least 3 years after final payment is made by a resident copies of any contract or agreement, records of payments received by the provider from a resident or a person on behalf of a resident, and such other papers or records relating to the loan as may be required by rule or regulation.

(c) On approval of the Commissioner, a provider shall not be required to maintain at the provider's place of business any books and records otherwise required by the Commissioner under subsection (a) of this section if the licensee:

(1) Makes the books and records available to the Commissioner at the licensee's place of business within 5 business days of the Commissioner's official request; and

(2) Retains the records for at least 60 months in a storage facility disclosed to the Commissioner.

(d) The Commissioner or his designee may, in the Commissioner's discretion, visit a provider or continuing care facility offering continuing care in the District to examine its books and records. The provider examined shall pay expenses incurred in conducting examinations under this section. These expenses may include the salary of the government employee based on the time spent conducting or supervising the examination, the fees of a third-party auditor, and reasonable and necessary out-of-pocket expenses incurred by the Department or third-party auditor.

Sec. 114. Civil liability.

(a) Any provider, facility, or person who enters into a contract for continuing care at a facility without having first delivered a disclosure statement meeting the requirements of this title to the person contracting for continuing care, or enters into a contract for continuing care at a facility with a person who has relied on a disclosure statement that omits to state, or misstates, a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading, shall be liable to the person contracting for continuing care for actual damages and repayment of all fees paid to the provider, facility, or person violating this title, less the reasonable value of care and lodging provided to the resident by or on whose behalf the contract for continuing care was entered into prior to discovery of the violation, misstatement, or omission or the time the violation, misstatement, or omission should reasonably have been discovered, together with interest thereon at the legal rate for judgments, court costs, and reasonable attorneys' fees. The interest shall accrue on the date of entering into a contract or when the resident or their

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representative knew or should have known of the violation, omission, or misstatement, whichever is later.

(b) Liability under this section shall exist regardless of whether the provider or person liable had actual knowledge of the misstatement or omission.

(c) A person shall not file or maintain an action under this section if the person, before filing the action, received a written offer of a refund of all amounts paid the provider, facility, or person violating this title, together with interest at the legal rate for judgments, less the current contractual value of care and lodging provided prior to receipt of the offer, and if the offer recited the provisions of this section and the recipient of the offer failed to accept it within 30 days of actual receipt. The interest shall begin to accrue on the date of entering into a contract or when the resident or their representative knew or should have known of the violation, omission, or misstatement, whichever is later. Nothing in this subsection shall prohibit the Mayor from bringing an action for a violation of this title.

(d) An action shall not be maintained to enforce a liability created under this title unless brought before the expiration of 3 years after the execution of the contract for continuing care that gave rise to the violation or the date when the resident or his or her representative knew or should have known of the violation, omission, or misstatement, whichever is earlier.

(e) The Mayor may impose civil penalties or take other action appropriate to correct violations of this title. The Mayor may bring an action to enforce this title.

Sec. 115. Criminal penalties.

(a) Any person who violates section 102(a), or makes, or causes to be made, in a document filed with the Commissioner or in any proceeding under this title, a statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect, shall be guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, be imprisoned for not more than one year, or both. All prosecutions under this subsection shall be upon information filed in the Superior Court of the District of Columbia in the name of the District by the Attorney General for the District of Columbia or any of his or her assistants.

(b) A person shall be guilty of fraud in the second degree, as defined in section 121(b) of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3221(b)), if the person, in connection with the offer, sale, or purchase of continuing care services, knowingly or intentionally:

(1) Employs a device, scheme, or artifice to defraud;

(2) Obtains money or property by means of an untrue statement of a material fact or an omission to state a material fact in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

(3) Engages in a transaction, practice, or course of business which operates, or would operate, as a fraud or deceit upon a person; or

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(4) In a matter within the jurisdiction of the Commissioner, falsifies, conceals, or covers up, by a trick, scheme, or device, a material fact, makes any false, fictitious, or fraudulent statement or representation, or makes or use any false writing or document, knowing the same to contain a false, fictitious, or fraudulent statement or entry.

(c) A person shall be guilty of fraud in the first degree, as defined in section 121(b) of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3221(a), if the person, by use of a plan, program, or campaign that is conducted using one or more telephones or other electronic means of communication for the purpose of inducing the purchase or sale of continuing care services, knowingly or intentionally :

(1) Employs a device, scheme, or artifice to defraud;

(2) Obtains money or property by means of an untrue statement of a material fact or an omission to state a material fact in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

(3) Engages in a transaction, practice, or course of business which operates, or would operate, as a fraud or deceit upon a person; or

(4) In a matter within the jurisdiction of the Commissioner, falsifies, conceals, or covers up, by a trick, scheme, or device, a material fact, makes any false, fictitious, or fraudulent statement or representation, or makes or use any false writing or document, knowing the same to contain a false, fictitious, or fraudulent statement or entry.

(d) The evidence which is available concerning violation of this title or of any rule or order under this title may be referred to the Attorney General for the District of Columbia who may, with or without such reference, institute the appropriate criminal proceedings under this title.

(e) Nothing in this title shall limit the power of the District to punish a person for conduct constituting a crime under other law.

Sec. 116. Other licensing or regulation.

Nothing in this title affects the authority of any agency otherwise provided by law to license or regulate any health service facility, domiciliary service facility, or food service.

Sec. 117. Rulemaking authority; reasonable time to comply with rules.

(a) The Mayor may promulgate rules to carry out and enforce the provisions of this title.

(b) Any provider who is offering continuing care shall be given a reasonable time, not to exceed one year from the date of publication of any applicable rules promulgated pursuant to this title, within which to comply with the rules and to obtain a license.

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Sec. 118. Continuing Care Retirement Community Regulatory and Supervision Trust Account.

All fees, fines, penalties, and assessments received by the Commissioner under this title shall be deposited in, and credited to, the Continuing Care Retirement Community Regulatory and Supervision Trust Account established by section 3(b-2) of the Insurance Regulatory Trust Fund Act of 1993, effective October 21, 1993 (D.C. Law 10-40; to be codified at D.C. Official Code § 31-1202(b-2)), and expended in accordance with section 3(b-2) of the Insurance Regulatory Trust Fund Act of 1993, effective October 21, 1993 (D.C. Law 10-40; to be codified at D.C. Official Code § 31-1202(b-2)).

Title II.

Sec. 201. The Insurance Regulatory Trust Fund Act of 1993, effective October 21, 1993 (D.C. Law 10-40; D.C. Official Code § 31-1201 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-1201) is amended by adding a new paragraph (1A-i) to read as follows:

Amend
§ 31-1201

“(1A-i) “Continuing Care Retirement Community Regulatory and Supervision Trust Account” or “Account” means the account established within the Insurance Regulatory Trust Fund for the purpose of administering the Continuing Care Retirement Communities Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-94), and for reasonable expenses incurred in promoting the continuing care retirement community industry in the District.”

(b) Section 3 (D.C. Official Code § 31-1202) is amended by adding a new subsection (b-2) to read as follows:

Amend
§ 31-1202

“(b-2)(1) There is established a separate account within the Insurance Regulatory Trust Fund for the purpose of administering the Continuing Care Retirement Communities Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-94), and for the reasonable expenses incurred in promoting the continuing care retirement community industry in the District. Continuing care retirement community providers conducting business in the District under the Continuing Care Retirement Communities Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-94), shall be exempt from the assessments imposed on insurers and health maintenance organizations under section 4. All fees, fines, penalties, and assessments received by the Commissioner under the administration of the Continuing Care Retirement Communities Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-94), shall be deposited in, and credited to, the Account.

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"(2) Subject to the applicable law relating to the appropriation of District funds, all funds in the Continuing Care Retirement Community Regulatory and Supervision Trust Fund Account shall be disbursed only upon the approval of the Commissioner.

