

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 19(a)(3) of the District of Columbia Pharmacist and Pharmacy Regulation Act of 1980, effective September 16, 1980, (D.C. Law 3-98; D.C. Official Code § 47-2885.18.01(a)(3)); the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981, (D. C. Law 4-29; D.C. Official Code § 48-901.01); Mayor's Order 98-48, dated April 15, 1998, Section 4902 of the Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001, (D.C. Law 14-28; D.C. Official Code § 7-731); Section 15 of the District of Columbia Drug Manufacture and Distribution Licensure Act of 1990, effective June 13, 1990, (D.C. Law 8-137; D.C. Official Code § 48-714(a)); and Mayor's Order 98-88, dated May 29, 1998; hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 13 (Prescriptions and Distribution) of Title 22 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The purpose of the amendments is to clarify the requirements for dispensing prescription by mail, to set forth the requirements for delivering prescriptions to patients, to set forth the requirements for dispensing non-controlled substances, to clarify and consolidate the requirements for distribution to another practitioner, supplier or a reverse distributor, and to amend the regulations concerning generic substitutions and dosage form substitutions, and to set forth the requirements for making therapeutic drug interchanges.

The following rulemaking action is proposed:**CHAPTER 13 (PRESCRIPTIONS AND DISTRIBUTION) is amended as follows:****Section 1308.1 is amended to read as follows:**

1308.1 The pharmacist filling a written or emergency oral prescription for a controlled substance listed in Schedule II shall affix to the package a label meeting the requirements set forth in § 1912.2 of this title.

Section 1312.1 is amended to read as follows:

1312.1 The pharmacist filling a prescription for a controlled dangerous substance listed in Schedule III, IV or V shall affix to the package a label meeting the requirements set forth in § 1912.2 of this title.

The section heading for 1315 is amended to read as follows:

1315 DELIVERY OF PRESCRIPTION MEDICATION BY MAIL OR CARRIER**Section 1315 is amended to read as follows:**

- 1315.1 This section shall apply to a pharmacy's delivery of filled prescriptions for individual patients by United States Postal Service, common carrier, employee or courier service to an address within the District of Columbia. Where a delivery is to an address outside of the District of Columbia, the pharmacy shall be governed by the laws of the state to which the prescription is being delivered.
- 1315.2 A licensed pharmacist shall supervise the dispensing of prescription drugs or devices by mail, common carrier, employee or courier service.
- 1315.3 The prescription shall contain all requirements specified for prescriptions as listed within this chapter and shall be packaged and sent in conformance with the applicable federal laws and regulations of the U.S. Department of Justice, Drug Enforcement Administration 21 CFR §§ 1300 *et seq.*, and the U.S. Postal Service 18 U.S.C. § 1716.
- 1315.4 A pharmacy may deliver the following by employee or courier, but shall not dispense the following by mail or common carrier:
- (a) Antibiotics that have been reconstituted;
 - (b) Prescription drugs generally recognized to be subject to significant deterioration due to heat, cold, fermentation, or prolonged agitation unless it can be documented that the drug was shipped according to industry recognized shipping standards; or
 - (c) Any other drug or device which federal or District law prohibits dispensing by mail.
- 1315.5 A Prescription drug or device shall be shipped by U.S. Postal Service, common carrier, employee, or courier service unless the purchaser agrees in advance to another means of delivery that does not violate the provisions of this chapter.
- 1315.6 Prescription drugs and medical devices dispensed by any method shall be packaged and sent in conformance with the applicable federal and District laws and regulations and standards pertaining to temperature, light, and humidity and in containers that are resistant to breaking, denting, and tampering.
- 1315.7 A prescription medication may be delivered to:
- (a) The patient for whom the prescription is prescribed;

- (b) Wherever the patient is located;
- (c) An agent authorized by the patient; or
- (d) The residence of the patient, regardless of whether the patient is present at the residence at the time of delivery.

1315.8 If a patient authorizes delivery of a prescription medication or device to an agent at a location other than the pharmacy or the patient's residence, the pharmacy shall document in a readily retrievable record:

- (a) The patient's authorization;
- (b) The identity of the agent to whom the medication is sent; and
- (c) The date, time; and location where the medication was sent.

Section 1320 is amended to read as follows:

1320 DISTRIBUTION BY A DISPENSER TO ANOTHER PRACTITIONER OR A REVERSE DISTRIBUTOR

1320.1 A practitioner who is authorized to dispense a controlled substance may distribute (without being registered to distribute) a quantity of the substance to:

- (a) A reverse distributor who is registered to receive controlled substances under federal and District law; or
- (b) Another practitioner for the purpose of general dispensing by the practitioner to his or her patients, provided that the following conditions are satisfied:
 - (1) The practitioner to whom the controlled substance is to be distributed is registered appropriately to dispense that controlled substance;
 - (2) The distribution is recorded by the distributing practitioner and by the receiving practitioner in accordance with 21 CFR § 1304.22(c);
 - (3) If the substance is listed in Schedule I or II, an order form shall be used as required by 21 CFR § 1305; and
 - (4) The total number of dosage units of all controlled substances distributed by the practitioner pursuant to this section, during the twelve (12) month period in which the practitioner is registered to dispense, does not exceed five percent (5%) of the total number of dosage units of all controlled substances distributed and dispensed by the practitioner during the twelve (12) month period.

- 1320.2 If at any time during the twelve (12) month period during which the practitioner is registered to dispense, the practitioner has reason to believe that the total number of dosage units of all controlled substances which will be distributed by him or her to another practitioner pursuant to this section will exceed five percent (5%) of the total number of dosage units of all controlled substances distributed and dispensed by him or her during the twelve (12) month period, the practitioner shall obtain a registration to distribute controlled substances.

Section 1321 is amended to read as follows:

1321 DISTRIBUTION TO SUPPLIER

- 1321.1 A person lawfully in possession of a controlled substance listed in any schedule may distribute (without being registered to distribute) that substance, to the person from whom he or she obtained it or to the manufacturer of the substance, or, if designated, to the manufacturer's registered agent for accepting returns, provided that a written record is maintained containing the following:
- (a) The date of the transaction;
 - (b) The name, form, and quantity of the substance;
 - (c) The name, address, and controlled substance registration number(s), if any, of the person making the distribution; and
 - (d) The name, address, and controlled substance registration number(s), if known, of the supplier or manufacturer.
- 1321.2 An order form shall be used in the manner prescribed in 21 CFR § 1305, and shall be maintained as the written record for a controlled substance listed in Schedule I or II which is returned. Any person not required to register pursuant to sections 302(c) or 1007(b)(1) of the Federal Act 21 USC § 822(c) or 957(b)(1) shall be exempt from maintaining the records required by this section.
- 1321.3 Distributions referred to in this section may be made through a freight forwarding facility operated by the person to whom the controlled substance is being returned provided that prior arrangement has been made for the return and the person making the distribution delivers the controlled substance directly to an agent or employee of the person to whom the controlled substance is being returned.

Section 1322 is amended to read as follows:

1322 DISTRIBUTION UPON DISCONTINUANCE OR TRANSFER OF BUSINESS

- 1322.1 A registrant desiring to discontinue business activities altogether or with respect to controlled substances (without transferring such business activities to another person) shall:
- (a) Return for cancellation his or her District of Columbia certificate of registration to the Director;
 - (b) Return for cancellation his or her federal registration certificate and any unexecuted order forms in his or her possession to the DEA; and
 - (c) Dispose of any controlled substances in his or her possession in accordance with 21 CFR § 1307.21.
- 1322.2 A registrant desiring to discontinue business activities altogether or with respect to controlled substances (by transferring those business activities to another person) shall submit in person or by registered or certified mail, return receipt requested, to the Director, at least fourteen (14) days before the date of the proposed transfer (unless the director waives this time limitation in individual instances) the following information:
- (a) The name, address, controlled substance registration number(s), and authorized business activity of the registrant discontinuing the business (registrant-transferor);
 - (b) The name, address, controlled substance registration number(s), and authorized business activity of the person acquiring the business (registrant-transferee);
 - (c) Whether the business activities will be continued at the location registered by the person discontinuing the business, or moved to another location (if the latter, the address of the new location shall be listed); and
 - (d) The date on which the transfer of controlled substances will occur.
- 1322.3 Unless the registrant-transferor is informed by the Director, before the date on which the transfer was stated to occur, that the transfer shall not be permitted to occur, the registrant-transferor may distribute (without being registered to distribute) controlled substances in his or her possession to the registrant-transferee in accordance with the following:
- (a) On the date of transfer of the controlled substances, a complete inventory of all controlled substances being transferred shall be taken in accordance with 21 CFR § 1304.11. This inventory shall serve as the final inventory of the registrant-transferor and the initial inventory of the registrant-transferee, and a copy of the inventory shall be included in the records of each person. It shall

not be necessary to file a copy of the inventory with the Director unless requested by the Director. Transfers of any substances listed in Schedule I or II shall require the use of order forms in accordance with CFR § 1305;

- (b) On the date of transfer of the controlled substances, all records required to be kept by the registrant-transferor with reference to the controlled substances being transferred, under 21 CFR § 1304, shall be transferred to the registrant-transferee. Responsibility for the accuracy of the records prior to the date of transfer shall remain with the transferor. Responsibility for the custody and maintenance of the records after the date of the transfer shall be upon the transferee; and
- (c) In the case of registrants required to make reports pursuant to 21 CFR § 1304, a report marked "Final" shall be prepared and submitted by the registrant-transferor showing the disposition of all the controlled substances for which a report is required; no additional report will be required from him or her, if no further transactions involving controlled substances are consummated by him or her. The initial report of the registrant-transferee shall account for transactions beginning with the day next succeeding the date of discontinuance or transfer of business by the transferor-registrant and the substances transferred to him or her shall be reported as recipients in his or her initial report.

Section 1323 is amended to read as follows:

1323 MANUFACTURE AND DISTRIBUTION OF CONTROLLED SUBSTANCE SOLUTIONS AND COMPOUNDS BY A PHARMACIST

- 1323.1 A pharmacist may manufacture (without being registered to manufacture) an aqueous or oleaginous solution or solid dosage form containing a narcotic controlled substance in a proportion that shall not exceed twenty (20%) of the complete solution, compound, or mixture.

A new section 1325 is added to read as follows:

1325 ISSUANCE OF NON-CONTROLLED SUBSTANCES

- 1325.1 A pharmacist shall dispense a non-controlled substance, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, or medical device pursuant to a valid written, oral, facsimile, or electronic prescription issued in compliance with this chapter by a licensed practitioner authorized to prescribe the substance or medical device.
- 1325.2 A prescription issued by a prescribing practitioner may be communicated to a pharmacist by an employee or agent of the individual practitioner only pursuant to the directions and order of the practitioner, and in conformance with applicable

federal and District of Columbia laws and regulations and this chapter.

