

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-548

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 26, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend, on an emergency basis, the Producer Licensing Act of 2002 to clarify the due process rights afforded to producers under the suspension and revocation provisions of the act; and to provide the Commissioner of the Department of Insurance, Securities, and Banking with summary suspension authority to suspend the certificate of authority of an individual or firm producer 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 to the creditors of the producer in the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Producer Summary Suspension Emergency Amendment Act of 2004".

Sec. 2. Section 12 of the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.12), is amended as follows:

Note,
§ 31-1131.12

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

"Sec. 12. License denial, nonrenewal, suspension, or revocation."

(b) The lead-in text of subsection (a) is amended to read as follows:

"(a) The Commissioner may place an insurance individual or business entity producer on probation; suspend, revoke, or refuse to issue or renew an insurance producer's license; may levy a civil penalty in accordance with subsection (d) of this section; may issue subpoenas and administer oaths; or take any combination of these actions if an insurance producer:"

(c) Paragraph (b) is amended as follows:

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

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

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

"(B) The Commissioner shall not revoke or suspend the license of any such producer until the Commissioner has given the producer not less than 30 days notice of the proposed revocation or suspension and of the grounds alleged thereof, and has afforded the producer an opportunity for a full hearing; provided, that if the Commissioner shall find upon examination that the further transaction of business by the producer would be hazardous to the

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public or to the policyholders or creditors of the producer in the District, the Commissioner may suspend the authority without giving notice as herein required, subject to a hearing within 30 days of the effective date of the order of suspension.”

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

“(2) In a hearing under this subsection, the Commissioner may administer oaths to witnesses and issue subpoenas. A witness testifying falsely under oath shall be subject to the penalties of perjury. The Commissioner’s authority to issue subpoenas shall not be limited to the context of a hearing if the Commissioner shall find upon examination that the issuance of a subpoena is necessary to protect the public interest.”

(d) Subsection (c) is amended to read as follows:

“(c)(1) The license of a business entity may be suspended, revoked, or denied renewal if the Commissioner finds, after a hearing as provided in paragraph (2) of this subsection, that:

“(A) The occurrence of a license violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity;

“(B) The violation was not reported to the Commissioner; and

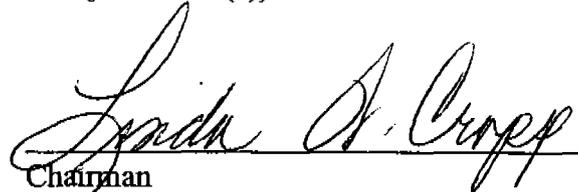
“(C) Corrective action was not taken.

“(2) The Commissioner shall not suspend, revoke, or deny renewal of the license of a business entity until the Commissioner has given the producer not less than 30 days notice of the proposed suspension, revocation, or denial and of the grounds alleged therefor, and has afforded the producer an opportunity for a full hearing; provided, that if the Commissioner shall find upon examination that the further transaction of business by the producer would be hazardous to the public or to the policyholders or creditors of the producer in the District, the Commissioner may suspend the authority without giving notice as herein required, subject to a hearing within 30 days of the effective date of the order of suspension.”

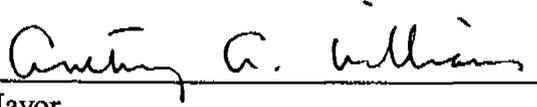
Sec. 3. The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 26, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA

OFFICE OF THE BUDGET DIRECTOR

FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (<input checked="" type="checkbox"/>) Temporary (<input type="checkbox"/>) Permanent (<input type="checkbox"/>)	Date Reported: September 21, 2004
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Subject/Short Title: "Producer Summary Suspension Emergency Amendment Act of 2004"

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).		
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.	()	(x)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).		
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue. See below	()	(x)
d) It will impact intra-District revenue.	()	(x)
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(x)	()
Explanation:		
The proposed legislation does not have any fiscal impact on the District's General Fund. The proposed legislation will not require additional staff or resources.		