"(c) At the end of each fiscal year, any funds in the Continuing Care Retirement Community Regulatory and Supervision Fund Account shall be applied against the budget for the ensuing year."

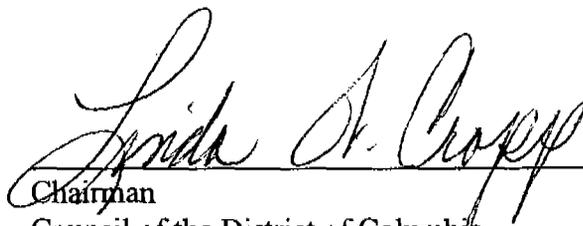
Title III.

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)).

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 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-662

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004Codification
District of
Columbia
Official Code

2001 Edition

2005 Winter
Supp.West Group
Publisher

To authorize the Mayor to provide loans, grants, and other economic assistance to construct and rehabilitate facilities used by certain not-for-profit organizations to develop, produce, conduct, and promote artistic, cultural, and educational activities, and to authorize the provision of economic assistance to Arena Stage.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Arts, Cultural, and Educational Facilities Support Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Arena Stage project" means the planning, development, acquisition, and construction of theater facilities and ancillary facilities to be located at 1101 6th Street, S.W., Washington, D.C. (Square 472, Lot 123).

(2) "Eligible organization" means an organization with real property described in D.C. Official Code § 47-1002(6), (7), (10), or (19) that has a signed lease for at least 10 years to carry out the purposes described in those paragraphs.

(3) "Capital costs" means the costs of materials and supplies for the construction, rehabilitation, renovation, or preparation of architectural or engineering plans for a physical facility located in the District.

(5) "Economic assistance" means a loan, grant, investment, or other form of expenditure of District monies.

Sec. 3. Authorization to provide public support for arts, cultural, and educational facilities.

(a) Subject to the appropriation of funds or the identification of legally available funds, the Mayor may provide economic assistance to an eligible organization to pay all or a portion of the capital costs incurred by that organization; provided, that:

(1) Economic assistance of \$1 million or more shall be approved by resolution of the Council;

(2) No economic assistance shall be provided unless the Mayor has made the findings required in subsection (c) of this section; and

(3) Except as authorized in section 4, no economic assistance shall be provided prior to the promulgation and approval of criteria and standards pursuant to section 5.

(b) All economic assistance provided under this act shall be provided pursuant to a written agreement between the eligible organization and the District. The agreement shall

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require that the economic assistance shall only be used by the eligible organization to pay its capital costs, and may require that organization to provide consideration or security to the District in exchange for the economic assistance. The agreement may contain other provisions as the Mayor may deem necessary or advisable to ensure that the economic assistance is used and accounted for in accordance with this act.

(c) The Mayor may provide economic assistance pursuant to subsection (a) of this section if the Mayor has determined that providing this assistance will:

- (1) Increase tax revenues that would not otherwise be received by the District if the economic assistance were not provided; or
- (2) Provide financial, economic, educational, cultural, or other social benefits to the District through the development and expansion of opportunities for District residents in commerce, employment, education, housing, the arts, recreation, or tourism.

Sec. 4. Economic assistance to Arena Stage.

(a) The Council finds that the Washington Drama Society is an eligible organization, and that the Arena Stage Project will contribute to the redevelopment of the southwest waterfront and provide financial, economic, educational, and cultural benefits to the residents of the District.

(b) Subject to the appropriation of funds or the identification of legally available funds, the Mayor is authorized to provide economic assistance to the Washington Drama Society for the Arena Stage Project in an amount not to exceed \$20 million.

Sec. 5. Rulemaking.

The Mayor shall promulgate rules and regulations, pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), setting forth the criteria and standards for providing economic assistance under this act.

Sec. 6. Report to Council.

Within 45 days after the end of each fiscal year, the Mayor shall submit to the Council a report that states in detail the amount of economic assistance provided under this act during the preceding fiscal year, and names the recipients of the economic assistance and their uses of that assistance.

Sec. 7. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by § 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206(c)(3)).

Sec. 8. Effective date.

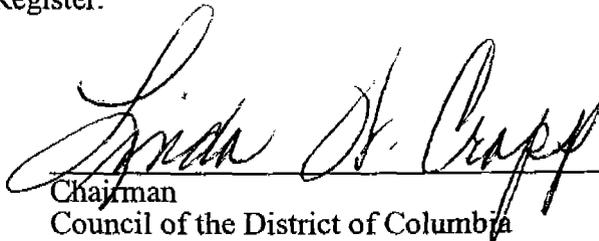
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in § 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,

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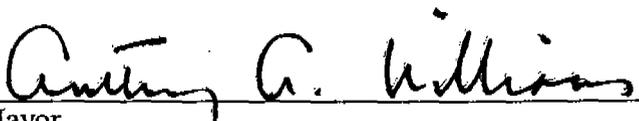
DISTRICT OF COLUMBIA REGISTER

ENROLLED ORIGINAL

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 29, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-663

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend section 47-820(a) of the District of Columbia Official Code to require that any real property tax assessment for a property receiving the homestead deduction that is revised by the Board of Real Property Assessment and Appeals shall be the basis for subsequent assessments of a property.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Equity in Real Property Tax Assessment Act of 2004".

Sec. 2. Section 47-820(a) of the District of Columbia Official Code is amended by adding a new paragraph (4) to read as follows:

Amend
§ 47-820

"(4) Notwithstanding paragraph (3) of this subsection, in the case of a property receiving the homestead deduction under § 47-850 or § 47-850.01 for which the most recent assessment has been changed as a result of an appeal to the Board of Real Property Assessment and Appeals in accordance with § 47-825.01, the reasons for the revised assessment determined by the Board shall be considered the basis for the subsequent valuation by the Mayor, who shall take into account the written decision of the Board and its reasoning in making the assessment, so long as the revised assessment is rendered by the Board on or before January 1."

Sec. 3. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

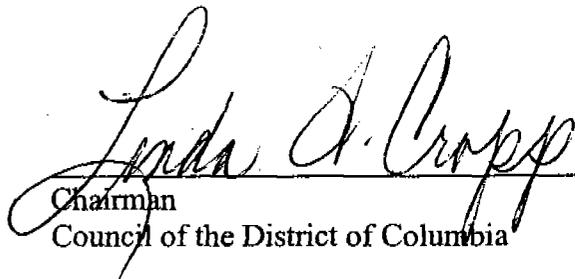
Sec. 4. Fiscal impact statement.

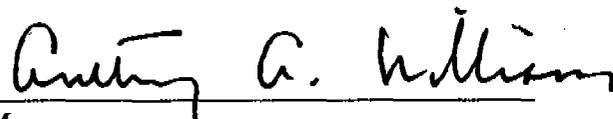
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 913; D.C. Code § 1-206.02(c)(3)).

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Sec. 5. 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 29, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-664

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
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To impose a parking meter fee moratorium on Saturday for up to 2 hours, unless current signage permits parking for a longer time, and on other days between 6:30 p.m. and 7:00 a.m.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Parking Meter Fee Moratorium Act of 2004".

Sec. 2. Parking meter fee moratorium; exceptions.

(a) Except as provided in subsection (b) of this section, no citation shall be issued for a parking meter fee violation at any time on a Saturday, or on other days between the hours of 6:30 p.m. and 7:00 a.m.

(b) No person shall park at a parking meter on a Saturday between 7:00 a.m. and 6:30 p.m. for more than 2 hours, unless current signage permits parking for a longer time. Failure to move the vehicle after 2 hours on a Saturday, between 7:00 a.m. and 6:30 p.m., shall constitute a violation unless current signage permits parking for a longer time.

(c) The Mayor may promulgate rules to exempt certain streets from the provisions of this act when necessary to accommodate special needs or situations identified by proximate businesses or District agencies, subject to approval by the Council.