- 1325.3 A prescription order shall be issued or dispensed only for a legitimate medical purpose by a prescribing practitioner acting in the usual course of his or her professional practice.
- 1325.4 The prescribing practitioner and the pharmacist shall be jointly responsible for compliance with this chapter in prescribing and dispensing a prescribed substance or medical device.
- 1325.5 Any person issuing a prescription and any person knowingly filling a prescription which is not in conformity with this chapter shall be subject to the penalties provided for violations of the Act and this chapter.
- 1325.6 Non-controlled substance prescriptions shall have a label affixed to the package meeting the requirements as set forth in § Chapter 19 of this Title.
- 1325.7 The label required in § 1325.6 does not apply to a prescription for a non-controlled substance that is prescribed for administration to a patient who is institutionalized if the following limitations are observed:
- (a) Not more than a thirty (30) day supply or one hundred (100) dosage units, whichever is less, of the prescription is dispensed at one time;
 - (b) The prescription controlled substance is not in the possession of the patient prior to administration;
 - (c) The institution maintains appropriate safeguards and records regarding the proper administration, control, dispensing, and storage of the prescription substance; and
 - (d) The system employed by the pharmacist in filling a prescription is adequate to identify the supplier, the product, and the patient, and sets forth the directions for use and cautionary statements, if any, contained in the prescription or required by law.
- 1325.8 A prescription for a non-controlled substance shall not be filled if presented for dispensing more than one (1) year after the date on which the prescription was issued.
- 1325.9 The total amount dispensed under one prescription order for a non-controlled substance, including refills, shall be limited to a one (1) year supply, not to exceed other applicable federal or District laws.
- 1325.10 Each refilling of a prescription shall be entered on the back of the prescription, or on another appropriate, uniformly maintained, readily retrievable record such as a

medication record. The following information must be retrievable by the prescription number:

- (a) The name of the drug or the name and manufacturer of the substituted drug if different than the originally prescribed or filled drug;
- (b) The dosage form of the drug dispensed;
- (c) The date of each refilling and the quantity dispensed;
- (d) The identity or initials of the dispensing pharmacist for each refill; and
- (e) The total number of refills for that prescription.

1325.11 If the pharmacist merely initials and dates the back of a prescription or in the electronic record, he or she shall be deemed to have dispensed a refill for the full face amount of the prescription.

1325.12 The prescribing practitioner may authorize additional refills of a non-controlled substance on the original prescription through an oral refill authorization transmitted to the pharmacist provided that the following conditions are met:

- (a) The total quantity authorized, including the amount of the original prescription, does not extend beyond one year from the date of issuance of the original prescription;
- (b) The pharmacist obtaining the oral authorization shall record the date, quantity of refill, and number of additional refills authorized, on the reverse of the original prescription and initial the prescription documenting that he or she received the authorization from the prescribing practitioner who issued the original prescription; and
- (c) The quantity of each additional refill authorized is equal to or less than the quantity authorized for the initial filling of the original prescription.

1325.13 Additional quantities of prescription non-controlled substances beyond the one year limitation, shall only be authorized by a prescribing practitioner through the issuance of a new and separate prescription.

1325.14 As an alternative to the procedures provided under § 1325.10 of this chapter, an automated data processing system may be used for the storage and retrieval of refill information for prescription drug orders and prescription records.

1325.15 The partial filling of a prescription for a non-controlled substance is permissible, if the pharmacist is unable to supply the full quantity called for in the prescription, and he or she makes a notation of the quantity supplied on the face of the written

or facsimile prescription (or written record of the oral prescription), provided that:

- (a) Each partial filling is recorded in the same manner as a refilling;
- (b) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed; and
- (c) No dispensing occurs beyond one year after the date on which the prescription was issued.

1325.16 A pharmacist shall notify the prescribing physician if:

- (a) The pharmacist is unable to dispense the remaining portion of a partially filled prescription for a prescription non-controlled substance within a reasonable period of time;
- (b) The inability to do so lies with the pharmacy; and
- (c) In the professional judgment of the pharmacist the delay may jeopardize or alter the drug therapy of the patient.

A new section 1326 is added to read as follows:

1326 **GENERIC SUBSTITUTION**

1326.1 A pharmacist may dispense a generically equivalent drug product if:

- (a) The generic product costs the payor less than the prescribed drug product;
- (b) The patient does not refuse the substitution; and
- (c) The prescribing practitioner does not indicate on the written, facsimile, or electronic prescription form that the specific prescribed brand is to be dispensed by marking "DISPENSE AS WRITTEN," "BRAND NECESSARY," "NO SUBSTITUTION," or other similar language.

1326.2 If a prescription is transmitted orally, the prescribing practitioner or the practitioner's authorized agent shall prohibit substitution by specifying "BRAND NECESSARY," "NO SUBSTITUTION," or other similar language.

1326.3 The formulary of drug products for the District of Columbia shall be the chemical and generic drugs contained in the publication, "Approved Drug Products with Therapeutic Equivalence Evaluations (also known as the Orange Book)", and its monthly updates. This drug formulary is incorporated by reference as a part of this chapter.

- 1326.4 A copy of the publication, "Approved Drug Products with Therapeutic Equivalence Evaluations," may be obtained from the Superintendent of Documents, Government Printing Office of the United States, Washington, DC 20402. The electronic version may be accessed on line at <http://www.fda.gov/cder/ob/default.htm> This URL is subject to change.

A new section 1327 is added to read as follows:

1327 SUBSTITUTION OF DOSAGE FORMS

- 1327.1 A pharmacist may dispense a dosage form of a drug product different from that prescribed, such as a tablet instead of a capsule or liquid instead of tablets, provided that:
- (a) The pharmacist notifies the patient of the dosage form substitution prior to filling the prescription;
 - (b) The pharmacist documents the substitution on the prescription record;
 - (c) The pharmacist notifies the practitioner of the dosage form substitution prior to dispensing or as soon as is reasonably possible thereafter; and
 - (d) The dosage form dispensed contains the identical amount of the active ingredients as the dosage prescribed for the patients, is not an enteric-coated or time release product; and does not alter desired clinical outcomes.
- 1327.2 The notification required in § 1327.1(c) shall not apply to those circumstances where the dosage form substitution is made in order to comply with the prescriber's intent, (i.e. physician prescribed tablets but the medication only comes in capsules.)
- 1327.3 Substitution of dosage form shall not include the substitution of a product that has been compounded by the pharmacist unless the pharmacist contacts the practitioner prior to dispensing and obtains permission to dispense the compounded product.

A new section 1328 is added to read as follows:

1328 THERAPEUTIC INTERCHANGE

- 1328.1 This section shall not apply to generic drug substitutions. For generic drug substitutions, see the requirements of § 1326 of this chapter.
- 1328.2 As used in this section, "therapeutic interchange" means the dispensing of chemically different drugs that are considered to be therapeutically equivalent.

- 1328.3 A therapeutic interchange shall not be made without the prior approval of the prescribing practitioner.
- 1328.4 The approval required pursuant to § 1328.3 may be in the form of a readily retrievable, written, documented policy maintained by the pharmacy which clearly indicates that the provider has intended to approve the therapeutic interchange.
- 1328.5 The patient shall be notified of the therapeutic interchange prior to, or upon delivery, of the dispensed prescription to the patient. The notification shall include:
- (a) A description of the change;
 - (b) The reason for the change; and
 - (c) Contact information indicating who the patient may contact with questions concerning the change.

A new section 1329 is added to read as follows:

1329 RETURN OF PRESCRIPTION DRUGS

- 1329.1 In the interest of the public health of the District of Columbia and the possible adverse effects which the resale of drugs may have upon the health of the public, it shall be unlawful for any licensed pharmacist to accept any unused prescription or drug, in whole or part, after it has been dispensed or sold, for the purpose of re-dispensing or resale to any person.

Section 1330 is repealed.

Section 1331 is repealed.

Section 1399.1 is amended as follows:

a) The following terms with the ascribed meanings are added as follows:

Automated medication system— A robotic, computerized, or mechanical device and its components that distributes medications in a licensed health care facility, or prepares medications for final dispensing by a licensed pharmacist to a patient or a patient's agent, and maintains related transaction information.

Board—The District of Columbia Board of Pharmacy established by the District of Columbia Health Occupations Revision of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01.)

Centralized automated medication system— An automated medication system located in a pharmacy from which medication is distributed or prepared for final dispensing by a licensed pharmacist for a specific patient.

Common carrier— An organization that transports persons or goods according to defined routes and schedules and offers its services to the general public such as FedEx and UPS.

Courier— An individual or entity that is hired to take parcels directly from one place to another.

DEA— The United States Drug Enforcement Administration

Decentralized automated medication system— An automated medication system that is located outside of the pharmacy in a health care facility with an on-site pharmacy and in which medication is stored in a manner that may be, but need not be, patient specific.

Dispensing pharmacist— A pharmacist who, in the process of dispensing a prescription medication after the complete preparation of the prescription medication and before delivery of the prescription medication to a patient or patient's agent, verifies, checks, and initials the medication record.

Non-Prescription drug— A drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws and rules of the District of Columbia and the federal government and includes both the classifications over-the-counter drugs and restricted drugs.

Restricted drug— A drug for which a prescription is not required that pursuant to District of Columbia or federal law or regulation must be stored behind the pharmacy counter and which shall not be directly accessible to the public.

Therapeutic interchange— The dispensing of chemically different drugs that are considered to be therapeutically equivalent.

Therapeutically equivalent drugs- Drug products that are chemically dissimilar but produce essentially the same therapeutic outcome and have similar toxicity profiles. Usually these drugs are within the same pharmacologic class. They frequently differ in chemistry, mechanism of action, and pharmacokinetic properties, and may possess different adverse reaction, toxicity, and drug interaction profiles.

All persons desiring to comment on the subject matter of this proposed rulemaking action shall submit written comments, not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 9:00 a.m. and 5:00 p.m. at the address listed above.

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to D.C. Code Section 6-203 (2007 Ed.), of its intent to adopt the following proposed amendments to selected provisions of Title 14 of the District of Columbia Municipal Regulations in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The DCHA's rulemaking authority is found in the District of Columbia Housing Authority Act of 1999 at D.C. Code, § 6-202.

The proposed amendments are to Chapter 60, Low Rent Housing: General Provisions; Chapter 61, Admissions and Recertification; and Chapter 62, Low Rent Housing: Rent and Lease. The amendments will enhance DCHA's Client Placement Division operations by allowing documents submitted by applicants to be considered valid for longer periods of time. Additionally, the floor will be increased for reported assets. Finally, clarification has been provided on imputed income, net income and annual income.

AMEND EXISTING SECTION 6099, DEFINITIONS, TO READ AS FOLLOWS:

Annual Income -- the anticipated total income from all sources received by the head of household and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets, for the twelve (12) month period following the effective date of initial determination or reexamination of income, exclusive of income that is temporary, nonrecurring or sporadic, and exclusive of certain other types of income specified in paragraphs (b) and (c) of this definition.

- (a) Annual Income includes, but is not limited to, the following:
- (1) The full amount, before any payroll deduction, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services;
 - (2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

- (3) Interest, dividends, and other net income of any kind from real or personal property greater than \$1,000 per year. Expenditures for amortization of capital indebtedness shall be used as deduction in determining net income. All allowance for depreciation is permitted only as authorized in paragraph (a)(2) of this definition. Net income from assets will be included in Annual Income for the purposes of this title if net income from assets exceeds \$1,000. Notwithstanding this threshold, all assets with a value greater than \$15,000 must be reported annually. Regardless of the value of the assets, imputed income from assets will not be included in Annual Income.

AMEND EXISTING SECTION 6106, ELIGIBILITY, TO READ AS FOLLOWS:

6106.6 During the eligibility interview, the Client Placement Division shall assist the applicant in completing any forms necessary. The following forms are to be completed or signed by the applicant:

* * * * *

- (b) Asset Certification Form - only assets with a value greater than \$15,000 or which generate a net income of greater than \$1,000 per year must be reported and documented. DCHA will rely on applicants certification as to value of assets and whether net income from assets exceeds the threshold established above;

ADD A NEW SUBSECTION TO SECTION 6106, ELIGIBILITY, TO READ AS FOLLOWS:

6106.13 Notwithstanding the time extensions provided to an applicant in this chapter to provide information, applicant may be required to provide updated information when information that is subject to change is greater than 60 days old if an eligibility determination has not been completed.

ADD A NEW SUBSECTION TO SECTION 6107, ELIGIBILITY DETERMINATION, TO READ AS FOLLOWS:

6107.10 Notwithstanding provisions which may appear elsewhere in this subtitle, a determination of eligibility for both public housing and HCVP under this chapter shall be valid for a period of 180 days from the date of said determination.