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

	YES	NO
1. It will affect an agency and/or agencies in the District. This bill will affect the Department of Insurance, Securities, and Banking	(x)	()
2. Are there performance measures/output for this bill?	()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	()	(x)
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(x)

Sources of information:	Councilmember: Sharon Ambrose, Chair, Committee on Consumer and Regulatory Affairs
Council staff	Staff Person & Tel: David Grosso 724-8072
	Council Budget Director's Signature: <i>ANN [Signature]</i>

9/12/04

ENROLLED ORIGINAL

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D.C. ACT 15-549

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 26, 2004

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To amend, on an emergency basis, due to Congressional review, the Certified Capital Companies Act of 2003 and the Insurance Regulatory Trust Fund Act of 1993 to permit the Department of Insurance, Securities, and Banking to spend fees generated from the Certified Capital Companies Act of 2003; and to amend the Captive Insurance Company Act of 2000 to repeal the sponsored cell provisions and replace them with provisions for the establishment, operation, and liquidation of segregated accounts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Captive Insurance Company Enhancement Congressional Review Emergency Amendment Act of 2004".

Sec. 2. The Certified Capital Companies Act of 2003, effective March 10, 2004 (D.C. Law 15-87; 50 DCR 10982), is amended by adding a new section 9a to read as follows:

"Sec. 9a. Fees deposited in Insurance Regulatory Trust Fund.

"All fees collected pursuant to this act shall be deposited in the Insurance Regulatory Trust Fund established by section 3 of the Insurance Regulatory Trust Fund Act of 1993, effective October 21, 1993 (D.C. Law 10-40; D.C. Official Code § 31-1202), and expended for the purposes authorized by the Fund."

Sec. 3. Section 3(a) of the Insurance Regulatory Trust Fund Act of 1993, effective October 10, 1993 (D.C. Law 10-40; D.C. Official Code § 31-1202(a)), is amended by striking the phrase "this act" and inserting the phrase "this act and the Certified Capital Companies Act of 2003, effective March 10, 2004 (D.C. Law 15-87; 50 DCR 10982)," in its place.

Note,
§ 31-1202

Sec. 4. The Captive Insurance Company Act of 2000, effective October 21, 2000 (D.C. Law 13-192; D.C. Official Code § 31-3901 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-3901) is amended as follows:

- (1) Paragraph (9) is amended by striking the phrase "sponsored captive insurer".
- (2) Paragraphs (20), (24), and (25) are repealed.
- (3) A new paragraph (23A) is added to read as follows:

Note,
§ 31-3901

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"(23A) "Segregated account" means a separate account established and maintained by any captive insurer:

"(A) In which the minimum capital and surplus required by applicable law is provided by one or more persons;

"(B) That is formed or licensed under the provisions of this act;

"(C) That insures risks of separate participants through contract;

"(D) That is comprised of one or more participants, who are authorized to act on matters relating to the segregated account; and

"(E) That segregates each participant's liability.".

(b) Section 7 (D.C. Official Code § 31-3906) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "sponsored captive insurer,".

(2) Subsections (c) through (h) are repealed.

(c) New sections 17a and 17b are added to read as follows:

"Sec. 17a. Segregated accounts.

"(a)(1) Upon payment of the applicable fee under section 4, a captive insurer may form one or more segregated accounts under this act to:

"(A) Insure risks of one or more participants; or

"(B) Segregate its assets and liabilities from the assets and liabilities of its segregated accounts.

"(2) The assets and liabilities of each segregated account shall be held separately from the assets and liabilities of all other segregated accounts.

"(3) A captive insurer shall be a single legal entity and each segregated account of a captive insurer may be established as a separate legal entity, which shall constitute a legal entity separate from the captive insurer. Each segregated account shall be separately identified or designated as being a part of the captive insurer.

"(4) A captive insurer that maintains any segregated account shall pay an additional annual fee in an amount to be established by the Commissioner for each segregated account.

"(b)(1) A captive insurer may create and issue shares in one or more classes or series for one or more segregated accounts. The proceeds of the issuance of shares shall be included in the assets of the segregated account for which the shares were issued.

"(2) The proceeds of the issuance of shares, other than segregated account shares, shall be included in the captive insurer's general assets.