Sec. 3. Fiscal impact statement.

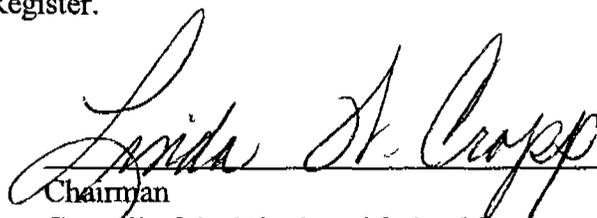
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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 § 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 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-665

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004Codification
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Official Code

2001 Edition

2005 Winter
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To amend the District of Columbia Latino Community Development Act to change the title of the head of the Office on Latino Affairs to "Director" and provide that the salary of the Director shall be set in accordance with the provisions for the Executive Service contained in Title X-A of the District of Columbia Merit Personnel Act of 1978.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Director of the Office of Latino Affairs Salary Amendment Act of 2004".

Sec. 2. Section 302 of the District of Columbia Latino Community Development Act, effective September 29, 1976 (D.C. Law 1-86; D.C. Official Code § 2-1312), is amended as follows:

Amend
§ 2-1312

(a) The first sentence is amended by striking the phrase "an Executive Director" and inserting the phrase "a Director" in its place.

(b) The third sentence is amended to read as follows:

"The salary of the Director shall be fixed in accordance with the provisions of 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 *et seq.*)."

Sec. 3. Fiscal impact statement.

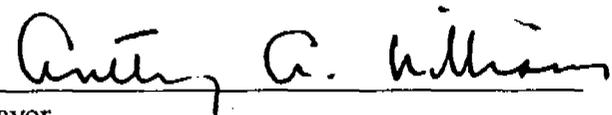
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813 D.C. Official Code § 1-206.02(c)(3)).

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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 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 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-666

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

*Codification
District of
Columbia
Official Code*

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Publisher

To amend Chapter 8 of Title 47 of the District of Columbia Official Code to allow for a real property tax rebate to public charter schools which pay real property tax through a lease agreement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as "Public Charter School Real Property Tax Rebate Act of 2004".

Sec. 2. Chapter 8 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows "47-867. Public charter school property tax rebate."

(b) A new section 47-867 is added to read as follows:

"§ 47-867. Public charter school real property tax rebate.

"(a) A public charter school that leases a school facility from an entity subject to tax under this chapter shall receive a rebate of that portion of the tax, if any, that represents the public charter school's pro rata share of the lessor's tax on the property if:

"(1) It is liable under the lease for the pro rata share of the tax;

"(2) It applies for the rebate of the tax on or before September 15 of the calendar year in which the school year ended; and

"(3) The lessor paid the tax.

"(b) The rebate shall be the amount of the portion of the tax paid by the public charter school.

"(c) The application shall include:

"(1) A copy of the lease; and

"(2) Documentation the tax has been paid.

"(d) If a proper application has been made, the Mayor shall rebate the tax on or before December 31 of the same calendar year."

New
§ 47-867

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Sec. 3. Applicability.

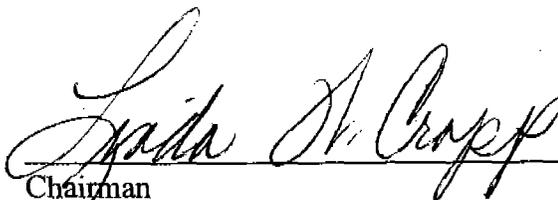
This act shall apply as of October 1, 2005, subject to inclusion in the budget and financial plan.

Sec. 4. 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. 5. 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 29, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-667

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

*Codification
District of
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Official Code*

2001 Edition

2005 Winter
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Publisher

To amend section 47-1042 of the District of Columbia Official Code to reconfirm and modify the exemption from real estate taxation for the property known as lot 60, square 625 and owned by the National Guard Association of the United States.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "National Guard Association of the United States Real Property Tax Exemption Reconfirmation and Modification Act of 2004".

Sec. 2. Section 47-1042 of the District of Columbia Official Code is amended to read as follows:

Note,
§ 47-1042

"The property situated in square 625 in the City of Washington, District of Columbia, described as lot 60, together with the improvements thereon, shall be exempt from all taxation so long as the property is owned by and titled in the name of the National Guard Association of the United States, a District of Columbia nonprofit corporation, is occupied by the Association, is used solely for purposes of the Association, and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009. The transfer of the property to the National Guard Association of the United States shall be exempt from all transfer and recordation taxes of the District of Columbia."

Sec. 3. Fiscal impact statement.

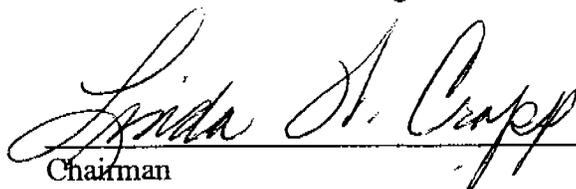
The Council adopts the fiscal impact statement contained in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813, D.C. Official Code §1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect on its enactment (approval by the Mayor, or in the event of veto by the Mayor, override of the veto by the Council), a 30-day period of Congressional

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review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-668

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

*Codification
District of
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2001 Edition

2005 Winter
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West Group
Publisher

To amend section 47-2005(7) of the District of Columbia Official Code to exempt from sales taxation goods sold at certain charity auctions, not more than 5 times a year, by a nonprofit teaching hospital.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Charity Auction Sales Tax Exemption Act of 2004".

Sec. 2. Section 47-2005(7) of the District of Columbia Official Code is amended as follows:

Amend
§ 47-2005

- (1) The existing text is re-designated as subparagraph (A).
- (2) A new subparagraph (B) is added to read as follows:

"(B) For the first 5 events during a calendar year, sales at a charity auction or other fundraising activity by a nonprofit teaching hospital;"

Sec. 3. Fiscal impact statement.

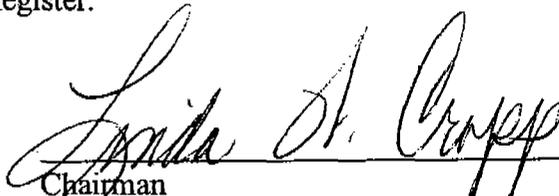
The Council adopts the fiscal impact statement contained in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

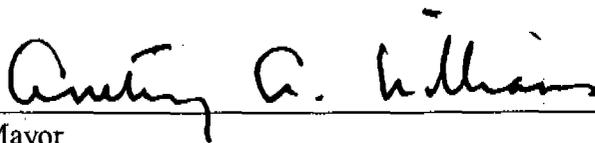
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 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 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-669

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification
District of
Columbia
Official Code

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend Chapter 31A of Title 12A of the District of Columbia Municipal Regulations to establish appropriate graphics for the Gallery Place Project.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Gallery Place Project Graphics Amendment Act of 2004."

Sec. 2. Chapter 31A of Title 12A of the District of Columbia Municipal Regulations (12A DCMR § 3105 *et seq.*), is amended by adding a new subsection 3107.18 to read as follows:

"3107.18 Rules for Gallery Place Project Graphics: The code official is authorized to issue a permit for "Gallery Place Project Graphics" as defined in Subsection 3107.18.1. Gallery Place Project Graphics shall be subject to the rules of this section and not to the rules in this chapter pertaining to billboards, poster panels, wall signs, Special Signs, and other specific types of signs, except those specific types of signs indicated below. Gallery Place Project Graphics shall not be subject to Section 3107.10 or other similar provisions of this chapter that limit the maximum size or height of signs, other than the limitations stated or incorporated into this section. All other provisions of this chapter shall apply, including, but not limited to, Subsections 3107.3.4 (permits for electrical signs), 3107.7.1 (projecting signs), 3107.7.2 (roof signs), 3107.7.3 (signs supported by projecting construction), 3107.7.4 (signs on awnings or similar projections); 3107.7.8 (signs on public space), 3107.11 (structural and materials requirements, 3107.13 (dangerous signs), and 3107.14 (obstructive signs). Nothing in this section, or any other provision of the Chapter, shall exempt the Gallery Place Project Graphics, or those graphics and visuals located in the public space immediately adjacent to the Gallery Place Project and provided for in section 3107.18.2, from Life Safety provisions of the Chapter including, but not limited to, sections 3107.3.4 (Permits for Electrical Signs), 3107.7.1 (Projecting Signs), 3107.7.2 (Roof Signs), 3107.7.8 (Signs on Public Space), 3107.11 (Structural and Materials Requirements), 3107.13 (Dangerous Signs), and 3107.14 (Obstructive Signs).