AMEND EXISTING SECTION 6111, PUBLIC HOUSING TENANT ASSIGNMENT, TO READ AS FOLLOWS:

6111.1 When an applicant reaches the top of the waiting list, DCHA shall review the applicant's file to determine whether the information is current and correct. Information shall be considered current if it was verified by DCHA within no

more than one hundred eighty (180) days prior to tenant assignment.

AMEND EXISTING SECTION 6200, RENT CALCULATIONS, TO READ AS FOLLOWS:

- 6200.1 Notwithstanding provisions which may appear elsewhere in this subtitle, each tenant shall pay, as tenant rent, one of the following:
- (a) Income-based rent as the greater of one twelfth (1/12) of thirty percent (30%) of adjusted income or one twelfth (1/12) of ten percent (10%) of annual income. The value of any assets or imputed income from assets will not be used in the calculation of income based rent. Actual net rent from assets greater than the threshold described above will be included in the determination of adjusted income.

All persons desiring to comment on the subject matter of this rulemaking should file comments in writing no later than thirty (30) days after the publication of this Notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, DCHA, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599; copies of these rules may be obtained from DCHA at that same address. Alternatively, copies of the rules can be requested from and comments can be sent to Patricia Gracyalny, Senior Counsel, Office of the General Counsel, District of Columbia Housing Authority, at patricia.gracyalny@dchousing.org.

DISTRICT OF COLUMBIA HOUSING FINANCE AGENCY**NOTICE OF PROPOSED RULEMAKING**

The Executive Director of the District of Columbia Housing Finance Agency (“DCHFA”), pursuant to the authority set forth in § 308 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Official Code § 42-2703.08), hereby gives notice of intent to adopt the following proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The purpose of the proposed rulemaking is to establish procedures for evictions, protections for tenants from retaliatory actions by housing providers, and relocation assistance in accordance with § 501 through § 506 and §701 through §705 of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*). For questions or comments contact Xavier Beltran, Associate General Counsel, District of Columbia Housing Finance Agency, 815 Florida Avenue, N.W., Washington, DC 20001.

Title 10 DCMR is amended by adding new chapters 70 through 78 to read as follows:

CHAPTER 70 HFA: PROCEDURES FOR EVICTIONS**7000 EVICTIONS**

- 7000.1 Except as provided in this chapter, no Tenant shall be evicted from a rental unit, notwithstanding the expiration of the Tenant's lease or rental agreement, so long as the Tenant continues to pay the rent to which the Housing Provider is entitled for the rental unit. No Tenant shall be evicted from a rental unit for any reason other than for nonpayment of rent unless the Tenant has been served with a written notice to vacate which meets the requirements of this chapter. A copy of the notice to vacate shall be delivered to the DCHFA not more than five (5) Business Days after service on the Tenant. The Housing Provider shall serve a copy of the notice to vacate on the DCHFA only if an action has been brought seeking possession of the rental unit in the Superior Court of the District of Columbia and the basis for the intended eviction is the non-payment of rent.
- 7000.2 A Housing Provider may recover possession of a rental unit, where the Tenant is violating an obligation of tenancy, the Housing Provider has given the Tenant a notice to correct or vacate and the Tenant fails to correct the violation within thirty (30) Calendar Days after receiving a notice to correct the violation or vacate.

- 7000.3 The DCHFA shall make the determination, upon review, that a notice to vacate meets the requirements of this section and the D.C. Official Code when a Tenant has received a 30 calendar day notice to vacate from the Housing Provider and a court of competent jurisdiction has determined that the Tenant or a person occupying the premises with or in addition to the Tenant has performed an illegal act within the rental unit or the housing accommodation. The DCHFA shall make the determination that a notice to vacate meets the requirements of this section and the D.C. Official Code only if the court of competent jurisdiction finds that the Tenant knew or should have known that an illegal act was taking place.
- 7000.4 A Housing Provider may recover possession of a rental unit where the Housing Provider has in good faith contracted in writing to sell the rental unit or the housing accommodation in which the unit is located for the immediate and personal use and occupancy by another person, so long as the Housing Provider has notified the Tenant in writing of the Tenant's right and opportunity to purchase as provided in chapter 34 of the Rental Housing Act of 1985. The Housing Provider shall serve on the Tenant a ninety (90) Calendar Day notice to vacate in advance of the Housing Provider's action to recover possession of the rental unit. No person shall demand or receive rent for any rental unit which has been repossessed under this subsection during the twelve (12) month period beginning on the date on which the rental unit was originally repossessed by the Housing Provider.
- 7000.5 A Housing Provider may recover possession of a rental unit for the immediate purpose of making alterations or renovations to the rental unit which cannot safely or reasonably be accomplished while the rental unit is occupied, so long as:
- (a) An Application for Alterations or Renovations, which shall include plans for the alterations or renovations, has been filed by the Housing Provider with the DCHFA;
 - (b) The Tenant has had twenty one (21) Calendar Days, after receiving a written notice from the Housing Provider of the submission of the Application for Alterations or Renovations and plan for alterations to the DCHFA, to file comments with the DCHFA and the Housing Provider on the impact that an approved Application for Alterations or Renovations would have on the Tenant or any household member, and on any statement made in the Application for Alterations or Renovations;
 - (c) An inspector from either the Department of Consumer and Regulatory Affairs or the DCHFA has inspected the housing accommodation for the accuracy of material statements in the Application for Alterations or Renovations and has reported his or her findings to the DCHFA;

- (d) On or before the filing of the Application for Alterations or Renovations, the Housing Provider has given the Tenant notice of the Application for Alterations or Renovations, notice of all Tenant rights, a list of sources of technical assistance as published in the District of Columbia Register by the Mayor, a summary of the plan for the alterations and renovations to be made, and notice that the plan in its entirety is on file and available for review at the office of the DCHFA; and
- (e) The DCHFA has determined in writing that the proposed alterations and renovations cannot safely or reasonably be made while the rental unit is occupied, whether the alterations and renovations are necessary to bring the rental unit into compliance with the housing code, that the Tenant shall have the right to reoccupy the rental unit, and that the proposal is in the interest of each affected Tenant after considering the physical condition of the rental unit or the housing accommodation and the overall impact of relocation on the Tenant.

7000.6

As part of the Application for Alterations or Renovations under subsection 7000.5, a Housing Provider shall submit to the DCHFA for review and approval, the following plans and documents:

- (a) A list of the proposed alterations;
- (b) If the proposed alterations shall require building permits, a copy of each permit;
- (c) A detailed statement setting forth why the alterations and renovations are necessary and why they cannot safely or reasonably be accomplished while the rental unit is occupied;
- (d) A copy of the notice that the Housing Provider has circulated informing the Tenant of the Application for Alterations or Renovations under subsection 7000.5;
- (e) A draft of the notice to vacate to be issued to the Tenant if the Application for Alterations or Renovations is approved by the DCHFA;
- (f) A timetable for all aspects of the plan for alterations and renovations, including:
 - (1) The relocation of the Tenant from the rental unit and back into the rental unit;
 - (2) The commencement of the work, which shall be within a reasonable period of time, not to exceed one hundred twenty (120) Calendar Days, after the Tenant has vacated the rental unit;

- (3) The completion of the work; and
 - (4) The Housing Provider's submission to the DCHFA of periodic progress reports, which shall be due at least once every sixty (60) Calendar days until the work is complete and the Tenant is notified that the rental unit is ready to be reoccupied; and
- (g) A relocation plan for each Tenant that provides:
- (1) The amount of the relocation assistance payment, in accordance with D.C. Official Code § 42-3507.03, for each unit;
 - (2) A specific plan for relocating each Tenant to another unit in the housing accommodation or in a complex or set of buildings of which the housing accommodation is a part, or, if the housing provider states that relocation within the same building or complex is not practicable, the reasons for the statement;
 - (3) If relocation to a rental unit pursuant to the relocation plan required by this subsection is not practicable, a list of units within the Housing Provider's portfolio of rental accommodations made available to each dispossessed Tenant, or, where the Housing Provider asserts that relocation within the housing provider's portfolio of rental accommodations is not practicable, the justification for such assertion;
 - (4) If relocation to a rental unit under the relocation plan is not practicable, a list for each Tenant affected by the relocation plan of at least three (3) other rental units available to rent in a housing accommodation, each of which shall be a Comparable Unit to the rental unit in which the Tenant currently lives; and
 - (5) A list of Tenants with their current addresses and telephone numbers.

7000.7

Upon receipt of the Application for Alterations or Renovations, the DCHFA:

- (a) Shall, within five (5) Business Days of receipt of the Application for Alterations or Renovations, issue a notice, which shall include the address and telephone number of the Office of the Tenant Advocate, to each affected Tenant via First Class Mail stating that the Tenant:
 - (1) Has the right to review or obtain a copy of the Application for Alterations or Renovations, including all supporting documentation, at the rental office of the Housing Provider and the office of the DCHFA;

- (2) Shall have twenty one (21) Calendar Days in which to file with the DCHFA and serve on the Housing Provider comments upon any statement made in the Application for Alterations or Renovations, and on the impact an approved Application for Alterations or Renovations would have on the Tenant or any lawful household member under the lease; and
 - (3) May consult the Office of Tenant Advocate with respect to ascertaining the Tenant's legal rights, responding to the Application for Alterations or Renovations or to any ancillary offer made by the housing provider, or otherwise safeguarding the Tenant's interests;
- (b) Shall either approve or deny in accordance with this chapter the Application for Alterations or Renovations within ten (10) Business days after the expiration of the period afforded to Tenants for comments under paragraph (2) of sub-subsection 7007.7(a). An approval shall be based on a determination by the DCHFA that the alterations or renovations are necessary to bring the rental unit into substantial compliance with the housing code. A disapproval shall be based on a determination by the DCHFA that the alterations or renovations are not necessary to bring the rental unit into substantial compliance with the housing code;
 - (c) At any time prior to the approval of the Application for Alterations and Renovations, may consider recommendations from the Office of the Tenant Advocate in determining whether the Housing Provider has complied with the requirements of this section and whether the interests of the Tenants are being protected; and
 - (d) Upon the approval of the Application for Alterations or Renovations, shall require the Housing Provider to provide a registry of the affected Tenants. The Housing Provider shall also notify, in writing and via registered mail, each affected Tenant of their right to maintain his or her tenancy and the need to keep the DCHFA and the Office of the Tenant Advocate informed of interim addresses. This notification shall include the address and telephone number of the DCHFA and the Office of the Tenant Advocate. The DCHFA shall maintain a registry of the affected Tenants, including their subsequent interim addresses as provided and subsequently maintained current by the Housing Provider, Tenants, and the Office of the Tenant Advocate. The Housing Provider shall provide to the DCHFA a copy of each notice sent to Tenants required by this subsection, as well as proof of registered mailing to each Tenant.

7000.8

If the DCHFA approves an Application for Alterations or Renovations submitted in accordance with subsections 7000.5 through 7000.7, the Housing Provider shall serve on the Tenant a one hundred twenty one (120) Calendar Day notice to vacate prior to the filing of an action to recover possession of the rental unit that shall:

- (a) Notify the Tenant of the Tenant's rights under this section, including the absolute right to reoccupy the rental unit, the right to reoccupy the rental unit at the same rental rate, and the right to relocation assistance in accordance with D.C. Official Code §42-3507.03;
- (b) Include a list of sources of technical assistance as published in the District of Columbia Register by the Mayor; and
- (c) Include a copy of the notice issued pursuant to sub-subsection 7000.7(d).