"(3) A captive insurer may pay a dividend on segregated account shares of any class or series from segregated account assets whether or not a dividend is declared on any other class or series of segregated account shares or any other shares. The dividends shall only be paid to the shareholders of the segregated account and in accordance with the rights of the shares.

"(c)(1) Any act, matter, deed, agreement, contract, instrument under seal, or other

Note,
§ 31-3906

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instrument or arrangement which is to be binding on or to inure to the benefit of a segregated account or accounts shall be executed by the captive insurer for and on behalf of the segregated account or accounts, shall be identified and, where in writing, shall indicate that the execution is in the name of, or by or for the account of, the segregated account or accounts.

"(2) If a captive insurer is in breach of paragraph (1) this subsection:

"(A) Notwithstanding any provisions to the contrary in the captive insurer's organizational documents or in any contract with such company or otherwise, the directors of the captive insurer shall incur personal liability for the liabilities of the captive insurer and the segregated account under the act, matter, deed, agreement, contract, instrument, or arrangement that was executed; and

"(B)(i) Unless they were fraudulent, reckless, negligent, or acted in bad faith, the directors of the captive insurer shall have a right of indemnity, in the case of a matter on behalf of or attributable to a segregated account or accounts, against the assets of that account; or

"(ii) In the case of a matter not on behalf of or attributable to any segregated account, the directors shall have a right of indemnity against the general assets of the captive insurer.

"(3) Notwithstanding the provisions of paragraph (2)(A) of this subsection, a court may relieve a director of all or part of this personal liability thereunder if he or she satisfies the court that he or she should be relieved because the director:

"(A) Was not aware of the circumstances giving rise to the liability and, in being not so aware, the director was not fraudulent, reckless or negligent, and did not act in bad faith; or

"(B) Expressly objected, and exercised such rights as a director, whether by way of voting power or otherwise, so as to try to prevent the circumstances giving rise to the liability.

"(4) If, pursuant to the provisions of paragraph (3) of this subsection, the court relieves a director of all or part of his or her personal liability under paragraph (2)(A) of this subsection, the court may order that the liability in question shall instead be met from the portion of the segregated account or general assets of the account of the captive insurer as may be specified in the order.

"(5) Any provision in the organizational documents of a captive insurer, or any other contractual provision under which the captive insurer may be liable, which purports to indemnify directors in respect of conduct which would otherwise disentitle them to an indemnity by virtue of paragraph (2)(B) of this subsection, shall be void.

"(d)(1) The assets of a captive insurer shall be either segregated account assets or general assets. The segregated account assets comprise the assets of the captive insurer held within or on behalf of the segregated accounts of the captive insurer. The general assets of a captive insurer comprise the assets of the captive insurer which are not segregated account assets.

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"(2) The assets of a segregated account are comprised of assets representing the capital stock and reserves attributable to the segregated account, and all other assets attributable to or held within the segregated account. For the purposes of this paragraph, "reserves" includes retained earnings, capital surplus, and paid-in capital.

"(3) The directors of a captive insurer shall establish and maintain, or cause to be established and maintained, procedures:

"(A) To segregate, and keep segregated, account assets separate and separately identifiable from general assets;

"(B) To segregate, and keep segregated, account assets of each segregated account separate and separately identifiable from segregated account assets of any other segregated account; and

"(C) Where relevant, to apportion or transfer assets and liabilities between segregated accounts, or between segregated accounts and general assets of the segregated account captive insurer.

"(4) Segregated account assets shall:

"(A) Only be available and used to meet liabilities of the creditors with respect to that segregated account, and those creditors shall thereby be entitled to have recourse to the segregated account assets attributable to that segregated account; and

"(B) Not be available or used to meet liabilities to, and shall be absolutely protected from, the creditors of the captive insurer who are not creditors with respect to a particular segregated account, and those creditors shall not be entitled to have recourse to such protected segregated account assets.