DCMR

"3107.18.1 Definitions: As used in this section, the following definitions apply:

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“Gallery Place Project: (a) The project described in D.C. Official Code § 47-2005(30)(B), except that the lots comprising the project have been combined and are now known as Lot 50 in Square 454; (b) the private alley located between the project and the property known as the MCI Center, Square 455, Lot 47, and (c) the northern facade of the MCI Center.

“Gallery Place Project Graphics: The outdoor graphics and visuals for the Gallery Place Project, including, but not limited to, banners, digital screens, digital video monitors, theater marquees, fixed and animated signs for commercial establishments located within the project, projectors for projecting static and moving images onto the Gallery Place Project, interactive kiosks, and images projected onto the façade of the Gallery Place Project.

“3107.18.2 Additional Requirements and Restrictions: In addition to all other applicable provisions of this chapter not exempted by subsection 3107.18, Gallery Place Project Graphics and those graphics and visuals located in the public space immediately adjacent to the Gallery Place Project shall be designed, located, erected, hung, placed, posted, painted, displayed, and maintained in compliance with the specifications, drawings, limitations and requirements set forth in Illustrations 1 through 6, published at 51 DCR 8952 - 8958 (September 17, 2004) which are incorporated by reference into this section (“the Illustrations”).

“3107.18.2.1. Flexibility on Character of Advertisement. Notwithstanding subsection 3107.6, Gallery Place Project Graphics located in those areas identified in the Illustrations as the “Corner Heroic Sign Area” or the “Additional Signage Area” may advertise businesses not located on the premises, including the goods and services sold at such business, provided that the businesses so advertised are located within the Gallery Place Project.

“3107.18.2.2 Displays of Video, Flashing, or Animation: Only that portion of a graphic or visual which is permitted by subsection 3107.6.1 to advertise products or commodities may display video, flashing, or animation.

“3107.18.2.3 Intensity or brilliance of signs: No Gallery Place Project Graphic shall have such intensity or brilliance as to cause glare or impair the vision of any driver, otherwise interfere with the driver's operation of a motor vehicle, or adversely impact an owner's enjoyment of residential property located within the Gallery Place Project.

“3107.18.2.4 Projection at certain locations. Notwithstanding 3107.7.1.1, the following specific rules apply to projecting Gallery Place Project Graphics:

“3107.18.2.4.1 No Gallery Place Project Graphic located in any area shown as cross-hatched in the Illustrations shall project more than 12 inches (304 mm) beyond the facade of the structure.

“3107.2.4.2 Gallery Place Project Graphics located in the “Storefront Signage Areas” depicted on the Illustrations may project no more than 48 inches (1219.20 mm) beyond the building line or building restriction line, on the street frontage of a building.

“3107.18.2.5 Revolving Signs. Notwithstanding 3107.7.11, revolving signs shall be permitted in the private alley located between the project and the property known as the MCI

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Center, Square 455, Lot 47, subject to the conditions of Subsections 3107.7.11.1 through 3107.7.11.7.

“3107.18.3 Gallery Place Project Graphics Permit: No Gallery Place Project Graphics may be erected, hung, placed, posted, painted, displayed, or maintained without the owner of such Gallery Place Project Graphic first obtaining a Gallery Place Project Graphics Permit from the Department in accordance with subsection 3107.18.4. A Gallery Place Project Graphics Permit authorizes the location, size, and design of the graphic or visual.

“3107.18.4 Gallery Place Project Graphics Permit Application: An application for a Gallery Place Project Graphics Permit shall be submitted by the owner to the Director of the Department, or his or her designee, on a form provided by the Department, and shall include the following:

“(1) Identification of: (a) the applicant; (b) the proposed location of the Gallery Place Project Graphics, by the street address of the building or premises and the face direction of the wall or surface (e.g., "northern-facing"); and (c) the proposed linear dimensions of the Gallery Place Project Graphics; and (d) such other information as the Director may require.

“(2) An affidavit signed by the applicant or his or her duly authorized representative, certifying that the applicant is in compliance with subchapter II of Chapter 28 of Title 47 of the District of Columbia Official Code.

“(3) A permit fee in the amount of one dollar (\$1.00) per square foot of the Gallery Place Project Graphics. The permit fee may be paid by check made payable to the order of the "D.C. Treasurer." The permit fee may be refunded to the applicant if the permit is not issued, in accordance with the provisions of Chapter 1 for the refund of unused permit fees.

“3107.18.5 Permit Applications Referrals: The Director of the Department, or his or her designee, shall refer all permit applications to the District Department of Transportation and the Office of Planning. The agencies shall have sixty (60) days from the referral date to submit a written report to the Director of the Department, except that the Director may allow for an extension of this period of up to thirty (30) days for good cause.

“3107.18.6 Effect of Adverse Report: No permit shall be granted if, within the time period provided in subsection 3107.18.5:

“(1) The Director of the Department of Transportation reports in writing that the location, size, or height above grade of the visual or graphic is objectionable with regard to vehicular traffic safety; or

“(2) The Director of the Office of Planning reports in writing that the proposed graphic or visual:

“(a) Does not comply with the specifications, drawings, limitations and requirements of the MOA; or

“(b) Would adversely impact the character and integrity of the Gallery Place Project.

“3107.18.7 Review, Approval, and Denial of Permit Applications: The Director of the Department, or his or her designee, shall review and approve or deny a Gallery Place Project

ENROLLED ORIGINAL

Graphics Permit application within twenty (20) days of after the expiration of the time period provided in subsection 3107.18.5. Gallery Place Project Graphics Permits shall be issued in the name of the applicant and shall pertain solely to the Gallery Place Project Graphics location identified on the permit.

"3107.18.7.1 Denial of Application: If the Director denies a Gallery Place Project Graphics Permit, the denial shall be in writing to the applicant and shall state the statutory or regulatory basis for the denial. The applicant shall have ten (10) business days from receipt of the denial to correct any defect in the application.

"3107.18.8 Applicability of Other Laws and Regulations Unaffected. Other than the exempted provisions of this chapter, the Gallery Place Project shall continue to be subject to all applicable rules and regulations, including, but not limited to, Chapter 24 of Title 10 (CHINATOWN DESIGN REVIEW PROCEDURES).

"3107.18.9 Enforcement of Regulations and Removal of Gallery Place Project Graphics: Any unauthorized Gallery Place Project Graphic (including Gallery Place Project Graphics without a permit) shall be taken down or removed within ten (10) days after receipt of written notification of violation from the Department. Following the expiration of this time period, the code official is authorized, through personnel of the Department or the Metropolitan Police Department, to remove or take down the unauthorized Gallery Place Project Graphic and to impose civil fines of no more than three dollars (\$3) per square foot of sign, per day that the unauthorized Gallery Place Project Graphic fails to be taken down or removed. Both the owner of the premises upon which the Gallery Place Project Graphic is displayed and the permit holder are responsible for taking down or removing the graphic or visual upon notification by the Department to do so, and both may be held responsible for any penalties or fines imposed for the violation. Additional enforcement measures may be taken pursuant to, and consistent with, the provisions of section 113, "Violations and Infractions."