- 7000.9 Within five (5) Business Days of the completion of alterations and renovations approved in accordance with section 7000.7, the Housing Provider shall provide notice, by Registered or Certified Mail, return receipt requested, to the Tenant, to the DCHFA, and the Office of the Tenant Advocate that the rental unit is ready to be reoccupied by the Tenant.
- 7000.10 Immediately upon completion of the proposed alterations or renovations approved in accordance with subsection 7000.7, the Tenant shall have the absolute right to reoccupy the rental unit. A Tenant displaced by actions alterations or renovations approved in accordance with subsection 7000.7 shall continue to be a Tenant of the rental unit, until the Tenant has waived his or her rights in writing. Until the Tenant's right to reoccupy the rental unit has terminated, the Housing Provider shall serve on the Tenant any notice or other document regarding the rental unit as required by any provision of the Rental Housing Conversion and Sale Act of 1980, chapters 70 through 76 of this title, or any other law or regulation, except that service shall be made by First Class Mail at the address identified as the Tenant's interim address.
- 7000.11 Where the renovations or alterations approved in accordance with subsection 7000.7 are necessary to bring the rental unit into substantial compliance with the housing code, the Tenant may re-rent at the same rent and under the same obligations that were in effect at the time the Tenant was dispossessed, so long as the renovations or alterations were not made necessary by the negligent or malicious conduct of the Tenant.
- 7000.12 Tenants displaced by renovations or alterations approved in accordance with subsection 7000.7 shall be entitled to receive relocation assistance in accordance with D.C. Official Code §42-3507.03 if the Tenants meet the eligibility criteria therein.
- 7000.13 Prior to the date that the Tenant vacates the unit, the DCHFA shall rescind the approval made in accordance with subsection 7000.7 of any Application for Alterations or Renovations upon determining that the Housing Provider has not complied with subsections 7000.5 through 7000.14.
- 7000.14 If after the Tenant has vacated the unit due to an approved alteration or renovation in accordance with subsection 7000.7, the Housing Provider fails to comply with the provisions of this section, the aggrieved Tenant or a Tenant organization authorized by the Tenant may seek enforcement of any right or provision in chapters 70 through 76 of this title by an action in law or equity against the Housing Provider.

- 7000.15 A Housing Provider may recover possession of a rental unit for the purpose of immediately demolishing the housing accommodation in which the rental unit is located and replacing it with new construction, if a copy of the demolition permit has been filed with the DCHFA, and if the requirements of D.C. Official Code § 42-3507.01 *et seq.* have been met. The Housing Provider shall serve on the Tenant a one hundred eighty (180) Calendar Day notice to vacate in advance of action to recover possession of the rental unit. The notice to vacate shall comply with and notify the Tenant of the Tenant's right to relocation assistance under chapters 75 and 76 of this title.
- 7000.16 Tenants displaced by actions under subsection 7000.15 shall be entitled to receive relocation assistance in accordance with D.C. Official Code § 42-3507.03, if the Tenants meet the eligibility criteria of § 42-3507.02.
- 7000.17 A Housing Provider may recover possession of a rental unit for the purpose of immediate, substantial rehabilitation of the housing accommodation if the requirements of D.C. Official Code § 42-3502.14 and § 42-3507 *et seq.* have been met. The Housing Provider shall serve on the Tenant a one hundred twenty (120) Calendar Day notice to vacate in advance of his or her action to recover possession of the rental unit. The notice to vacate shall comply with and notify the Tenant of the Tenant's right to relocation assistance in accordance with D.C. Official Code § 42-3507.03, if the Tenants meet the eligibility criteria of § 42-3507.02.
- 7000.18 Any Tenant displaced from a rental unit by the substantial rehabilitation of the housing accommodation in which the rental unit is located shall have a right to rerent the rental unit immediately upon the completion of the substantial rehabilitation.
- 7000.19 Tenants displaced by actions under subsection 7000.17 shall be entitled to receive relocation assistance in accordance with D.C. Official Code § 42-3507.03, if the Tenants meet the eligibility criteria of § 42-3507.02.
- 7000.20 A Housing Provider may recover possession of a rental unit for the immediate purpose of discontinuing the housing use and occupancy of the rental unit so long as:
- (a) The Housing Provider serves on the Tenant a one hundred eighty (180) Calendar Day notice to vacate in advance of his or her action to recover possession of the rental unit. The notice to vacate shall comply with and notify the Tenant of the Tenant's right to relocation assistance in accordance with D.C. Official Code § 42-3507.03;
 - (b) The Housing Provider shall not cause the housing accommodation, of which the unit is a part, to be substantially rehabilitated for a continuous twelve (12) month period beginning from the date that the use is discontinued under this subsection;
 - (c) The Housing Provider shall not resume any housing or commercial use of the unit for a continuous twelve (12) month period beginning from the date that the use is discontinued under this subsection;

- (d) Upon resumption of the housing use, the Housing Provider shall not re-rent the unit at a greater rent than would have been permitted under the Regulatory Agreement had the housing use not been discontinued;
- (e) The Housing Provider shall file with the DCHFA a statement including, but not limited to, general information about the housing accommodation, such as address and number of units, the reason for the discontinuance of use, and future plans for the property;
- (f) If the Housing Provider desires to resume a rental housing use of the unit, the Housing Provider shall notify the DCHFA who shall determine whether the provisions of this subsection have been satisfied; and
- (g) The Housing Provider shall not demand or receive rent for any rental unit which the Housing Provider has repossessed under this subsection for a twelve (12) month period beginning on the date the Housing Provider recovered possession of the rental unit.

- 7000.21 Tenants displaced by actions under subsection 7000.20 shall be entitled to receive relocation assistance in accordance with D.C. Official Code § 42-3507.03, if the Tenants meet the eligibility criteria of § 42-3507.02.
- 7000.22 In any case where the Housing Provider seeks to recover possession of a rental unit or housing accommodation to convert the rental unit or housing accommodation to a condominium or cooperative, notice to vacate shall be given in accordance with D.C. Official Code § 42-3402.06(c).
- 7000.23 Notwithstanding any other provision of chapters 70 through 78 of this title, no Housing Provider shall evict a Tenant on any day when the National Weather Service predicts at 8:00 a.m. that the temperature at the Ronald Reagan Washington National Airport weather station will fall below thirty two (32) degrees Fahrenheit or zero (0) degrees Centigrade within the next twenty (24) hours.
- 7000.24 Subsection 7000.23 shall not apply:
- (a) Where a court of competent jurisdiction has determined that the Tenant has performed an illegal act within the rental unit or housing accommodation;
 - (b) Where a court of competent jurisdiction has made a specific finding that the Tenant's actions or presence causes undue hardship on the health, welfare, and safety of other Tenants or immediate neighbors; or
 - (c) Where a court of competent jurisdiction has made a specific finding that the Tenant has abandoned the premises.
- 7000.25 If the occupancy of a Tenant has been or will be terminated by a placard placed by the District government in accordance with section 103 of title 14 of the District of Columbia Municipal Regulations for violations of title 14 of the District of Columbia Municipal Regulations that threatens the life, health, or safety of the Tenant, the Tenant shall maintain the right to re-occupy the unit. The Tenant shall be obligated to keep a mailing address current with the DCHFA and the Housing Provider.

7000.26 The Housing Provider shall maintain a current a registry with the DCHFA of the persons displaced by actions under subsection 7000.25, including their subsequent interim addresses, who were Tenants at the time the building was placarded.

7000.27 Any notice required or necessary under subsection 7000.25 shall be effective when sent to the Tenant at the address in the registry maintained current by the Housing Provider and filed with the DCHFA.

7099 DEFINITIONS

7099.1 For the purposes of this chapter the following definitions shall apply:

- (a) "Answer" is a document provided by the Respondent to the DCHFA and the Complainant in response to a Complaint.
- (b) "Application for Alterations or Renovations" means an application by a Housing Provider to the DCHFA, in accordance with chapter 70 of this title, seeking to recover possession of a rental unit that cannot safely or reasonably be accomplished while the rental unit is occupied.
- (c) "Business Days" means Monday through Friday, excluding holidays observed by the U.S. Government and the District of Columbia Government.
- (d) "Calendar Days" means Monday through Sunday, including holidays.
- (e) "Comparable Unit" means a rental unit of corresponding facilities with the same or similar benefits or services included in the price of rent.
- (f) "Complaint" is a written statement filed with the DCHFA stating that a violation of a provision contained in chapters 70 through 76 of this title has occurred, detailing when and where the violation occurred, stating the reasons why a violation is believed to have occurred, naming the party responsible for the violation, and stating the remedy or remedies sought.
- (g) "Complainant" is a person who files a Complaint with the DCHFA regarding a violation of a provision contained in chapters 70 through 76 of this title.
- (h) "DCHFA" means the District of Columbia Housing Finance Agency.
- (i) "DCHFA Hearing Examiner" is a person or persons appointed by the Executive Director of the DCHFA to administer hearing procedures under chapter 72 of this title.
- (j) "DCRA" means the District of Columbia Department of Consumer and Regulatory Affairs.

- (k) “Decision” is a decision based on Findings and Conclusions issued by the DCHFA Executive Director or designee in response to a Complaint after a hearing under chapter 72 of this title.
- (l) “Disposition” is a decision issued by the DCHFA in response to a Complaint after the failure of a settlement under chapter 72 of this title.
- (m) “Findings and Conclusions” means the findings fact and conclusions of the DCHFA Hearing Examiner.
- (n) “Housing Provider” is the owner or managing entity of a rental housing accommodation subject to a regulatory agreement with the DCHFA.
- (o) “Mail” and “First Class Mail” means mail sent via first class mail.
- (p) “Notice” shall be by First Class Mail unless otherwise specified in chapters 70 through 76 of this title.
- (q) “Office of the DCHFA General Counsel” is the office of the General Counsel for the District of Columbia Housing Finance Agency.
- (r) “OTA” means the District of Columbia Office of the Tenant Advocate.
- (s) “Regulatory Agreement” is any agreement between the DCHFA and a Housing Provider in which the Housing Provider agrees to be bound by and comply with these chapters 70 through 76 of this title.
- (t) “Respondent” means a person, persons, or business entity identified by a Complainant, in a Complaint, as the entity in violation of chapters 70 through 76 of this title.
- (u) “Settlement” is a written agreement signed by the Complainant and the Housing Provider where both parties agree to resolve the basis of a Complaint prior to the issuance of a Decision under chapter 72 of this title.
- (v) “Tenant” is a person who leases, or is lawfully on the lease of, a dwelling unit from a Housing Provider as defined herein.

AUTHORITY: The authority for this chapter is the District of Columbia Housing Finance Agency Act, D.C. Law 2-135, § 308, effective March 3, 1979, D.C. Official Code § 42-2703.08.

APPLICABILITY: This chapter shall not regulate developments or rehabilitations of multifamily rental housing until after financial closing by the District of Columbia Housing Finance Agency. This chapter shall apply until the expiration of all District of Columbia Housing Finance Agency, United States Internal Revenue Service, and United States Department of Housing and Urban Development regulatory requirements.

CHAPTER 71 HFA: PROTECTION OF TENANTS FROM RETALIATORY ACTIONS BY HOUSING PROVIDERS**7100 PROTECTION OF TENANTS FROM RETALIATORY ACTIONS BY HOUSING PROVIDERS**

7100.1 For the purpose of this chapter, "Retaliatory Action" is action intentionally taken against a Tenant by a Housing Provider to injure or strike back against a Tenant for exercising rights protected by chapters 70 through 76 of this title, or by any other provision of law. Retaliatory action may include any action or proceeding not otherwise permitted by chapters 70 through 76 of this title or D.C. law which seeks to re-cover possession of a rental unit, increase the obligation of a Tenant, or constitute undue or unavoidable inconvenience, violate the privacy of the Tenant, harass, any refusal to honor a lease or rental agreement or any provision of a lease or rental agreement unless otherwise authorized by chapters 70 through 76 of title, refusal to renew a lease or rental agreement, termination of a tenancy without cause, or any other form of threat or coercion.

