

## ENROLLED ORIGINAL

## A RESOLUTION

16-324

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency, due to Congressional review, with respect to the need to exempt from taxation certain real property owned by Brentwood RI, LLC, at 1060 Brentwood Road, N.E., Washington, D.C. 20018.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Brentwood Retail Center Real Property Tax Exemption Congressional Review Emergency Declaration Resolution of 2005".

Sec. 2. (a) The underlying emergency legislation provides that the District grant a 6-year exemption from real property tax for Brentwood RI, LLC, the developer of a shopping center at 1060 Brentwood Road, N.E., on lot 57 of square 3848 in Ward 5.

(b) The tax abatement is a prerequisite for finalizing the leases for each of the national credit companies that are currently negotiating for space in the shopping center. The leases are conditional on receiving the tax abatement from the District of Columbia.

(c) Because the project has been underwritten to support the \$16.7 million in debt, the return on the project is approximately 11.9 % after taking into account the tax abatement. Without the tax abatement, the return on equity is less than 1% and the project would not be viable.

(d) To secure the financing for the project and to allow the construction to begin on time, without further escalating the development costs, it is critical that the tax abatement be granted on an emergency basis.

(e) The tax abatement would contribute to the successful commercial development of a shopping center, with space to be anchored by 2 national credit retail stores and a minimum of 3 additional retail stores, within the footprint of the K-Mart building originally planned for the site, an area that is underserved by retail and commercial services. The anchors will occupy approximately 39,375 and 20,000 square feet, respectively, and an additional 17,500 square feet will be divided between 3 to 4 additional retail stores.

(f) It is projected that by foregoing approximately \$177,000 in annual real estate tax revenue, the District will receive approximately \$1.2 million in new sales tax revenue and additional revenues in payroll and other business tax revenue. It is projected that the shopping center will generate approximately \$14,979,938 in new sales, payroll, and business tax revenue over a 10-year period, \$593,848 in sales tax on construction materials for years 1 and 2, and \$1,200,000 in real estate taxes for years 7 to 10, for a grand total of \$16,773,786 in revenues for the 10-year period. The construction and lease-up of the commercial center will also create an estimated 250 new jobs in the District.

(g) The approved temporary legislation is currently pending Congressional review, therefore, the emergency legislation will prevent a gap in legal authority, in the interim.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Brentwood Retail Center Real Property Tax Exemption Congressional Review Emergency Act of 2005 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

16-325

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency, due to Congressional review, with respect to the need to exempt from taxation certain real property located in the District of Columbia used by the Department of the Army.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Walter Reed Property Tax Exemption Reconfirmation Congressional Review Emergency Declaration Resolution of 2005".

Sec. 2. (a) The Military Housing Privatization Initiative of the 1996 National Defense Authorization Act, which was Public Law 104-106, codified at 10 U.S.C. §§ 2871 through 2885, created a mechanism whereby the Department of the Army ("Army") could enter into partnerships with the private sector for the purposes of the rehabilitation and construction of housing for military personnel and their families. These partnerships will allow for financing of this work by the private sector.

(b) The Army has entered into such a partnership at Walter Reed U.S. Army Medical Center ("Walter Reed") with GMH Military Housing LLC ("GMH").

(c) The property in question will continue to be used solely for military housing, and will be 90% owned by the Army and 10% owned by GMH for 50 years, after which time sole ownership will revert to the Army.

(d) The underlying emergency legislation will preserve the tax exemption this land currently enjoys, consistent with its continued use as housing for military personnel and their families, and thus allow the public-private partnership for the rehabilitation and development of this housing to move forward.

(e) In order to allow the Army to begin renovating the housing through a streamlined process, the Council passed Bill 15-849, the Walter Reed Property Tax Exemption Reconfirmation Emergency Act of 2005, and Bill 15-850, the Walter Reed Property Tax Exemption Reconfirmation Temporary Act of 2005.

(f) The current emergency legislation, the Walter Reed Property Tax Exemption Reconfirmation Emergency Act of 2005 (D.C. Act 16-144) will expire on October 24, 2005. The

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permanent legislation Walter Reed Property Tax Exemption Reconfirmation Act of 2005 (Bill 16-143) passed on second reading on September 20, 2005 and is currently pending Congressional review.

(g) If a new emergency is not passed, the GMH would lose its tax exempt status in the middle of the renovation project.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Walter Reed Property Tax Exemption Reconfirmation Congressional Review Emergency Act of 2005 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

16-326

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency, due to Congressional review, with respect to the need to extend the term allowed for a bus shelter franchise agreement.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "District of Columbia Bus Shelter Congressional Review Amendment Emergency Declaration Resolution of 2005".