"3107.18.10 Maintenance and repair. Whenever the code official finds that any Gallery Place Project Graphic is not maintained in good repair and has not deteriorated more than fifty percent (50%) of its replacement value, the code official shall notify the owner thereof and order him to repair the Gallery Place Project Graphic within a specified time but not less than 10 calendar days. If the code official finds that the Gallery Place Project Graphic has deteriorated more than fifty percent (50%) of its replacement value, or is not repaired within the time specified in the repair notice, the code official shall notify the owner of the Gallery Place Project Graphic and the owner of the real property on which said Gallery Place Project Graphic is located to remove the Gallery Place Project Graphic from the property within a specified time. Failure to comply shall subject said owners, upon conviction or adjudication, to the fines provided for in section 4 of AN ACT to regulate te erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia, approved March 31, 1931 (46 Stat. 1486; D.C. Official Code § 1-303.23), or to civil fines, penalties, and fees pursuant to Titles I through III of the Department of Consumer and

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Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*). The code official may extend the time periods stated in this subsection upon the owner's written showing of good cause.

"3107.18.11 Rulemaking Authority. Notwithstanding section 10 of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409), the Director may amend the provisions of this subsection and the specifications, drawings, limitations, and requirements of the Illustrations by rulemaking pursuant to section 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505), without submission of the proposed rules to the Council for its prior review and approval."

Sec. 3. Section 10 of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409), is amended by adding a new subsection (a-1) to read as follows:

Amend
§ 6-1409

"(a-1) Notwithstanding the provisions of subsection (a) of this subsection, the Mayor may amend the provisions of subsection 3107.18 of Title 12A of the District of Columbia Municipal Regulations (12A DCMR § 3107.18), including the specifications, drawings, limitations, and requirements of the Illustrations, as defined in subsection 3107.18.11 of Title 12A of the District of Columbia Municipal Regulations (12A DCMR § 3107.18.11), by rulemaking pursuant to section 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505), without submission of the proposed rules to the Council for its prior review and approval."

Sec. 4. Fiscal impact statement.

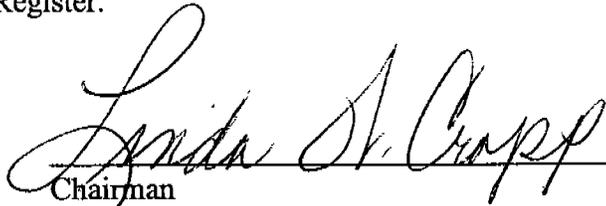
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

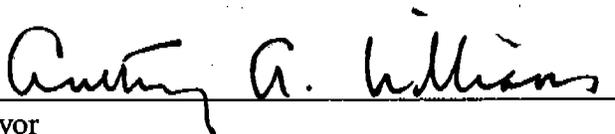
Sec. 5. Effective date.

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 § 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 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-670

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004Codification
District of
Columbia
Official Code

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend Title 47 of the District of Columbia Official Code to authorize the Mayor to promulgate rules governing the business of furnishing towing services for motor Vehicles, to require that the proposed rules be submitted to the Council for a 45-day period or review, to provide that if the Council does not approve or disapprove the proposed regulations, in whole or in part, by resolution, within this 45-day review period, the proposed regulations shall be deemed disapproved, and to authorize criminal and civil penalties for violating the District's regulations governing towing service for motor vehicles.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Towing Regulation and Enforcement Authority Act of 2004".

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

(a) The table of contents for Chapter 28 is amended by adding the phrase "47-2850. Rules and Regulations Governing the Business of Furnishing Towing Serviced for Motor Vehicles."

(b) A new section 47-2850 is added to read as follows:

"§ 47-2850. Rules governing the business of furnishing towing services for motor vehicles.

Amend
§ 47-2850

"(a) The Mayor is authorized, in accordance with 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.*), to:

"(1) Promulgate rules to govern the business of furnishing towing services for motor vehicles; and

"(2) Amend or repeal any provision of chapter 4 of Title 16 of the District of Columbia Municipal Regulations governing the business of furnishing towing services for motor vehicles.

"(b) Rules proposed pursuant to this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council

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recess. If the Council does not approve or disapprove the proposed regulations, in whole or in part, by resolution, within this 45-day review period, the proposed regulations shall be deemed disapproved.

“(c)(1) Any person who violates any of the rules promulgated pursuant to this section shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine not exceeding \$1,000 per violation, imprisonment for not more than 90 days, or both.

“(2) All prosecutions for violations of any rule or regulation issued pursuant to this section shall be in the Criminal Division of the Superior Court of the District of Columbia in the name of the District of Columbia by information signed by the Attorney General or one of his or her assistants.

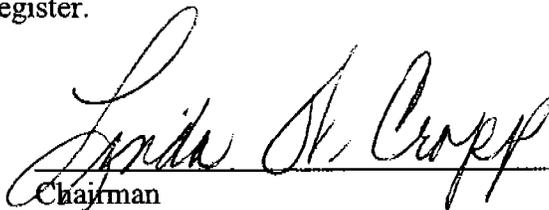
“(3) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the rules issued pursuant to this section, pursuant to Chapter 18 of Title 2. Adjudication of any infractions shall be pursuant Chapter 18 of Title 2.”

Sec. 3. Fiscal impact statement.

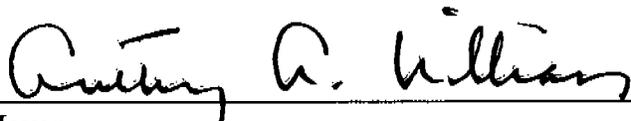
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602 (c)(3) of the Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

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 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 29, 2004
Codification District of Columbia Official Code, 2001 Edition

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-671

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

To authorize the appropriation of \$14.841 million from the funds distributed to the District of Columbia pursuant to section 903(d) of the Social Security Act to improve the administration of the Unemployment Compensation Program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Unemployment Compensation Funds Appropriation Authorization Act of 2004".

Sec. 2. From the funds distributed to the District of Columbia account in the Unemployment Compensation Trust Fund, pursuant to section 903(d) of the Social Security Act, approved August 5, 1954 (68 Stat. 670; 42 U.S.C. § 1103(d)), there is authorized to be appropriated \$7.6 million to be used for the following administrative purposes:

- (1) Parallel training of the staff of the Department of Employment Services ("DOES") to replace the expert contractor staff currently maintaining the unemployment compensation tax and benefits systems;
- (2) Funding for the maintenance of the information technology systems supporting the Unemployment Compensation Program and the Virtual One-Stop Career Center System and the development of a system for the direct deposit of unemployment compensation benefit payments;
- (3) Promotions for certain career ladder staff in the Offices of Unemployment Compensation and Employment Services of the Department of Employment Services; and
- (4) Funding to implement a system to improve the integrity of the Unemployment Compensation program and to reduce the level of overpayments, particularly those attributable to fraud or abuse of the program.