7100.2 In determining whether an action taken by a Housing Provider against a Tenant is retaliatory action, the DCHFA shall presume retaliatory action has been taken, and shall make a finding in the Tenant's favor unless the Housing Provider comes forward with clear and convincing evidence to rebut this presumption, if within the 6 months preceding the Housing Provider's action, the Tenant:

- (a) Has made a witnessed oral or written request to the Housing Provider to make repairs which are necessary to bring the housing accommodation or the rental unit into compliance with the D.C. housing code;
- (b) Contacted the DCHFA, either orally in the presence of a witness or in writing, concerning existing violations of the housing code in the rental unit the Tenant occupies or pertaining to the housing accommodation in which the rental unit is located, or reported to the DCHFA suspected violations which, if confirmed, would render the rental unit or housing accommodation in noncompliance with the D.C. housing code;
- (c) Legally withheld all or part of the Tenant's rent after having given a reasonable notice to the Housing Provider, either orally in the presence of a witness or in writing, of a violation of the D.C. housing code;
- (d) Organized, been a member of, or been involved in any lawful activities pertaining to a Tenant organization;
- (e) Made an effort to secure or enforce any of the Tenant's rights under the Tenant's lease or contract with the Housing Provider; or
- (f) Brought legal action against the Housing Provider.

7199 DEFINITIONS

- 7199.1 For the purposes of this chapter the following definitions shall apply:
- (a) “Answer” is a document provided by the Respondent to the DCHFA and the Complainant in response to a Complaint.
 - (b) “Application for Alterations or Renovations” means an application by a Housing Provider to the DCHFA, in accordance with chapter 70 of this title, seeking to recover possession of a rental unit that cannot safely or reasonably be accomplished while the rental unit is occupied.
 - (c) “Business Days” means Monday through Friday, excluding holidays observed by the U.S. Government and the District of Columbia Government.
 - (d) “Calendar Days” means Monday through Sunday, including holidays.
 - (e) “Comparable Unit” means a rental unit of corresponding facilities with the same or similar benefits or services included in the price of rent.
 - (f) “Complaint” is a written statement filed with the DCHFA stating that a violation of a provision contained in chapters 70 through 76 of this title has occurred, detailing when and where the violation occurred, stating the reasons why a violation is believed to have occurred, naming the party responsible for the violation, and stating the remedy or remedies sought.
 - (g) “Complainant” is a person who files a Complaint with the DCHFA regarding a violation of a provision contained in chapters 70 through 76 of this title.
 - (h) “DCHFA” means the District of Columbia Housing Finance Agency.
 - (i) “DCHFA Hearing Examiner” is a person or persons appointed by the Executive Director of the DCHFA to administer hearing procedures under chapter 72 of this title.
 - (j) “DCRA” means the District of Columbia Department of Consumer and Regulatory Affairs.
 - (k) “Decision” is a decision based on Findings and Conclusions issued by the DCHFA Executive Director or designee in response to a Complaint after a hearing under chapter 72 of this title.
 - (l) “Disposition” is a decision issued by the DCHFA in response to a Complaint after the failure of a settlement under chapter 72 of this title.
 - (m) “Findings and Conclusions” means the findings fact and conclusions of the DCHFA Hearing Examiner.

- (n) "Housing Provider" is the owner or managing entity of a rental housing accommodation subject to a regulatory agreement with the DCHFA.
- (o) "Mail" and "First Class Mail" means mail sent via first class mail.
- (p) "Notice" shall be by First Class Mail unless otherwise specified in chapters 70 through 76 of this title.
- (q) "Office of the DCHFA General Counsel" is the office of the General Counsel for the District of Columbia Housing Finance Agency.
- (r) "OTA" means the District of Columbia Office of the Tenant Advocate.
- (s) "Regulatory Agreement" is any agreement between the DCHFA and a Housing Provider in which the Housing Provider agrees to be bound by and comply with these chapters 70 through 76 of this title.
- (t) "Respondent" means a person, persons, or business entity identified by a Complainant, in a Complaint, as the entity in violation of chapters 70 through 76 of this title.
- (u) "Settlement" is a written agreement signed by the Complainant and the Housing Provider where both parties agree to resolve the basis of a Complaint prior to the issuance of a Decision under chapter 72 of this title.
- (v) "Tenant" is a person who leases, or is lawfully on the lease of, a dwelling unit from a Housing Provider as defined herein.

AUTHORITY: The authority for this chapter is the District of Columbia Housing Finance Agency Act, D.C. Law 2-135, § 308, effective March 3, 1979, D.C. Official Code § 42-2703.08.

APPLICABILITY: This chapter shall not regulate developments or rehabilitations of multifamily rental housing until after financial closing by the District of Columbia Housing Finance Agency. This chapter shall apply until the expiration of all District of Columbia Housing Finance Agency, United States Internal Revenue Service, and United States Department of Housing and Urban Development regulatory requirements.

CHAPTER 72 HFA: TENANT REQUESTS FOR HEARINGS AND HEARING PROCEDURES

7200

TENANT REQUESTS FOR HEARINGS AND HEARING PROCEDURES

- 7200.1 Any Tenant who believes that he or she has been adversely affected by a violation of chapters 70 through 76 of this title by a Housing Provider may file a written Complaint requesting a determination under this chapter.
- 7200.2 Any request for a hearing concerning an eviction or termination of tenancy based upon a resident's creation or maintenance of a threat to the health or safety of other residents or Housing Providers and their employees shall be excluded from the hearing procedures.
- 7200.3 The Complaint shall be in writing and mailed via First Class Mail to the DCHFA and the Housing Provider identified in the Complaint as the Respondent, but no later than one year after the act or omission that constitutes the basis for the hearing. The Complaint shall state the particular grounds on which it is based and the action or relief requested. The Complaint shall include a certified check or money order, payable to the District of Columbia Housing Finance Agency, in the amount of \$25 to cover the costs of the DCHFA's review of Complaints filed. Any requests by a party for copies of documents from the DCHFA shall be charged the costs of copying.
- 7200.4 Within three (3) Business days of receipt of the Complaint, the DCHFA may schedule a conference with the Complainant and the Housing Provider to informally discuss the Complaint with the objective of reaching a Settlement without a formal hearing.
- 7200.5 The DCHFA may convene the informal settlement conference within ten (10) Business Days of the date the Complaint was filed.
- 7200.6 If a Settlement is reached, within ten (10) Business Days of the conference, the terms of the Settlement shall be put in writing by the DCHFA, signed by each party, and made part of the Complainant's DCHFA file. A copy of the Settlement shall be given to the parties.
- 7200.7 If a Settlement cannot be reached, the DCHFA shall prepare and respond to the Complainant, via First Class Mail, to a contact address as provided by the Complainant in his or her Complaint, with a written Disposition of the Complaint within ten (10) Business Days of the conference with the Complainant.
- 7200.8 If the Complainant is not satisfied with the Disposition of his or her Complaint, he or she may, within ten (10) Business Days from the date the Disposition was sent, submit a written request for a hearing in person or by First Class Mail to the DCHFA, located at 815 Florida Avenue, NW, Washington, DC 20001.
- 7200.9 If the Complainant does not request a hearing within the specified time, the DCHFA's Disposition of the Complaint shall become final.

- 7200.10 Within fifteen (15) Calendar Days after the receipt of a request for a hearing, the DCHFA shall schedule a hearing time, date and place, and shall notify the Complainant and the Respondent via First Class Mail. The hearing shall be scheduled on a date no less than ten (10) Business Days after the date the notification of a scheduled hearing has been sent to the Complainant and Respondent.
- 7200.11 Respondent shall submit to the DCHFA and Complainant, via First Class Mail, a written Answer to the Complaint no less than five (5) Business Days prior to the date of the scheduled hearing. A Respondent that fails to timely submit a written Answer shall be deemed to have waived his or her right under this chapter to a hearing and the DCHFA may thereafter issue a Decision on the Complaint. The DCHFA may accept an untimely submitted Answer for good cause.
- 7200.12 Within thirty (30) Calendar Days of the date the hearing is scheduled, the DCHFA shall convene the hearing, unless rescheduled for good cause by the DCHFA.
- 7200.13 The DCHFA shall have all powers necessary to conduct a fair and impartial hearing, including the following:
- (a) To administer or direct the administration of oaths and affirmations through a notary public;
 - (b) To examine witnesses' testimony;
 - (c) To rule upon offers of proof and receive relevant evidence;
 - (d) To regulate the course of the hearing and the conduct of the parties, other participants, and their counsel;
 - (e) To arrange a conference for settlement or to simplify the issues by agreement of the parties;
 - (f) To consider and rule upon procedural requests;
 - (g) To take action authorized by chapters 70 through 76 of this title; and
 - (h) After review of the written Complaint and the Disposition for which a hearing has been requested, may render a written Decision, to be provided to Complainant and Respondent, without proceeding with the hearing if the DCHFA determines that the issues have been decided previously in an earlier hearing of other Complaints based on essentially the same facts.
- 7200.14 The DCHFA shall have the power to grant appropriate relief, including the following:

- (a) Rental abatements for increases in rents that violate chapters 70 through 76 of this title, including rental abatements for rent increases implemented by the Housing Provider as a form of a retaliatory action;
- (b) The ordering of repairs and/or accessibility features by the Housing Provider;
- (c) Void a notice to vacate for evictions prohibited by chapters 70 through 76 of this title; or
- (d) Relocation of Tenants and amount of relocation assistance to be paid to Tenants as required by D.C. law;

7200.15 If either party fails to appear at a hearing, the DCHFA may do the following:

- (a) Proceed with the hearing;
- (b) Postpone the hearing for up to five (5) Business Days;
- (c) With the consent of both parties, reschedule the hearing for a later date;
- (d) Make the determination that the party who has failed to appear has waived his or her right to a hearing; or
- (e) Grant an exception if the absent party is able to document an emergency situation that prevented him or her from attending.

7200.16 The DCHFA shall make a tape recording of the hearing, which shall remain in the custody of the DCHFA at all times. At the request of a party the DCHFA shall make a duplicate copy which the party may purchase at cost. If a party desires a transcript of the tape, the DCHFA shall provide a transcript, the cost of which shall be borne by the party.

7200.17 The DCHFA Hearing Examiner shall prepare written Findings and Conclusions after the conclusion of the hearing. The DCHFA Executive Director shall render a Decision based on the Findings and Conclusions to be mailed to the Complainant and the Housing Provider.

7200.18 The Decision of the DCHFA shall be binding upon the Tenant and the Housing Provider.

7299 DEFINITIONS

7299.1 For the purposes of this chapter the following definitions shall apply:

- (a) “Answer” is a document provided by the Respondent to the DCHFA and the Complainant in response to a Complaint.
- (b) “Application for Alterations or Renovations” means an application by a Housing Provider to the DCHFA, in accordance with chapter 70 of this title, seeking to recover possession of a rental unit that cannot safely or reasonably be accomplished while the rental unit is occupied.
- (c) “Business Days” means Monday through Friday, excluding holidays observed by the U.S. Government and the District of Columbia Government.
- (d) “Calendar Days” means Monday through Sunday, including holidays.
- (e) “Comparable Unit” means a rental unit of corresponding facilities with the same or similar benefits or services included in the price of rent.
- (f) “Complaint” is a written statement filed with the DCHFA stating that a violation of a provision contained in chapters 70 through 76 of this title has occurred, detailing when and where the violation occurred, stating the reasons why a violation is believed to have occurred, naming the party responsible for the violation, and stating the remedy or remedies sought.
- (g) “Complainant” is a person who files a Complaint with the DCHFA regarding a violation of a provision contained in chapters 70 through 76 of this title.
- (h) “DCHFA” means the District of Columbia Housing Finance Agency.
- (i) “DCHFA Hearing Examiner” is a person or persons appointed by the Executive Director of the DCHFA to administer hearing procedures under chapter 72 of this title.
- (j) “DCRA” means the District of Columbia Department of Consumer and Regulatory Affairs.
- (k) “Decision” is a decision based on Findings and Conclusions issued by the DCHFA Executive Director or designee in response to a Complaint after a hearing under chapter 72 of this title.
- (l) “Disposition” is a decision issued by the DCHFA in response to a Complaint after the failure of a settlement under chapter 72 of this title.
- (m) “Findings and Conclusions” means the findings fact and conclusions of the DCHFA Hearing Examiner.
- (n) “Housing Provider” is the owner or managing entity of a rental housing

accommodation subject to a regulatory agreement with the DCHFA.