Sec. 2. (a) There existed an urgent need for the District to enter into a Bus Shelter Franchise Agreement pursuant to the District of Columbia Bus Shelter Act of 1979, effective May 10, 1980, (D.C. Law 3-67; D.C. Official Code § 9-1152(d))("Act"). The District's Bus Shelter Franchise Agreement had expired and the District was operating under a temporary extension that will expire on October 26, 2005, or upon approval by the Council of a new bus shelter contract.

(b) The most favorable financial agreement for a Bus Shelter Agreement for the District would be for a term of 20 years, which would result in greater continuity of services and substantial additional guaranteed revenues generated from the sale of advertising by the franchisee. However, the Act did not allow for 20 year bus shelter franchise agreements.

(c) In July 2005, the Council enacted the District of Columbia Bus Shelter Emergency Amendment Act of 2005, effective July 14, 2005 (D.C. Act 15-141; 52 DCR 8111) ("Emergency Act"), which amended the Act to allow for a 20 year bus shelter franchise agreement for a specified time period. The Emergency Act expires on October 12, 2005.

(d) In September 2005, the Council enacted the District of Columbia Bus Shelter Temporary Amendment Act of 2005, signed by the Mayor on October 4, 2005 (D.C. Act 16-173; 52 DCR \_\_\_\_), which must complete the 30-day review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and will not become law until, at the earliest, late November.

(e) It is important that the provisions of the Emergency Act continue in effect, without interruption, until the temporary act is law.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the District of Columbia Bus Shelter Congressional Review Emergency Amendment Act of 2005 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

16-327

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency with respect to the need to change the method of taxing natural gas delivered to consumers in the District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Natural Gas Taxation Relief Emergency Declaration Resolution of 2005".

Sec. 2. (a) The price of natural gas has been increasing significantly. According to the U.S. Department of Energy, the price of residential natural gas in the District of Columbia rose almost 33%, from an average of \$10.81 to \$14.31 per 1,000 cubic feet, from 2000 through 2004. It further increased almost 33% during the first 7 months of 2005, to \$18.95 per 1,000 cubic feet.

(b) Natural gas bills are predicted to be at least 32% higher this winter than they were a year ago because of tight supply and heavy demand. According to the Office of the People's Counsel, the cost of gas in the District has reached an all time high of \$1.1053 per therm.

(c) Customer gas bills reflect the number of therms delivered multiplied by the purchased gas charge per therm, which is the prevailing price of the gas in the commodities market.

(d) The District of Columbia currently imposes a 10% gross receipts tax on residential sales and 11% gross receipts tax on nonresidential sales of natural gas based on the purchased gas cost per therm, which tax is passed on to and paid by the consumer. As the cost per therm increases, so does the amount of the tax paid by the consumer.

(e) The steep increases in the cost of natural gas mean District customers are and will be paying higher taxes for delivery of their gas, placing an additional financial burden on them.

(f) The Council must offer relief to District consumers so they can afford to pay their heating bills as winter approaches.

(g) It is necessary to offer relief to consumers from the volatility of the purchased cost of natural gas by taxing customers on the amount of gas they use during a billing period and not on the market price of the gas. It is necessary for the tax on the number of therms consumed to be at a rate that will ensure the District receives the revenue budgeted for Fiscal Year 2006 from taxes on sales of natural gas, but will not provide a financial windfall at the expense of District consumers.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Natural Gas Taxation Relief Emergency Act of 2005 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

16-328

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency with respect to the need to require that the Mayor conduct a study relative to the escalating motor vehicle fuel costs and heating fuel cost in the District of Columbia and to make recommendations to the Council concerning methods that may be utilized to stabilize such increased costs, and to require the Executive Office of the Mayor to investigate possible price gouging by local motor vehicle fuel retailers and wholesalers, and to report such findings to the Council by December 15, 2005.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Gasoline Fuel Tax Examination Emergency Declaration Resolution of 2005".

Sec. 2. The Council of the District of Columbia finds that:

- (1) Gasoline rates, nationally, have increased to unprecedented levels.
- (2) The District of Columbia, according to reports issued by Mid-Atlantic AAA, has the highest motor vehicle fuel rate in the nation.
- (3) State legislatures are currently considering or have taken action to provide economic relief to its residents by either establishing price ceilings, or engaging in creative methods of temporarily relieving consumers of high fuel costs (e.g., sales-tax holidays on gasoline, sale of turnpikes, formal agreements with gas station owners).
- (4) The District of Columbia's motor vehicle fuel rate is higher than other jurisdictions in the region.
- (5) Heating oil prices have been estimated to rise by 31% this winter, almost twice the 16% increase forecasted in August.
- (6) The natural gas prices are expected to rise by 37% to 50% this winter.
- (7) With colder than normal temperatures predicted, the demand for heating oil and natural gas is expected to rise.
- (8) Residents of the District of Columbia deserve some form of relief to offset the increased cost of fuel.