Sec. 3. From the funds distributed to the District of Columbia account in the Unemployment Compensation Trust Fund, pursuant to section 903(d) of the Social Security Act, approved August 5, 1954 (68 Stat. 670; 42 U.S.C. § 1103(d)), there is further authorized to be appropriated \$7.241 million to be used for the following administrative purposes:

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(1) Installation of a security application portal that will allow for one password to work on all DOES systems;

(2) Conversion of the Automated Benefit System from the present mainframe platform to a Web-based environment, which offers greater flexibility in service;

(3) Installation of the Benefit Audit, Recovery and Tracking System that will support the auditing of Unemployment Compensation benefit payments to verify that payments were made accurately, will identify improperly paid claims, and facilitate recapture of overpaid benefits;

(4) Install Unemployment Insurance ("UI") systems for the Educational Stepladder program as required by the Fiscal Year 2005 Budget Support Act of 2004, signed by the Mayor on August 2, 2004 (D.C. Act 15-487; 51 DCR 8441), and the Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004, effective October 26, 2004 (D.C. Act 15-594);

(5) Provide UI customers not enrolled in direct deposit program debit cards to access benefits;

(6) Provide residents with access to job listings by "spidering" association and corporate web pages;

(7) Provide for the exchange of data via a common database between the Web-Enabled Benefits Services benefit payment system and the Virtual One-Stop re-employment services;

(8) Install an automated customer service UI Help Desk;

(9) Change the Unemployment Compensation Benefit and Tax Systems Mainframe programming language from COBOL II to COBOL 390 as mandated by the Office of the Chief Technology Officer;

(10) Provide for changes to the automated tax system that are required by recently enacted federal legislation to detect and prevent State Unemployment Tax dumping, a manipulation by employers to inappropriately lower their UI tax rate; and

(11) To provide for the support of the Information Technology Support Center in Remote System Development.

Sec. 4. Fiscal impact statement.

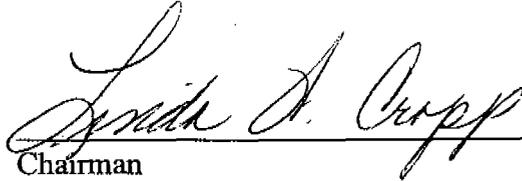
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

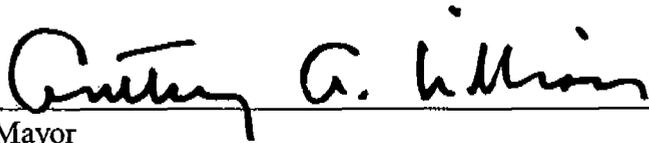
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 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 29, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-672

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 4, 2005

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend section 47-2501(a)(3) of the District of Columbia Official Code to modify the effective date of the gross receipts tax on home heating oil.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Heating Oil Clarification Act of 2004".

Sec. 2. Section 47-2501(a)(3) of the District of Columbia Official Code is amended by striking the phrase "December 31, 2002" and inserting the phrase "May 1, 2003" in its place.

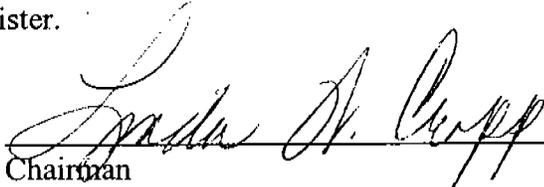
Amend
§ 47-2501

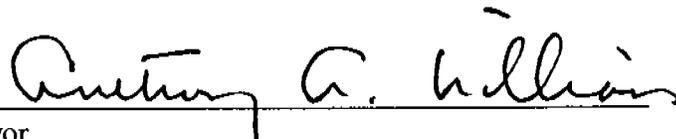
Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement contained 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 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

January 4, 2005
Codification District of Columbia Official Code, 2001 Edition

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

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-673

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004Codification
District of
Columbia
Official Code

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend the District of Columbia Procurement Practices Act of 1985 to further promote energy efficient choices within the District of Columbia by requiring the District government to procure Energy Star-labeled products.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Energy Star Efficiency Amendment Act of 2004".

Sec. 2. 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.*) ("Procurement Practices Act"), is amended as follows:

(a) Section 107 (D.C. Official Code § 2-301.07) is amended by adding a new paragraph (23E) to read as follows:

Amend
§ 2-301.07

"(23E) "Energy Star label" means a designation indicating that a product meets the energy efficiency standards set forth by the United States Environmental Protection Agency for compliance with its Energy Star program."

(b) Section 402 (D.C. Official Code § 2-304.02) is amended by adding a new subsection (c) to read as follows:

Amend
§ 2-304.02

"(c)(1) In any solicitation by an agency for the purchase or lease of energy-using products, the agency shall include a specification that the products be Energy Star labeled; provided, that there are at least 3 manufacturers that produce products with the Energy Star label, and that there are at least 3 responsible vendors offering Energy Star labeled products. Nothing in this subsection shall preclude an agency from including a specification in a solicitation for energy-using products requiring that the products be Energy Star-labeled if there are either fewer than 3 manufacturers that produce products with the Energy Star label or fewer than 3 responsible vendors offering Energy Star-labeled products.

"(2) This subsection shall not apply to procurements:

"(A) If federal or local funding precludes the District government from imposing the requirements of this subsection; or

"(B) That are emergency procurements pursuant to section 312."

ENROLLED ORIGINAL

"(3)(A) The Mayor shall designate an agency or office to develop and implement a plan for fulfilling the requirements of this section.

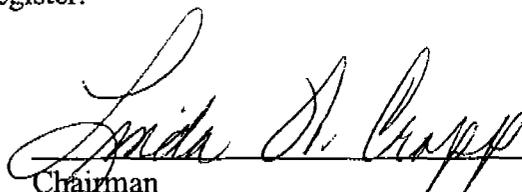
"(B) On or before May 1, 2005 and annually thereafter, the agency or office that the Mayor designates pursuant to this paragraph shall submit a report to the Council and the Mayor detailing the District's progress in meeting the requirements of this subsection."

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 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 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-674

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend the District of Columbia Unemployment Compensation Act to reduce pension offsets.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Unemployment Compensation Pension Offset Reduction Amendment Act of 2004".

Sec. 2. Section 7(c)(2) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 949; D.C. Official Code § 51-107(c)(2)), is amended by striking the sentence "For any week beginning after March 31, 1980, benefits payable for any week to an individual who has applied for or is receiving a retirement pension or annuity under a public or private retirement plan, including any such sum provided under title II of the Social Security Act, shall, under regulations prescribed by the Board, be reduced (but not below zero) by the prorated weekly amount of such retirement pension or annuity which is reasonably attributable to such week." and insert the sentence "For benefit years beginning on or after July 1, 2004, benefits payable to an individual who applied for or is receiving a retirement pension or annuity under a public or private retirement plan or system provided or contributed to by any base period employer shall, under duly prescribed regulations, be reduced (but not below zero) by the prorated weekly amount of such retirement pension or annuity which is reasonably attributable to such week, provided that the claimant has not made contributions to the pension or annuity." in its place.

Amend
§ 51-107

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)).

ENROLLED ORIGINAL

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 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 29, 2004

ENROLLED ORIGINAL

AN ACT
 D.C. ACT 15-675

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
 DECEMBER 29, 2004

*Codification
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 Columbia
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2005 Winter
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West Group
 Publisher

To amend the District of Columbia Unemployment Compensation Act to increase the maximum weekly benefit amount.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Unemployment Compensation Weekly Benefit Amount Amendment Act of 2004".

Sec. 2. Section 7(b)(2)(B) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 949; D.C. Official Code § 51-107(b)(2)(B)), is amended by adding as new sub-subparagraph (iii) to read as follows:

Amend
 § 51-107

"(iii) For benefit years commencing on or after the effective date of the Unemployment Compensation Weekly Benefit Amount Amendment Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-578), the maximum weekly benefit amount shall be \$359."

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 § 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 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-676

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

*Codification
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Publisher

To amend Chapter 10 of Title 47 of the District of Columbia Official Code to exempt certain property owned by Bread For The City, a tax-exempt organization, and to provide equitable real property tax relief to such property .

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Bread For The City Community Garden Equitable Real Property Tax Relief Act of 2004".

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

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

"47-1062. Bread For The City Community Garden."

(b) A new section 47-1062 is added to read as follows:

"§ 47-1062. Bread for the City Community Garden.

"The real property located in square 445, lots 198, 199, and 200, which is owned and used by Bread For The City as a community garden, is hereby exempt from all taxation so long as the property continues to be so owned and used, not used for commercial purposes, and subject to the provisions of §47-1005, § 47-1007, and §47-1009, as if the exemption were granted administratively under this chapter."