- (o) "Mail" and "First Class Mail" means mail sent via first class mail.
- (p) "Notice" shall be by First Class Mail unless otherwise specified in chapters 70 through 76 of this title.
- (q) "Office of the DCHFA General Counsel" is the office of the General Counsel for the District of Columbia Housing Finance Agency.
- (r) "OTA" means the District of Columbia Office of the Tenant Advocate.
- (s) "Regulatory Agreement" is any agreement between the DCHFA and a Housing Provider in which the Housing Provider agrees to be bound by and comply with these chapters 70 through 76 of this title.
- (t) "Respondent" means a person, persons, or business entity identified by a Complainant, in a Complaint, as the entity in violation of chapters 70 through 76 of this title.
- (u) "Settlement" is a written agreement signed by the Complainant and the Housing Provider where both parties agree to resolve the basis of a Complaint prior to the issuance of a Decision under chapter 72 of this title.
- (v) "Tenant" is a person who leases, or is lawfully on the lease of, a dwelling unit from a Housing Provider as defined herein.

AUTHORITY: The authority for this chapter is the District of Columbia Housing Finance Agency Act, D.C. Law 2-135, § 308, effective March 3, 1979, D.C. Official Code § 42-2703.08.

APPLICABILITY: This chapter shall not regulate developments or rehabilitations of multifamily rental housing until after financial closing by the District of Columbia Housing Finance Agency. This chapter shall apply until the expiration of all District of Columbia Housing Finance Agency, United States Internal Revenue Service, and United States Department of Housing and Urban Development regulatory requirements.

CHAPTER 73 HFA: RIGHT OF TENANTS TO ORGANIZE

7300 RIGHT OF TENANTS TO ORGANIZE

7300.1 Tenants shall have the right to:

- (a) Self-organization;
- (b) Form, join, meet, or assist one another within and without Tenant organi-

zations;

- (c) Meet and confer through representatives of their own choosing with a Housing Provider;
- (d) Engage in other concerted activities for the purpose of mutual aid and protection; and
- (e) Refrain from such activity.

- 7300.2 If a multifamily housing accommodation has a written policy favoring canvassing, any Tenant organizer who is not a Tenant shall be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the multifamily housing accommodation does not have a consistently enforced, written policy against canvassing, the multifamily housing accommodation shall be treated as if it has a policy favoring canvassing.
- 7300.3 If a multifamily housing accommodation has a consistently enforced, written policy against canvassing, a Tenant shall accompany a Tenant organizer who is not a Tenant while the Tenant organizer is on the property of the multifamily housing accommodation. The Tenant organizer who is not a Tenant shall be afforded the same privileges and rights of access as other invited outside parties in the normal course of operations.
- 7300.4 No Housing Provider or agent of a Housing Provider of a multifamily housing accommodation shall interfere with the right of a Tenant or Tenant organizer to conduct the following activities related to the establishment or operation of a Tenant organization:
- (a) Distributing literature in common areas, including lobby areas;
 - (b) Placing literature at or under Tenants' doors;
 - (c) Posting information on all building bulletin boards;
 - (d) Assisting Tenants to participate in Tenant organization activities;
 - (e) Convening Tenant or Tenant organization meetings at any reasonable time and in any appropriate space that would reasonably be interpreted as areas that the Tenant had access to under the terms of their lease, including any Tenant's unit, a community room, a common area including lobbies, or other available space; provided, that a Housing Provider or agent of the Housing Provider shall not attend or make audio recordings of such meetings unless permitted to do so by the Tenant organization, if one exists, or by a majority of Tenants in attendance, if a Tenant organization does not exist;

- (f) Formulating responses to Housing Provider actions, including rent increases, proposed increases, decreases, or other changes in the housing accommodation's facilities and services; and conversion of residential units to nonresidential use, cooperative housing, or condominiums;
- (g) Proposing that the Housing Provider or management modify the housing accommodation's facilities and services; and
- (h) Any other activity reasonably related to the establishment or operation of a Tenant organization.

7399

DEFINITIONS

7399.1

For the purposes of this chapter the following definitions shall apply:

- (a) "Answer" is a document provided by the Respondent to the DCHFA and the Complainant in response to a Complaint.
- (b) "Application for Alterations or Renovations" means an application by a Housing Provider to the DCHFA, in accordance with chapter 70 of this title, seeking to recover possession of a rental unit that cannot safely or reasonably be accomplished while the rental unit is occupied.
- (c) "Business Days" means Monday through Friday, excluding holidays observed by the U.S. Government and the District of Columbia Government.
- (d) "Calendar Days" means Monday through Sunday, including holidays.
- (e) "Comparable Unit" means a rental unit of corresponding facilities with the same or similar benefits or services included in the price of rent.
- (f) "Complaint" is a written statement filed with the DCHFA stating that a violation of a provision contained in chapters 70 through 76 of this title has occurred, detailing when and where the violation occurred, stating the reasons why a violation is believed to have occurred, naming the party responsible for the violation, and stating the remedy or remedies sought.
- (g) "Complainant" is a person who files a Complaint with the DCHFA regarding a violation of a provision contained in chapters 70 through 76 of this title.
- (h) "DCHFA" means the District of Columbia Housing Finance Agency.

- (i) “DCHFA Hearing Examiner” is a person or persons appointed by the Executive Director of the DCHFA to administer hearing procedures under chapter 72 of this title.
- (j) “DCRA” means the District of Columbia Department of Consumer and Regulatory Affairs.
- (k) “Decision” is a decision based on Findings and Conclusions issued by the DCHFA Executive Director or designee in response to a Complaint after a hearing under chapter 72 of this title.
- (l) “Disposition” is a decision issued by the DCHFA in response to a Complaint after the failure of a settlement under chapter 72 of this title.
- (m) “Findings and Conclusions” means the findings fact and conclusions of the DCHFA Hearing Examiner.
- (n) “Housing Provider” is the owner or managing entity of a rental housing accommodation subject to a regulatory agreement with the DCHFA.
- (o) “Mail” and “First Class Mail” means mail sent via first class mail.
- (p) “Notice” shall be by First Class Mail unless otherwise specified in chapters 70 through 76 of this title.
- (q) “Office of the DCHFA General Counsel” is the office of the General Counsel for the District of Columbia Housing Finance Agency.
- (r) “OTA” means the District of Columbia Office of the Tenant Advocate.
- (s) “Regulatory Agreement” is any agreement between the DCHFA and a Housing Provider in which the Housing Provider agrees to be bound by and comply with these chapters 70 through 76 of this title.
- (t) “Respondent” means a person, persons, or business entity identified by a Complainant, in a Complaint, as the entity in violation of chapters 70 through 76 of this title.
- (u) “Settlement” is a written agreement signed by the Complainant and the Housing Provider where both parties agree to resolve the basis of a Complaint prior to the issuance of a Decision under chapter 72 of this title.
- (v) “Tenant” is a person who leases, or is lawfully on the lease of, a dwelling unit from a Housing Provider as defined herein.

AUTHORITY: The authority for this chapter is the District of Columbia Housing Finance Agency Act, D.C. Law 2-135, § 308, effective March 3, 1979, D.C. Official Code § 42-2703.08.

APPLICABILITY: This chapter shall not regulate developments or rehabilitations of multifamily rental housing until after financial closing by the District of Columbia Housing Finance Agency. This chapter shall apply until the expiration of all District of Columbia Housing Finance Agency, United States Internal Revenue Service, and United States Department of Housing and Urban Development regulatory requirements.

CHAPTER 74 HFA: NOTICE OF RIGHT TO RELOCATION ASSISTANCE & ELIGIBILITY

7400 NOTICE OF RIGHT TO RELOCATION ASSISTANCE & ELIGIBILITY

7400.1 No Housing Provider shall substantially rehabilitate, demolish, or discontinue any housing accommodation unless there has first been served upon each Tenant residing in the housing accommodation a written notice of intent to rehabilitate, demolish, or discontinue the housing accommodation in accordance with D.C. Official Code § 42-3505.01 (f), (g), (h), or (i), as appropriate. The notice shall advise the Tenants of their right to relocation assistance under this chapter, chapters 70 through 76 of this title, or any other District law, and the procedures for applying for the assistance.

7400.2 No Tenant may be evicted from a housing accommodation which the Housing Provider intends to substantially rehabilitate, demolish, or discontinue housing use, or which the Housing Provider intends to sell to another person who, to the Housing Provider's knowledge, intends to substantially rehabilitate, demolish, or discontinue housing use, unless the requirements of chapters 70 through 76 of this title have been met. Nothing contained in this chapter shall be construed to limit a Housing Provider's right to evict a Tenant for nonpayment of rent or violation of an obligation of the tenancy.

7400.3 Each Housing Provider commencing substantial rehabilitation, demolition, or housing discontinuance, on or after July 17, 1985, shall pay relocation assistance in an amount calculated in accordance with D.C. Official Code § 42-3507.03 to all Tenants of the housing accommodation who:

- (a) Were lawfully living in the rental units contained in the housing accommodation from which they are being displaced at the time the notice in accordance with D.C. Official Code § 42-3505.01 is given; and
- (b) Are displaced from rental units because the housing accommodation in which they are located is to be substantially rehabilitated, demolished, or discontinued.

7499 DEFINITIONS

7499.1

For the purposes of this chapter the following definitions shall apply:

- (a) "Answer" is a document provided by the Respondent to the DCHFA and the Complainant in response to a Complaint.
- (b) "Application for Alterations or Renovations" means an application by a Housing Provider to the DCHFA, in accordance with chapter 70 of this title, seeking to recover possession of a rental unit that cannot safely or reasonably be accomplished while the rental unit is occupied.
- (c) "Business Days" means Monday through Friday, excluding holidays observed by the U.S. Government and the District of Columbia Government.
- (d) "Calendar Days" means Monday through Sunday, including holidays.
- (e) "Comparable Unit" means a rental unit of corresponding facilities with the same or similar benefits or services included in the price of rent.
- (f) "Complaint" is a written statement filed with the DCHFA stating that a violation of a provision contained in chapters 70 through 76 of this title has occurred, detailing when and where the violation occurred, stating the reasons why a violation is believed to have occurred, naming the party responsible for the violation, and stating the remedy or remedies sought.
- (g) "Complainant" is a person who files a Complaint with the DCHFA regarding a violation of a provision contained in chapters 70 through 76 of this title.
- (h) "DCHFA" means the District of Columbia Housing Finance Agency.
- (i) "DCHFA Hearing Examiner" is a person or persons appointed by the Executive Director of the DCHFA to administer hearing procedures under chapter 72 of this title.
- (j) "DCRA" means the District of Columbia Department of Consumer and Regulatory Affairs.
- (k) "Decision" is a decision based on Findings and Conclusions issued by the DCHFA Executive Director or designee in response to a Complaint after a hearing under chapter 72 of this title.
- (l) "Disposition" is a decision issued by the DCHFA in response to a Complaint after the failure of a settlement under chapter 72 of this title.
- (m) "Findings and Conclusions" means the findings fact and conclusions of the DCHFA Hearing Examiner.