Sec. 3. The Council of the District of Columbia finds that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Gasoline Fuel Tax Examination Emergency Act of 2005 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



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## A RESOLUTION

16-329

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency with respect to the need to offset the high costs of fuel as the rising cost of energy severely burdens the lives of lower-income and elderly District residents.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Heating Oil and Artificial Gas Consumer Relief Emergency Declaration Resolution of 2005".

Sec. 2. The Council of the District of Columbia finds that:

- (1) There exists an emergency regarding the need to provide assistance to lower-income consumers who will be burdened with rising energy prices during the winter of fiscal year 2006.
- (2) Hurricane Katrina and Rita has severely damaged the Gulf Coast's oil production and knocked out about 18% of U.S. oil refining and natural gas pipeline capacity.
- (3) Heating oil prices are expected to rise by 31% this winter, almost double the 16% increase forecasted in August.
- (4) The natural gas prices are expected to rise up to 50% this winter.
- (5) The federal Low-Income Home Energy Assistance Program has helped consumers in recent years with \$600 in average assistance.
- (6) With colder than normal temperatures predicted, the demand for heating oil and natural gas is expected to rise.
- (7) The Department of Energy estimates a substantial rise in heating costs in average homes to be \$1,568 for natural gas and \$1,666 for heating oil.
- (8) The Department of Energy projects that home heating prices will average 47.5% more this winter than last winter, the largest such increase in more than 30 years.
- (9) Because the spike in prices will increase the number of low-income households in need of assistance, LIHEAP participation is likely to grow by five percent or more.
- (10) The federal Low-Income Home Energy Assistance Program funding level will remain unchanged at an average of \$600 per household.

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(11) According to the Center on Budget and Policy Priorities Study, an additional \$10 million will be needed this winter to retain the Low-Income Home Energy Assistance Program beneficiaries' burden at the same level as that of last year in the District of Columbia.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Heating Oil and Artificial Gas Consumer Relief Emergency Act of 2005 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

16-330

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency with respect to the need for Council review of any proposed private or alternative stadium financing agreement that will cost District taxpayers more than the defined costs of publicly financing the stadium.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council Stadium Financing Emergency Declaration Resolution of 2005".

Sec. 2. The Council of the District of Columbia finds that:

(a) The District of Columbia government has a duty to spend public funds in a responsible manner and in the best interest of District residents.

(b) It is in the interest of District residents to construct the baseball stadium at the lowest cost possible.

(c) The District of Columbia government should not enter into a private or alternative stadium financing agreement that will cost District taxpayers more than the defined costs associated with publicly financing the stadium including the cost of land acquisition, construction, and remediation.

(d) The government of the District of Columbia is in the process of finalizing a private financial agreement with Deutsche Bank for the construction of the Washington Nationals' baseball stadium without providing an opportunity for the Council to review the agreement.

(e) Prior to formalizing the agreement, it should be presented by the District government to the Council for review.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Sense of the Council Stadium Financing Emergency Resolution of 2005 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

16-331

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare, on an emergency basis, the sense of the Council that the District of Columbia government should not enter into a private or alternative stadium financing agreement that will cost taxpayers more than the defined costs of publicly financing the stadium, including the cost of land acquisition, construction, and remediation, and that the agreement should be presented to the Council for review before it is formalized.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council Stadium Financing Emergency Resolution of 2005".

Sec. 2. The Council of the District of Columbia finds that:

(a) In December 2004, the Council passed the Ballpark Omnibus Financing and Revenue Act of 2004 ("Ballpark Financing Act"), effective April 8, 2005 (D.C. Law 15-320; 52 DCR 1575).

(b) The Ballpark Financing Act authorized the District to issue up to \$534.8 million in bonds to pay for the RFK stadium renovation and construction of a new ballpark.

(c) The Ballpark Financing act also required the Chief Financial Officer to request and review supplemental or alternative stadium financing plans and proposals.

(d) The Ballpark Financing Act requires that these financing plans must substantially reduce the annual amount of the ballpark fee required to repay bonds issued to construct the baseball stadium.