New
§47-1062

Sec. 3. Equitable property tax relief.

The Council of the District of Columbia orders that all real property taxes, interest, penalties, fees, and other related charges assessed against real property located at square 445, lots 198, 199, and 200, since October 1, 2002 through the first day of the month following the effective date of this act, be forgiven; provided, that this property is owned and used by Bread for the City as a community garden, which is available for use by the public, and not used for commercial purposes, and subject to the provisions of §47-1005, § 47-1007, and §47-1009, as if the exemption were granted administratively under this chapter.

ENROLLED ORIGINAL

Sec. 4. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 5. Fiscal impact statement.

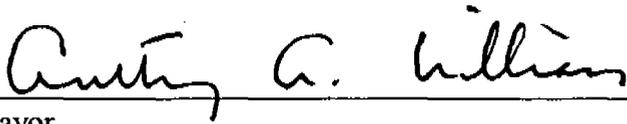
The Council adopts the fiscal impact statement contained in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 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 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 29, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-677

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

*Codification
District of
Columbia
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To amend Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain property of the Capitol Hill Community Garden Land Trust, a tax-exempt organization, and to provide equitable real property real property tax relief to the organization.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Capitol Hill Community Garden Land Trust Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2004".

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

(a) The table of contents is amended by adding the section designation "47-1061. Capitol Hill Community Garden Land Trust; lot 0109 in square 1100."

(b) A new section 47-1061 is added to read as follows:

"§ 47-1061. Capitol Hill Community Garden Land Trust; lot 0109 in square 1100.

"Upon the transfer of real property located at square 1100, lot 0109 to the Capitol Hill Community Garden Land Trust, the property shall be exempt from all taxation so long as the same is available for use by the public generally, not used for commercial purposes, and subject to the provisions of §§ 47-1005, 47-1007, and 47-1009 as if the exemption were granted administratively under this chapter."

New
§ 47-1061

Sec. 3. Equitable real property tax relief; exemption from transfer taxes, penalties, interest or fees.

(a) The Council orders that all real property taxes, interest, penalties, fees, and other related charges assessed against real property located at square 1100, lot 0109, since October 1, 1994 through the first day of the month following the effective date of this act, be forgiven, and that any payment already made for this period be refunded; provided, that this property is owned by the Capitol Hill Community Garden Land Trust, available for use by the public generally, and not used for commercial purposes.

ENROLLED ORIGINAL

(b) The one-time transfer of the property described in subsection (a) of this section to the Capitol Hill Community Garden Land Trust shall not be subject to any taxes, penalties, interest, or fees.

Sec. 4. Inclusion in the budget and financial plan.

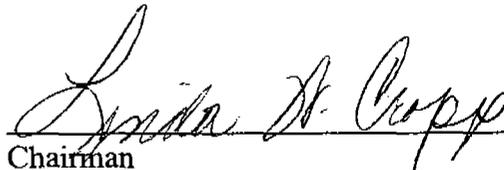
This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 5. Fiscal impact statement.

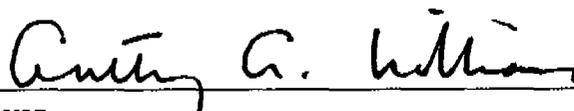
The Council adopts the fiscal impact statement contained in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 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 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 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-678

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
DECEMBER 29, 2004

*Codification
District of
Columbia
Official Code*

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2005 Winter
Supp.

West Group
Publisher

To extend the time period in which the Mayor may dispose of the Camp Simms site in Ward 8.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Disposal of District-Owned Surplus Real Property in Ward 8 Amendment Act of 2004".

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer needed for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended by adding a new subsection (d-2) to read as follows:

Amend
§ 10-801

"(d-2)(1) Notwithstanding subsection (d) of this section, the time period within which the Mayor may dispose of Square 5912, Lot 804 in Ward 8 in accordance with the Request for Proposals for the Disposition of Camp Simms Approval Resolution of 2000, effective December 5, 2000 (Res. 13-715; 47 DCR 9984), is extended to March 2, 2006.

"(2) This subsection shall apply as of December 5, 2002."

Sec. 3. Fiscal impact statement.

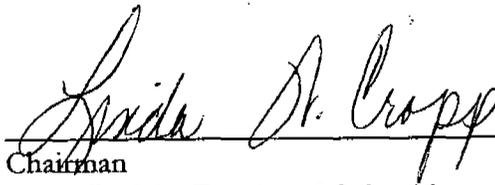
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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 § 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 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-679

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

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District of
Columbia
Official Code*

2001 Edition

2005 Winter
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West Group
Publisher

To amend the National Capital Revitalization Corporation Act of 1998 to authorize the National Capital Revitalization Corporation or the RLA Revitalization Corporation to exercise eminent domain at the Skyland Shopping Center, and to clarify the circumstances and procedures by which the National Capital Revitalization Corporation otherwise may exercise its eminent domain authority.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "National Capital Revitalization Corporation Eminent Domain Clarification and Skyland Eminent Domain Approval Amendment Act of 2004".

Sec. 2. Eminent domain authorization for Skyland Shopping Center redevelopment project.

(a) The Council finds the following:

(1) The communities east of the Anacostia River, including the areas near the Skyland Shopping Center, have lagged behind other communities in the District in economic development and have the highest unemployment rates in the District.

(2) Wards 7 and 8 including the neighborhoods surrounding the Skyland Shopping Center remain economically depressed and underserved by the amenities enjoyed by the rest of the District and nearby Maryland.

(3) One of the key reasons why these areas lag behind is because certain critical commercial locations are run down or blighted.

(4) The Skyland Shopping Center is a blighting factor in the Hillcrest and nearby communities.

(5) The Skyland Shopping Center is characterized by underused, neglected, and poorly maintained properties.

(6) These poor conditions of the Skyland Shopping Center have fueled crime and attracted criminal elements to the site and is likely to have increased the incidence of crime in the surrounding neighborhoods.

(7) The Skyland Shopping Center has been the site of a significant amount of stray and illegally dumped garbage, which the current owners have not removed in a timely

ENROLLED ORIGINAL

manner and which has created an eyesore and nuisance in the community.

(8) The layout of the current shopping center is unsafe for both motorists and pedestrians.

(9) The fragmented and often absentee ownership of the properties has exacerbated these problems by allowing individual owners to avoid responsibility for safety and the reduction of crime, trash, and other blighting factors.

(10) Neither the police nor the community have been able to secure the cooperation of the current owners to deal with the numerous problems at the site despite years of efforts.

(11) For over 15 years, residents near the shopping center have petitioned the District to become involved in the redevelopment of the area and the correction of conditions at the site.

(12) The National Capital Revitalization Corporation ("Corporation") has advised the Council that the Skyland Shopping Center is blighted and that current conditions are an impediment to the economic revitalization of this area of the District.

(13) The Corporation has proposed a redevelopment of the Skyland Shopping Center that will create hundreds of new jobs, attract businesses that are desired by the community, and stimulate economic activity east the Anacostia River.

(14) The assemblage of the properties comprising the Skyland Shopping Center is necessary to allow for the proposed redevelopment and it is highly unlikely that the properties could be assembled without the involvement of the District government and without the authority to exercise eminent domain by the Corporation.

(15) The assemblage of the properties comprising the Skyland Shopping Center and the construction of a new shopping center on the site, guided by the policies and requirements of the District government including the Corporation, will further many important public purposes including:

- (A) Removal of unsafe and unsanitary conditions;
- (B) Reduction of the incidence of crime;
- (C) Removal of garbage and other eyesores;
- (D) Reorganization and reorientation of the site to make it safer and more attractive;
- (E) Expansion of economic opportunities for residents of Wards 7 and 8;
- (F) Provision of needed job opportunities for residents of Wards 7 and 8;
- (G) Provision of needed retail options and other amenities for residents of Wards 7 and 8;
- (H) Revitalization of an economically distressed community; and
- (I) Increasing and diversifying the tax base of the District.