"(e)(1) If a liability of a captive insurer to a person arises from a matter, or is otherwise imposed, with respect to a particular segregated account, the liability shall extend only to, and that person shall, with respect to that liability, be entitled to have recourse only to:

"(A) First, the segregated account assets attributable to such segregated account; and

"(B) Second, the captive insurer's general assets, to the extent that the segregated account assets attributable to the segregated account are insufficient to satisfy the liability, and to the extent that the captive insurer's general assets exceed any minimum capital amounts lawfully required by this act.

"(2) If a liability of a captive insurer to a person arises otherwise than from a matter in respect of a particular segregated account or accounts, or is imposed otherwise than in respect of a particular segregated account or accounts, the liability shall extend only to, and that person shall, with respect to that liability, be entitled to have recourse only to the captive insurer's general assets.

"(3) Liabilities of a captive insurer not attributable to any of its segregated accounts shall be discharged from the segregated account captive insurer's general assets. Income, receipts, and other property or rights of, or acquired by, a captive insurer not otherwise

attributable to any segregated account shall be attributed to the captive insurer's general assets to the extent that the captive insurer's general assets exceed any minimum capital amounts lawfully required by this act.

"(f)(1) Each segregated account shall be accounted for separately on the books and records of the captive insurer to reflect the financial condition and results of operations of the segregated account, including net income or loss, dividends, or other distributions to participants, and such other factors as may be provided by the participant contract or required by the Commissioner.

"(2) No sale, exchange, or other transfer of assets may be made by such captive insurer between or among any of its segregated accounts without the written consent of the segregated accounts and the Commissioner.

"(3) No sale, exchange, transfer of assets, dividend, or distribution may be made from a segregated account to any person without the Commissioner's prior written approval and approval shall not be given if the sale, exchange, transfer, dividend, or distribution would result in the insolvency or impairment with respect to a segregated account.

"(4) Each segregated account captive insurer shall annually file with the Commissioner such financial reports as the Commissioner shall require, which shall include financial statements detailing the financial experience of each segregated account.

"(5) Each captive insurer shall notify the Commissioner within 10 business days of any segregated account that is insolvent or otherwise unable to meet its claims or expense obligations.

"(g)(1) No participant contract shall take effect without the Commissioner's prior written approval. The addition of each new segregated account or the withdrawal of any participant from any existing segregated account shall constitute a change in the strategic business plan of that segregated account requiring the Commissioner's prior written approval.

"(2) Any legal person or legal entity may be a participant in a segregated account formed or licensed under this act.

"(3) A participant in a segregated account need not be a shareholder insured within the segregated account or by the captive insurer or any affiliate thereof.

"Sec. 17b. Liquidation and rehabilitation of segregated accounts.

"(a) Notwithstanding any statutory provision or rule of law to the contrary, in the liquidation of a captive insurer, the liquidator:

"(1) Shall deal with the company's assets only in accordance with the procedures set out in subsection (c)(6) of this section; and

"(2) In the discharge of the claims of creditors of the captive insurer, shall apply the captive insurer's assets to those entitled to have recourse thereto under the provisions of this section.

"(b)(1) A petition for a liquidation or rehabilitation order with respect to a segregated

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account of a captive insurer may be made by:

- "(A) The segregated account captive insurer;
- "(B) The majority of the directors of the segregated account captive insurer;
- "(C) Any creditor of the segregated account; or
- "(D) The Commissioner.

"(2) Notice of a petition to the court for a liquidation or rehabilitation order with respect to a segregated account of a captive insurer shall be served upon:

- "(A) The captive insurer;
- "(B) The Commissioner; and
- "(C) Such other persons as the court may direct.

"(c)(1) Subject to the provisions of this section, a liquidation or rehabilitation order with respect to a segregated account may be entered if, in relation to a captive insurer:

"(A) The segregated account assets attributable to a particular segregated account of the captive insurer, and in those cases where creditors of the captive insurer with to that segregated account are entitled to have recourse to the captive insurer's general assets, are, or are likely to be, insufficient to discharge the claims of creditors with respect to the segregated account; and

"(B) The order would achieve the purposes set out in paragraphs (3)(A) and (B) of this subsection.

"(2) A liquidation or rehabilitation order may be made with respect to one or more segregated accounts.