(e) The District of Columbia government has a duty to spend public funds in a responsible manner and in the best interest of District residents.

(f) It is in the interest of District residents to construct the baseball stadium at the lowest cost possible.

Sec. 3. It is the sense of the Council that the District of Columbia government should not enter into a private or alternative stadium financing agreement that will cost District taxpayers more than the defined costs associated with publicly financing the stadium including the cost of land acquisition, construction, and remediation, and that the agreement should be presented to the Council for review before the agreement is formalized.

Sec. 4. The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor, the Chief Financial Officer, and the District of Columbia Sports and Entertainment Commission.

Sec. 5. This resolution shall take effect immediately.

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## A RESOLUTION

16-332

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency with respect to the need to amend Chapter 20 of Title 21 of the District of Columbia Official Code to add a definition of "emergency care" to the guardianship law; to amend Chapter 22 of Title 21 of the District of Columbia Official Code to authorize psychologists to certify incapacity to make a health-care decision, to permit court-appointed mental retardation advocates to provide substituted consent for health-care decisions for incapacitated consumers, and to authorize a health-care provider, the District of Columbia, or an interested person to file a petition for the appointment of a limited guardian if there is no individual who can act as a substitute health-care decisionmaker for an incapacitated consumer; and to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to require initial and periodic evaluations of decisionmaking capacity and availability of health-care decisionmaking supports for consumers of services funded by the Mental Retardation and Developmental Disabilities Administration, to repeal a provision providing a process for authorizing emergency medical surgery for a consumer that is inconsistent with federal law, and to require the Administrator of the Mental Retardation and Developmental Disabilities Administration to issue reports on the decisionmaking capacity of and the availability of health-care decisionmaking supports for consumers of services funded by the Mental Retardation and Developmental Disabilities Administration.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Health-Care Decisions for Persons with Mental Retardation and Developmental Disabilities Emergency Declaration Resolution of 2005".

Sec. 2. (a) Emergency and temporary versions of the Citizens With Mental Retardation Substituted Consent for Health Care Decisions Amendment Act have been in effect since 1999 and have governed surrogate medical decisionmaking for persons with mental retardation and developmental disabilities.

(b) Under the Citizens With Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2004, effective March 17, 2005 (D.C. Law 15-245; 51 DCR 11236), the Administrator of the Mental Retardation and Developmental Disabilities Administration ("MRDDA") is authorized to make medical decisions for MRDDA consumers in the event that no person is willing or able to act as a surrogate decisionmaker under Chapter 22 of Title 21 of the District of Columbia Official Code.

(c) The current arrangement has led, in some cases, to extreme delays in medical decisionmaking on behalf of MRDDA consumers, especially those with painful but non-life-threatening ailments, such as dental problems; additionally, many MRDDA consumers are without a surrogate medical decisionmaker who represents their interests and wishes, without

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having a conflict of interest related to the interests of MRDDA as the consumers' caretaker.

(d) The Citizens With Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2004, effective March 17, 2005 (D.C. Law 15-245; 51 DCR 11236), will expire on October 28, 2005.

(e) There is a need for the Council to adopt emergency legislation in order to avoid a gap in applicable law governing surrogate medical decisionmaking for persons with mental retardation or developmental disabilities.

(f) The Administrator of MRDDA should not have the power to make surrogate medical decisions on behalf of MRDDA consumers, as is permitted under the existing Citizens With Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2004; instead, the District should increase its efforts to identify surrogate decisionmakers under Chapter 22 of Title 21 of the District of Columbia Official Code, and, in the event that no person is willing or able to serve as a surrogate decisionmaker, a temporary or limited guardian should be appointed to serve in that capacity.

(g) It has become clear that there is a need for MRDDA to collect additional information on the number and type of medical decisions made on behalf of MRDDA consumers in order to inform permanent legislation on this subject.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Health-Care Decisions for Persons with Mental Retardation and Developmental Disabilities Emergency Amendment Act of 2005 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

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## A RESOLUTION

16-333

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency with respect to the need to clarify the requirements that the Department of Small and Local Business Development must adhere to when reporting to the Council on agency and government corporation compliance with local, small, and disadvantaged business enterprise procurement goals and that the procurement of materials, goods and supplies may count towards the satisfaction of local, small, and disadvantaged business enterprise construction subcontracting requirements.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Department of Small and Local Business Development Clarification Emergency Declaration Resolution of 2005".

Sec. 2. (a) There exists an immediate need to ensure that key provisions in the underlying legislation creating the Department of Small and Local Business Development ("Department") are firmly settled in order to ensure that the proposed rulemaking for the Department, which is currently underway, proceeds without delay.