(16) The properties listed and described in section 20(c)(1) of the National

ENROLLED ORIGINAL

Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.19(c)(1)) are necessary and desirable for the public use.

Sec. 3. The National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 2-1219.01) is amended as follows:

Amend
§ 2-1219.01

(1) Add a new paragraph (30A) to read as follows:

“(30A) “Project area” means a geographic area designated by the Corporation, by a majority vote of the Board, for which the Corporation has developed a site and use plan that shall include the following elements:

“(A) The reasons for the designation of the project area;

“(B) A description of the project area including:

“(i) The total number of square feet or acres;

“(ii) A map that identifies the property; and

“(iii) A description of the physical and economic conditions

existing in the project area;

“(C) A description of the development proposed by the Corporation for the project area including:

“(i) A description of the buildings, other structures, parks, public spaces, or public amenities to be constructed or rehabilitated; and

“(ii) A description of the uses to be located on the site.

“(D) A description of how the development in the project area will improve or alleviate the conditions described in subparagraph (B)(iii) of this paragraph.”

(2) Add a new paragraph (36A) to read as follows:

“(36A) “Slum area” means an area where there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired or substandard by reason of dilapidation, deterioration, age, or obsolescence that:

“(A) Contribute to physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime; and

“(B) Endanger life or property by fire or other causes.”

(b) Section 8(b) (D.C. Official Code § 2-1219.07(b)) is amended by adding the phrase “shall be conducted pursuant to the following procedures and” after the phrase “any subsidiary thereof.”

Amend
§ 2-1219.07

(c) Section 20 (D.C. Official Code § 2-1219.19) is amended as follows:

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

Amend
§ 2-1219.19

(A) The lead-in language is amended as follows:

(i) Add the phrase “; provided, that references to the Mayor in subchapter II of Chapter 13 of Title 16 shall be deemed to be references to the chief executive officer of the Corporation for the purposes of this subsection” after the term “16-1316”.

ENROLLED ORIGINAL

(ii) Strike the phrase "to be a" and insert the phrase "to be" in its place.

(B) Paragraphs (1), (2), (3), and (4) are amended to read as follows:

"(1) A redevelopment district;

"(2) A project area;

"(3) A blighted area or slum area;

"(4) A blighted area, slum area, or substandard area within the meaning of the Redevelopment Act;"

(C) New paragraphs (5) and (6) are added to read as follows:

"(5) An area subject to an urban renewal or redevelopment plan; or

"(6) An area subject to a neighborhood development plan."

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

"(c)(1) Notwithstanding the provisions of subsections (a) or (b) of this section, the Council approves the exercise of eminent domain by the National Capital Revitalization Corporation or the RLA Revitalization Corporation for the following property: Square 5632, Lot 1; Square 5632, Lot 3; Square 5632, Lot 4; Square 5632, Lot 5; Square 5632, Lot 802; Square 5633, Lot 800; Square 5633, Lot 801; Square 5641, Lot 0010; Square 5641, Lot 0011; Square 5641, Lot 0012; Square 5641, Lot 0013; Square 5641, Lot 0819; Square 5641N, Lot 0012; Square 5641N, Lot 0013; Square 5641N, Lot 0014; Square 5641N, Lot 0015; Square 5641N, Lot 0016; Square 5641N, Lot 0017; Square 5641N, Lot 0018; Square 5641N, Lot 0019; Square 5641N, Lot 0020; Square 5641N, Lot 0021; Square 5641N, Lot 0022; Square 5641N, Lot 0023; Square 5641N, Lot 0024; Square 5641N, Lot 0025; Square 5641N, Lot 0026; Square 5641N, Lot 0027; Square 5641N, Lot 0028; Square 5641N, Lot 0029; Square 5641N, Lot 0030; Square 5641N, Lot 0031; Square 5641N, Lot 0033; Parcel 02130052; Parcel 02130060; Parcel 02130061; Parcel 02140062; Parcel 02140088; Parcel 02140104; Parcel 02140182; Parcel 02140187; Parcel 02140189; Parcel 02140190; Parcel 02140196; and any other parcel or property located within the geographic area bounded by a line beginning at a point at the intersection of the northerly line of Good Hope Road, S.E., with the northerly line of Alabama Avenue, S.E., and running northwesterly along said line of Good Hope Road, S.E., extended, to intersect a point on the east line of Naylor Road, S.E.; thence northwesterly along said line of Naylor Road to a point at the northwesterly corner of Lot 801 in Square 5633; thence northeasterly along the northerly line of said lot and square to a point at the westernmost corner of Parcel 213/52; thence continuing northeasterly along the northerly line of said Parcel 213/52 to a point at the southwesterly corner of Parcel 213/60; thence northwesterly along the arc of a curve, deflecting to the right, along the westerly line of said Parcel 213/60 to a point at the northernmost corner of said Parcel 213/60; thence southeasterly along the easterly lines of said Parcels 213/60 and 213/52 to a point at the northwesterly corner of Lot 33 in Square North of Square 5641; thence easterly along the north property lines of said Lot 33 and Lots 16 through 31, both inclusive, in Square north of Square 5641 to a point at the northeast corner of said Lot 31 in said square; thence south along the east line of said Lot 31 in said square to a point at the southeast corner thereof; thence westerly

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along the south lines of said Lots 31, 30, 29, 28, 27, 26, 25, 24, 23 and 22 in said square to a point at the southwest corner of said Lot 22 to intersect a line drawn northwesterly from the northeast corner of Lot 12 in Square North of Square 5641; thence southeasterly along said line drawn and the east line of said Lot 12 in said square to a point at the southeast corner thereof to a point that intersects a line drawn northwesterly from the northeast corner of Lot 13 in Square 5641; thence southeasterly along said line drawn and the east line of said Lot 13 in said square to a point at the southeast corner thereof; thence southwesterly along the south property lines of Lots 13 and 12 in Square 5641 to a point that intersects a line drawn northwesterly from the northeast corner of Lot 819 in Square 5641; thence southeasterly along said line drawn and the east line of said Lot 819 in said square to a point at the southeast corner of said Lot 819 in said square, on the north line of Alabama Avenue, S.E.; and thence southwesterly along the arc of a circle deflecting to the right along said line of Alabama Avenue, to the point of beginning.

“(2) The Corporation or the RLA Revitalization Corporation shall exercise eminent domain under this subsection in accordance with the provisions of subchapter II of Chapter 13 of Title 16; provided, that references to the Mayor in that subchapter II 16 shall be deemed to be references to the chief executive officer of the Corporation or the RLA Revitalization Corporation for the purposes of this subsection.

“(3) A condemnation proceeding brought under this section shall be brought in the name of the Corporation or the RLA Revitalization Corporation, and title to the properties shall be taken in the name of the Corporation or the RLA Revitalization Corporation.”.

Sec. 4. Fiscal impact statement.

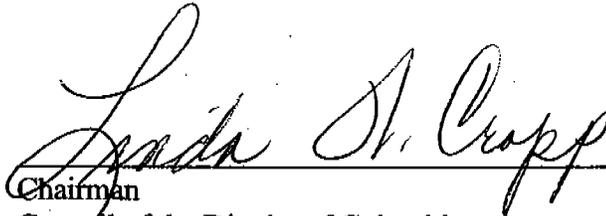
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

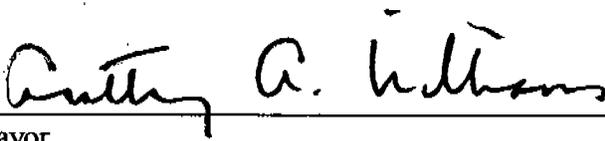
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,

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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 29, 2004