- (n) "Housing Provider" is the owner or managing entity of a rental housing accommodation subject to a regulatory agreement with the DCHFA.
- (o) "Mail" and "First Class Mail" means mail sent via first class mail.
- (p) "Notice" shall be by First Class Mail unless otherwise specified in chapters 70 through 76 of this title.
- (q) "Office of the DCHFA General Counsel" is the office of the General Counsel for the District of Columbia Housing Finance Agency.
- (r) "OTA" means the District of Columbia Office of the Tenant Advocate.
- (s) "Regulatory Agreement" is any agreement between the DCHFA and a Housing Provider in which the Housing Provider agrees to be bound by and comply with these chapters 70 through 76 of this title.
- (t) "Respondent" means a person, persons, or business entity identified by a Complainant, in a Complaint, as the entity in violation of chapters 70 through 76 of this title.
- (u) "Settlement" is a written agreement signed by the Complainant and the Housing Provider where both parties agree to resolve the basis of a Complaint prior to the issuance of a Decision under chapter 72 of this title.
- (v) "Tenant" is a person who leases, or is lawfully on the lease of, a dwelling unit from a Housing Provider as defined herein.

AUTHORITY: The authority for this chapter is the District of Columbia Housing Finance Agency Act, D.C. Law 2-135, § 308, effective March 3, 1979, D.C. Official Code § 42-2703.08.

APPLICABILITY: This chapter shall not regulate developments or rehabilitations of multifamily rental housing until after financial closing by the District of Columbia Housing Finance Agency. This chapter shall apply until the expiration of all District of Columbia Housing Finance Agency, United States Internal Revenue Service, and United States Department of Housing and Urban Development regulatory requirements.

CHAPTER 75 HFA: RELOCATION PAYMENTS

7500 RELOCATION PAYMENTS

7500.1 A Housing Provider shall pay relocation expenses to Tenants pursuant to the provisions of the Regulatory Agreement entered into between the Housing Provider and the DCHFA. If no provisions on relocation expenses exist in the Regulatory

Agreement, then in accordance with D.C. Official Code § 42-3507.03.

- 7500.2 The time at which Tenants shall be paid relocation payments shall be in accordance with the Regulatory Agreement entered into between the Housing Provider and the DCHFA. If no provisions on the time at which Tenants shall be paid relocation payments exist in the Regulatory Agreement, then in accordance with the requirements of D.C. Official Code § 42-3507.03.
- 7500.3 No Tenant shall be entitled to relocation expenses, if a reasonable relocation plan has been established and approved by the DCHFA and that offers reasonable alternative housing to the Tenant and has been unreasonably refused by the Tenant.
- 7500.4 Payment of relocation assistance shall not be required with respect to any rental unit which is the subject of an outstanding judgment for possession obtained by the Housing Provider or Housing Provider's predecessor in interest against the Tenants for a cause of action whether the cause of action arises before or after the service of the notice of intention to rehabilitate, demolish, or discontinue housing use. If the judgment for possession is based upon nonpayment of rent and arises after the notice of intent to rehabilitate, demolish, or discontinue housing use has been given, then relocation assistance shall be required in an amount reduced by the amount determined to be due and owing to the Housing Provider by the court rendering the judgment for possession.

7599 DEFINITIONS

- 7599.1 For the purposes of this chapter the following definitions shall apply:
- (a) "Answer" is a document provided by the Respondent to the DCHFA and the Complainant in response to a Complaint.
 - (b) "Application for Alterations or Renovations" means an application by a Housing Provider to the DCHFA, in accordance with chapter 70 of this title, seeking to recover possession of a rental unit that cannot safely or reasonably be accomplished while the rental unit is occupied.
 - (c) "Business Days" means Monday through Friday, excluding holidays observed by the U.S. Government and the District of Columbia Government.
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 - (e) "Comparable Unit" means a rental unit of corresponding facilities with the same or similar benefits or services included in the price of rent.
 - (f) "Complaint" is a written statement filed with the DCHFA stating that a violation of a provision contained in chapters 70 through 76 of this title has occurred, detailing when and where the violation occurred, stating the

reasons why a violation is believed to have occurred, naming the party responsible for the violation, and stating the remedy or remedies sought.

- (g) “Complainant” is a person who files a Complaint with the DCHFA regarding a violation of a provision contained in chapters 70 through 76 of this title.
- (h) “DCHFA” means the District of Columbia Housing Finance Agency.
- (i) “DCHFA Hearing Examiner” is a person or persons appointed by the Executive Director of the DCHFA to administer hearing procedures under chapter 72 of this title.
- (j) “DCRA” means the District of Columbia Department of Consumer and Regulatory Affairs.
- (k) “Decision” is a decision based on Findings and Conclusions issued by the DCHFA Executive Director or designee in response to a Complaint after a hearing under chapter 72 of this title.
- (l) “Disposition” is a decision issued by the DCHFA in response to a Complaint after the failure of a settlement under chapter 72 of this title.
- (m) “Findings and Conclusions” means the findings fact and conclusions of the DCHFA Hearing Examiner.
- (n) “Housing Provider” is the owner or managing entity of a rental housing accommodation subject to a regulatory agreement with the DCHFA.
- (o) “Mail” and “First Class Mail” means mail sent via first class mail.
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- (s) “Regulatory Agreement” is any agreement between the DCHFA and a Housing Provider in which the Housing Provider agrees to be bound by and comply with these chapters 70 through 76 of this title.
- (t) “Respondent” means a person, persons, or business entity identified by a Complainant, in a Complaint, as the entity in violation of chapters 70 through 76 of this title.

- (u) "Settlement" is a written agreement signed by the Complainant and the Housing Provider where both parties agree to resolve the basis of a Complaint prior to the issuance of a Decision under chapter 72 of this title.
- (v) "Tenant" is a person who leases, or is lawfully on the lease of, a dwelling unit from a Housing Provider as defined herein.

AUTHORITY: The authority for this chapter is the District of Columbia Housing Finance Agency Act, D.C. Law 2-135, § 308, effective March 3, 1979, D.C. Official Code § 42-2703.08.

APPLICABILITY: This chapter shall not regulate developments or rehabilitations of multifamily rental housing until after financial closing by the District of Columbia Housing Finance Agency. This chapter shall apply until the expiration of all District of Columbia Housing Finance Agency, United States Internal Revenue Service, and United States Department of Housing and Urban Development regulatory requirements.

CHAPTER 76 HFA: RELOCATION ADVISORY SERVICES

7600 RELOCATION ADVISORY SERVICES

7600.1 Whenever a building is converted from rental to condominium units, substantially rehabilitated or demolished, or discontinued from housing use, the Housing Provider shall seek assistance from the Relocation Assistance Office of the Department of Housing and Community Development for the provision of relocation advisory services for Tenants who move from the building. In the absence of assistance from the Relocation Assistance Office, the Housing Provider shall provide advisory services that shall include:

- (a) Ascertaining the relocation needs for each household;
- (b) Providing current information on the availability of equivalent substitute housing;
- (c) Supplying information concerning federal and District housing programs; and
- (d) Providing other advisory services to displaced Tenants in order to minimize hardships in adjusting to relocation.

7699 DEFINITIONS

7699.1 For the purposes of this chapter the following definitions shall apply:

- (a) "Answer" is a document provided by the Respondent to the DCHFA and the Complainant in response to a Complaint.

- (b) “Application for Alterations or Renovations” means an application by a Housing Provider to the DCHFA, in accordance with chapter 70 of this title, seeking to recover possession of a rental unit that cannot safely or reasonably be accomplished while the rental unit is occupied.
- (c) “Business Days” means Monday through Friday, excluding holidays observed by the U.S. Government and the District of Columbia Government.
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- (e) “Comparable Unit” means a rental unit of corresponding facilities with the same or similar benefits or services included in the price of rent.
- (f) “Complaint” is a written statement filed with the DCHFA stating that a violation of a provision contained in chapters 70 through 76 of this title has occurred, detailing when and where the violation occurred, stating the reasons why a violation is believed to have occurred, naming the party responsible for the violation, and stating the remedy or remedies sought.
- (g) “Complainant” is a person who files a Complaint with the DCHFA regarding a violation of a provision contained in chapters 70 through 76 of this title.
- (h) “DCHFA” means the District of Columbia Housing Finance Agency.
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- (l) “Disposition” is a decision issued by the DCHFA in response to a Complaint after the failure of a settlement under chapter 72 of this title.
- (m) “Findings and Conclusions” means the findings fact and conclusions of the DCHFA Hearing Examiner.
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- (p) “Notice” shall be by First Class Mail unless otherwise specified in chapters 70 through 76 of this title.
- (q) “Office of the DCHFA General Counsel” is the office of the General Counsel for the District of Columbia Housing Finance Agency.
- (r) “OTA” means the District of Columbia Office of the Tenant Advocate.
- (s) “Regulatory Agreement” is any agreement between the DCHFA and a Housing Provider in which the Housing Provider agrees to be bound by and comply with these chapters 70 through 76 of this title.
- (t) “Respondent” means a person, persons, or business entity identified by a Complainant, in a Complaint, as the entity in violation of chapters 70 through 76 of this title.
- (u) “Settlement” is a written agreement signed by the Complainant and the Housing Provider where both parties agree to resolve the basis of a Complaint prior to the issuance of a Decision under chapter 72 of this title.
- (v) “Tenant” is a person who leases, or is lawfully on the lease of, a dwelling unit from a Housing Provider as defined herein.

AUTHORITY: The authority for this chapter is the District of Columbia Housing Finance Agency Act, D.C. Law 2-135, § 308, effective March 3, 1979, D.C. Official Code § 42-2703.08.

APPLICABILITY: This chapter shall not regulate developments or rehabilitations of multifamily rental housing until after financial closing by the District of Columbia Housing Finance Agency. This chapter shall apply until the expiration of all District of Columbia Housing Finance Agency, United States Internal Revenue Service, and United States Department of Housing and Urban Development regulatory requirements.

CHAPTER 77 HFA (Reserved)

CHAPTER 78 HFA (Reserved)

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

NOTICE OF PROPOSED RULEMAKING

**FORMAL CASE NO. 1002, IN THE MATTER OF THE JOINT APPLICATION OF
PEPCO AND THE NEW RC, INC. FOR AUTHORIZATION AND APPROVAL OF
MERGER TRANSACTION**

1. The Public Service Commission of the District of Columbia (“Commission”) hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,¹ of its intent to act upon the Application of the Potomac Electric Power Company (“Pepco” or “Company”)² in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking (“NOPR”) in the *D.C. Register*.

2. On March 20, 2008, Pepco filed a revised smart meter tariff application on behalf of the Smart Meter Pilot Program (“SMPPI”)³ proposing, among other things, revisions to its hourly pricing option contained in its Smart Meter Pilot Residential Tariff.⁴ On April 17, 2008, Pepco filed another Revised Tariff Application modifying its March 20, 2008 Tariff Application.⁵ On April 25, 2008, Pepco again revised its Tariff Application and substituted it in place of the previous filings.⁶

¹ D. C. Code, 2001 Ed. § 2-505.

² *Formal Case No. 1002, In the Matter of the Joint Application of Pepco and the New RC, Inc. for Authorization and Approval of Merger Transaction (“F.C. 1002”), Application of the Potomac Electric Power Company on Behalf of the Smart Meter Pilot Program, Inc. Revised Tariff Substitute, filed April 25, 2008 (“Corrected Smart Meter Revised Tariff Application”).*

³ SMPPI is comprised of the following entities: Pepco; District of Columbia Office of the People’s Counsel (“OPC”); District of Columbia Consumer Utility Board (“CUB”); International Brotherhood of Electrical Workers Local 1900 (“IBEW”); and the Commission. The SMPPI program, operating under the name PowerCentsDC™, is a pilot program to test the concept of different types of time-based rates in assisting residential customers in the District of Columbia to better manage their electricity bill.