(b) Conversations with the Attorney General confirm that making these changes part of the underlying law now will allow his office to conduct a more thorough and timely review of the proposed rules.

(c) The law needs to more clearly reflect the original intent of the construction subcontracting provision to allow that employing LSDBEs in both traditional construction related trades services, such as carpentry or cement work, or those that supply materials, goods and supplies may be counted towards the prime contractor's 35% LSDBE requirement.

(d) New language is needed that provides more direction to the Department about what information must be reported to the Council in order for effective oversight of agency compliance with LSDBE procurement goals. Specifically, the new language requires the Department to forward to the Council the quarterly reports that each agency and government corporation must submit that demonstrates its compliance with LSDBE procurement goals. In addition, the Department must report actual dollars expended with LSDBEs as well as contract award amounts that have traditionally been reported.

(e) Resolving as many issues with the underlying provisions of the LSDBE program at the outset will allow for a smoother transition period as the Office of Local Business Development becomes the Department of Small and Local Business Development, as well as concurrently developing a concise set of rules that will allow the Department to function properly from inception.

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Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Department of Small and Local Business Development Clarification Emergency Act of 2005 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



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## A RESOLUTION

16-334

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 11, 2005

To declare the existence of an emergency with respect to the need to avoid a lapse in authority while the Council considers permanent legislation to clarify the due process rights afforded to producers under the suspension and revocation provisions, and to provide the Commissioner of the Department of Insurance, Securities and Banking with summary suspension authority to suspend the certificate of authority of individual or firm producers without giving notice if the Commissioner finds upon examination that the further transaction of business by the producer would be hazardous to the public or to the policyholders or the creditors of the producer in the District.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Producer Summary Suspension Emergency Declaration Resolution of 2005".

Sec. 2. (a) The Council of the District of Columbia enacted the Producer Licensing Act of 2002 ("Act") in March 2003. The legislation did not incorporate provisions affording due process rights to producers in the event that the Commissioner of the Department of Insurance, Securities, and Banking ("Department") instituted suspension or revocation proceedings. Without clear instructions, the Commissioner and the producers cannot be sufficiently placed on notice as to what process must be accorded to the respective parties. Moreover, short of informally adopting the customary practice of providing individual and regulated entities with 30-days notice of the Commissioner's intent to take such action and the opportunity for a full hearing, the Department could be subject to protracted litigation, which would have the effect of frustrating the Department's ability to effectively and efficiently regulate producers. Therefore, to close this gap and avoid this pitfall, it was necessary that the Council amend the Act to clarify the due process rights afforded to producers.

(b) Further, under the Act, the Commissioner does not have the authority to summarily suspend individual or firm producers if the further transaction of business by a producer would be hazardous to the public or to the policyholders or to the creditors of the producer in the District and outside the District. In this regard, the Commissioner had been unable to effectively intervene in matters where it has been determined that the further transaction of business by a

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producer has been hazardous to the public. Moreover, without the summary suspension authority, the Commissioner was without recourse, and the insuring public was vulnerable, to producers whose intent it is to victimize and defraud the District residents. As such, to eliminate this clear and present threat to the residents in the District, it was necessary that the Council amend the Act to provide this authority.

(c) Further, under the Act, the Commissioner does not have the authority to issue subpoenas to producers. Invariably, it becomes necessary for the Department, outside of the context of a hearing, to request the production of documents so as to prevent the documents from being lost, damaged, or destroyed. Like the summary suspension authority, this additional tool assists the Department in regulating producers and preventing fraud. Thus, it was necessary that the Council amend the Act to provide this authority.

(d) Accordingly, because of the clear and present threat posed to the public by the absence of the procedural safeguards and powers granted to the Commissioner in the Act, the Council adopted emergency and temporary legislation to ensure that the Commissioner is fully equipped to protect the public and that the due process rights of producers are clearly delineated. Emergency legislation expired on January 24, 2005. Temporary legislation will expire on October 28, 2005.

(e) Identical permanent legislation, Bill 16-202, was introduced on April 4, 2005, and was referred to the Committee on Consumer and Regulatory Affairs. The Committee held a public hearing on Bill 16-202 on Friday, July 8, 2005. The Committee held a mark-up on the proposed permanent legislation and approved the committee print, and the report thereto, on Friday, October 7, 2005.

(f) This new cycle of emergency and temporary legislation is necessary to avoid a lapse in the Commissioner's authority and due process protections while the full Council considers the permanent legislation.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Producer Summary Suspension Emergency Amendment Act of 2005 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.