⁴ *F.C. 1002, Smart Meter Revised Tariff Application, filed March 20, 2008 at 1.*

⁵ *F.C. 1002, Smart Meter Pilot Program, Inc. Revised Tariff Application, filed April 17, 2008.*

⁶ *F.C. 1002, Corrected Smart Meter Revised Tariff Application. The Notice of Proposed Rulemaking regarding Pepco’s March 20, 2008 Revised Tariff Application was published in the D.C. Register on April 4, 2008. See 55 D.C. Reg. 003499-003500. Pepco’s Corrected Smart Meter Revised Tariff Application supersedes Pepco’s March 20, 2008 and April 17, 2008 tariff filings.*

3. Pepco's April 25, 2008 filing proposes revisions to its hourly pricing option contained in its Smart Meter Pilot Residential Tariff.⁷ Specifically, the Company seeks to revise its hourly pricing option so that the average residential customer will not pay more on the program pricing plans (critical peak pricing, critical rebate pricing, and hourly pricing) than the average residential customer on the standard offer service (SOS) pricing plan.⁸ In addition, Pepco requests that future adjustments to the hourly rates occur without the need to file a revised tariff.⁹ Pepco states that this request is consistent with prior Commission precedent.¹⁰ Also, this filing includes a page number change in the table of contents and format changes to the Smart Meter Pilot Residential Tariff.¹¹

4. Accordingly, Pepco seeks authority to revise and put into service the provisions in the following tariff pages contained in its April 25, 2008 tariff filing:

POTOMAC ELECTRIC POWER COMPANY, P.S.C. of D.C. No. 1

39th Revised Page No. R-1

39th Revised Page No. R-2

32nd Revised Page No. R-2.1

8th Revised Page No. 2.2

3rd Revised Page No. R-44

3rd Revised Page No. R-44.1

3rd Revised Page No. R-44.2

3rd Revised Page No. R-44.3

3rd Revised Page No. R-44.4

3rd Revised Page No. R-44.5

3rd Revised Page No. R-44.6

5. The Application is on file with the Commission and may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday or may be viewed on the Commission's website at www.dcpso.org. Copies of the tariff pages are also available upon request, at a per-page reproduction cost.

⁷ *F.C. 1002*, Corrected Smart Meter Revised Tariff Application.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

6. Comments on the proposed Corrected Smart Meter Revised Tariff Application must be made in writing to Dorothy Wideman, Commission Secretary, at the above address. All comments must be received within 30 days of the date of publication of this NOPR in the *D.C. Register*. Once the comment period has expired, the Commission will take final action on Pepco's Corrected Smart Meter Revised Tariff Application.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

NOTICE OF PROPOSED RULEMAKING

TELEPHONE TARIFF 08-05 AND FORMAL CASE NO. 988, IN THE MATTER OF THE APPLICATION OF VERIZON WASHINGTON DC, INC. FOR AUTHORITY TO AMEND THE GENERAL REGULATIONS TARIFF, P.S.C.-D.C. NO. 201

1. The Public Service Commission of the District of Columbia ("Commission") pursuant to its authority under D.C. Official Code § 2-505,¹ hereby gives notice of its intent to act upon the Application of Verizon Washington, DC Inc. ("Verizon" or "Verizon DC")² in the above-captioned matter in not less than thirty (30) days after the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On April 15, 2008, Verizon DC filed an application requesting authority to amend the following tariff pages:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 201

Contents, 3rd Revised Page 2
Section 1A, 1st Revised Page 3

3. Verizon DC identifies the proposed tariff amendment as a counterpart to the District of Columbia Universal Service Trust Fund ("DC USTF") surcharge which was approved by the Commission in Order No. 13842.³ This surcharge will be separately identified on the customer's bill and the monthly amount per line is \$0.23 per non-Centrex line and \$0.03 per Centrex line. According to Verizon, the surcharge tariff will be updated to reflect Verizon's current payments into the DC USTF and will reflect any true-up and over- or under-recovery of Verizon's payment into the DC USTF in accordance with DCMR Title 15, Chapter 28.⁴ Verizon DC proposes to amend the tariff pages concurrent with the implementation of the Universal Service Working Group's Rate Rebalancing Proposal which was approved in Order No. 13842, commencing on

¹ D.C. Official Code § 2-505 (2001 Ed.).

² *TT 07-01 and Formal Case No. 988, In the Matter of the Application of Verizon Washington, DC Inc. for Authority to Amend the General Regulations Tariff, P.S.C.-D.C. No. 201*, Letter from J. Henry Ambrose of Verizon Washington, DC Inc. to Dorothy Wideman, Commission Secretary, filed January 6, 2006 ("Application").

³ *Formal Case No. 988, In the Matter of the Development of Universal Service Standards and the Universal Service Trust Fund for the District of Columbia*, Order No. 13842 (Dec. 20, 2005).

⁴ See Verizon DC's Application at 1.

May 1, 2008.⁵ Verizon maintains that the implementation of the DC USTF surcharge is being offset by the reduction in basic telephone rates which concurrently will be netted with the pending rate increases filed in TT 05-03.⁶ Finally, Verizon requests expedited review of this application in light of the fact that the nature of the surcharge has already been approved by the Commission, as evident in Order No. 13842.⁷

4. The complete text of the General Services Tariff is on file with the Commission. The proposed tariff revision may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington, DC 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday or on the Commission's website at www.dcpsc.org. Copies of the tariff are available upon request, at a per-page reproduction cost.

5. All comments on Verizon DC's Application must be filed with Dorothy Wideman, Commission Secretary, at the above address and must be received within thirty (30) days of the date of publication of the NOPR in the *D.C. Register*. Reply comments may be filed within thirty-five (35) days after the date of publication of the NOPR in the *D.C. Register*. After the comment period has expired, the Commission will take final action.

⁵ Order No. 13842, ¶ 12.

⁶ See Verizon DC's Application, Attachment II at 4.

⁷ See Verizon DC's Application at 4.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
 NOTICE OF PROPOSED RULEMAKING
 Z.C. Case No. 07-30
 (Map Amendment – 11 DCMR)
 (Marshall Heights Area from the R-5-A to R-2 or R-3 Zone District)**

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01), hereby gives notice of its intent to amend the Zoning Map of the District of Columbia.

The purpose of this map amendment is to rezone the properties in the Marshall Heights neighborhood currently zoned R-5-A to a lower intensity zoning consistent with the District Elements of the Comprehensive Plan for the National Capital.

Final rulemaking action shall be taken in not less than thirty (30) days after the date of publication of this notice in the D.C. Register. The following rulemaking action is proposed:

Amend the Zoning Map of the District of Columbia to zone the following properties from R-5-A to R-5-C:

Squares or Portions Of Squares Zoned R-5-A	Proposed Rezoning
5350, 5351, 5352, 5341, 5341E, 5342, 5342E, 5359 and 5362.	R-2
5322, 5330, 5331, 5332, 5333, 5334, 5335, 5336, 5337, 5338, 5328, 5327, 5326, 5325, 5324, 5323, 5321, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5316, 5317, 5304, 5303, 5302, 5301, 5300, 5299, 5298, 5297, 5293, 5294, 5295, 5296 and 5287.	R-3

A map showing the squares and portions of squares is found on page two of the Office of Planning's final report dated February 22, 2008, assigned Exhibit No. 5.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 07-34

(Map and Text Amendments – 11 DCMR)

(Rezoning Portions of Squares 176, 177, 177N, 178, 190, 191, 206, and 207)

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01), hereby gives notice of its intent to amend the Zoning Map and § 1501 of the Zoning Regulations (Title 11 DCMR).

The proposed map amendment rezones the area generally bounded by S, T, U, 15th, and 16th Streets and New Hampshire Ave., N.W. in two ways. First, the proposed amendment would rezone those properties currently zoned in the R-5-D Zone District to the R-5-B Zone District, and those properties located in the R-5-B Zone District to the R-4 Zone District. Second, the proposed amendment would map all affected properties within the Dupont Circle (DC) Overlay District. In addition, the Commission proposes to repeal § 1501.2 and amend § 1501.3 to add these lots to the properties listed as mapped within the DC Overlay. The repeal is needed because not all of the properties within the area described above will be mapped DC and, therefore, the Overlay will no longer have a boundary within which are included all DC properties.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following rulemaking action is proposed:

A. The Zoning Map is amended as shown in the following table:

Square	Lots	Proposed Zone
176	43-45, 64-73, 2076-2128	R-5-D to DC/R-5-B
177	2, 36-40, 87-92, 104, 108, 126, 127, 801, 802, 2009-2019, 2020-2025	R-5-D to DC/R-5-B
	118-123	R-5-B to DC/R-4
N177	4-9, 17, 23-25, 26, 27, 87-92, 801-804, 807, 810-811, 2001-2009, 2010-2012, 2013, 2022	R-5-D to DC/R-5-B
190	22-42, 51-62, 88-99, 101-116, 2019-2028	R-5-B to DC/R-4
	119-120, 123, 129, 809, 2001-2018, 2029- 2049, 2050-2056	R-5-D to DC/R-5-B

Square	Lots	Proposed Zone
191	93-95, 100, 803-804, 2001-2012, 2014-2027, 2059-2067 3-6, 8-16, 40-49, 51-59, 63-65, 66-69, 71-76, 79-87, 90-92, 96-98, 99, 104, 107-108, 800, 801, 812, 814, 816, 817, 2028-2031, 2032, 2034-2058, 2068-2077	R-5-D to DC/R-5-B R-5-B to DC/R-4
206	17-25, 62-65, 113-122, 128-133, 138-162, 166-176, 177-198, 219, 220, 800-805, 807, 809, 811, 812, 813, 814, 2001-2013	R-5-B to DC/R-4
207	48-65, 94-95, 810	R-5-B to DC/R-4

B. Chapter 15, MISCELLANEOUS OVERLAY DISTRICTS, is amended as follows:

1. By deleting § 1501.2.
2. Subparagraph 1501.3 is amended to read as follows (added text is shown in **bold** and underlined):

1501.3 The DC Overlay District includes the following squares: 23, 35, 48, 49, 65, 66, 67, 68, 69, 70, 90, 91, 92, 93, 94, 95, 96, 97, 98, N99, 109, 110, 111, 112, 113, 114, 115, 116, 131, 132, 133, 134, 135, 136, 137, N137, 138, 139, 153, S153, 154, 155, 156, 157, 158, 159, 160, 178, 179, 180, 181, S181, 182, N182, 192, 193, 194, 195, S195, 196, and N196. **The DC Overlay District also includes the following lots: Square 176, Lots 43-45, 64-73, 2076-2128; Square 177, Lots 2, 36-40, 87-92, 104, 108, 118-123, 126, 127, 801, 802, 2009-2019, 2020-2025, Square N177, Lots 4-9, 17, 23-25, 26, 27, 87-92, 801-804, 807, 810-811, 2001-2009, 2010-2012, 2013, 2022; Square 190, Lots 22-42, 51-62, 88-99, 101-116, 119-120, 123, 129, 809, 2001-2018, 2019-2028, 2029-2049, 2050-2056; Square 191, Lots 3-6, 8-16, 40-49, 51-59, 63-65, 66-69, 71-76, 79-87, 90-92, 93-95, 96-98, 99, 100, 104, 107-108, 800, 801, 803-804, 812, 814, 816, 817, 2001-2012, 2014-2027, 2028-2031, 2032, 2034-2058, 2059-2067, 2068-2077, Square 206, Lots 17-25, 62-65, 113-122, 128-133, 138-162, 166-176, 177-198, 219, 220, 800-805, 807, 809, 811, 812, 813, 814, 2001-2013; and Square 207, Lots 48-65, 94-95, 810.**

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.