"(3) A liquidation or rehabilitation order shall direct that the business and segregated account assets of, or attributable to, a segregated account shall be managed by a liquidator or rehabilitator specified in the order for the purpose of:

- "(A) The orderly closing or rehabilitation of the business of, or attributable to, the segregated account; and
- "(B) The distribution of the segregated account assets, or assets attributable to the segregated account, to those entitled to having recourse thereto.

"(d) The liquidator or rehabilitator of a segregated account:

- "(1) Shall have all the functions and powers of the directors responsible for the business and segregated account assets of, or attributable to, the segregated account;
- "(2) May at any time apply to the court for directions as to the extent or exercise of any function or power, for the liquidation or rehabilitation order to be discharged or modified, or for any matter occurring during the course of the liquidation or rehabilitation.
- "(3) In exercising his functions and powers, shall:
 - "(A) Be deemed to act as the agent of the captive insurer; and
 - "(B) Not incur personal liability except to the extent that he acts fraudulently, recklessly, negligently, or in bad faith.

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"(e) Upon the filing of a petition for, and during the period of operation of, a liquidation or rehabilitation order:

"(1) No proceedings may be instituted or continued by or against the captive insurer or segregated account in respect of which the liquidation or rehabilitation order was made; and

"(2) Except by leave of the court, no action may be taken to enforce any security or to execute legal process in respect of the business or segregated account assets of, or attributable to, the segregated account in respect of which the liquidation or rehabilitation order was made.

"(f) During the period of operation of a liquidation or rehabilitation order:

"(1) The functions and powers of the directors shall cease with respect to the business of, or attributable to, the segregated account or segregated account assets for which the order was made; and

"(2)(A) The liquidator or rehabilitator of the segregated account shall be entitled to be present at all meetings of the captive insurer or segregated account and to vote at the meetings, as if he or she were a director of the captive insurer; and

"(B) Unless there are no creditors that are entitled to have recourse to the captive insurer's general assets, the liquidator's or rehabilitator's voting authority includes matters concerning the captive insurer's general assets.

"(g)(1) The court shall not discharge a liquidation or rehabilitation order issued pursuant to this section unless it appears to the court that the purpose for which the order was made has been achieved, substantially achieved, or is incapable of being achieved.

"(2) The court, on hearing a petition for the discharge or variation of a liquidation or rehabilitation order, may make any interim order or adjourn the proceeding.

"(3) Upon the issuance of an order discharging a liquidation or rehabilitation order for a segregated account of a captive insurer on the ground that the purpose for which the order was made had been achieved or substantially achieved, the court may direct that any payment made by the liquidator or rehabilitator to any creditor of the captive insurer, with respect to that segregated account, shall fully satisfy the liabilities of the captive insurer to that creditor with respect to that segregated account, and the creditor's claims against the captive insurer with respect to that segregated account shall be extinguished.

(d) Section 9 (D.C. Official Code§ 31-3908) is amended as follows:

(1) Subsection (a)(3) is amended by striking the phrase "a rental captive insurer, for a sponsored captive insurer," and inserting the phrase "or a rental captive insurer" in its place.

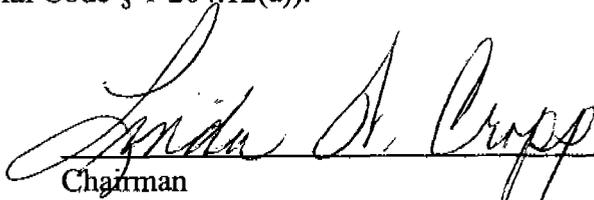
(2) Subsection (f)(2) is amended by striking the phrase "a rental captive insurer, for a sponsored captive insurer," and inserting the phrase "or a rental captive insurer" in its place.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 26, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA

OFFICE OF THE BUDGET DIRECTOR

FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (<input checked="" type="checkbox"/>) Temporary (<input type="checkbox"/>) Permanent (<input type="checkbox"/>)	Date Reported: October 5, 2004
Subject/Short Title: "Captive Insurance Company Enhancement Congressional Review Emergency Amendment Act of 2004"		
Part I. Summary of the Fiscal Estimates of the Bill		
	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.	()	(x)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue. See below	()	(x)
d) It will impact intra-District revenue.	(x)	()
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(x)	()
Explanation: The proposed legislation does not have any fiscal impact on the District's General Fund. The proposed legislation will not require additional staff or resources. However, the passage of this bill will allow for the DISB to do a more thorough regulatory job in the field of Captive Insurers.		
Part II. Other Impact of the Bill		
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
	YES	NO
1. It will affect an agency and/or agencies in the District. Department of Insurance, Securities, and Banking	(x)	()
2. Are there performance measures/output for this bill?	()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? Several Captive Insurance companies will refuse to domicile in the District.	(x)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(x)
Sources of information:	Councilmember: Sharon Ambrose, Chair, Committee on Consumer and Regulatory Affairs	
	Staff Person & Tel: David Grosso - 724-8072	
	Council Budget Director's Signature: <i>ATTA B. [Signature]</i>	

9/30/04

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-550

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
OCTOBER 27, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
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To amend, on an emergency basis, the District of Columbia Procurement Practices Act of 1985 to modify the procedures for debarment or suspending a person or business from consideration for an award of District contracts or subcontracts by establishing a Debarment and Suspension panel to consider the best interest of the District in the consideration of each debarment or suspension action.

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

Sec. 2. Section 804 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-308.04), is amended as follows:

Note,
§ 2-308.04

(a) Subsections (a), (b), (c), (d), and (e) are amended by striking the phrase "CPO" wherever it appears and inserting the phrase "Debarment and Suspension Panel" in its place.

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

(1) Paragraph (1)(A) is amended by adding the phrase "or the present responsibility of the person or business is such that a debarment would not be warranted" before the final semicolon.

(2) Paragraph (3)(B) is amended by adding the phrase "unless the present responsibility of the person or business is such that a debarment would not be warranted" before the final period.

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

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

(A) Add the phrase "the relevant facts and" after the word "State".

(B) Strike the word "and" after the semicolon.

(2) Add new paragraphs (1A) and (1B) to read as follows:

"(1A) Describe the present responsibility of the contractor;

"(1B) Describe whether the debarment is in the best interests of the District; and".

(d) Subsection (g) is amended by striking the phrase "enable the CPO" and inserting the phrase "enable the Debarment and Suspension Panel" in its place.

ENROLLED ORIGINAL

(e) Add a new subsection (h) to read as follows:

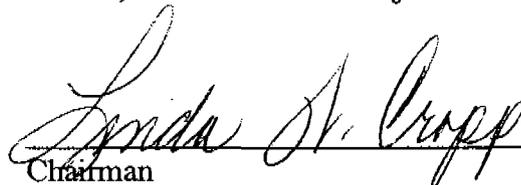
“(h) For the purposes of this section, the phrase “Debarment and Suspension Panel” means a panel consisting of the Chief Procurement Officer and a representative from the Office of the Chief Financial Officer, the Office of the Deputy Mayor for Planning and Economic Development, the Deputy Mayor for Operations, the Director of the Office of Labor Relations and Collective Bargaining, and from each agency which, in the judgment of the Mayor, would be directly and significantly affected by the proposed debarment. The Mayor shall designate the members of the panel and the panel chair. Legal advice to the panel in its deliberations on debarment decisions shall be provided by the Office of the Corporation Counsel.”

Sec. 4. Fiscal impact statement.

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

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 27, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (X) Temporary () Permanent ()	Date Reported: September 2003
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Subject/Short Title: Debarment Procedures Amendment Act of 2003

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	()
b) It will affect federal expenditures.	()	()
c) It will affect private/other expenditures.	()	()
d) It will affect intra-District expenditures.	()	()
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(X)
a) It will impact local revenue.	()	()
b) It will impact federal revenue.	()	()
c) It will impact private/other revenue.	()	()
d) It will impact intra-District revenue.	()	()
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below). This bill will modify the procedures for determining whether a person or business should be debarred or suspended. Implementing the legislation requires no new expenditures or staffing.	(X)	()

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

	YES	NO
1. It will affect an agency and/or agencies in the District. This bill will include 2 deputy mayors and the directors of affected agencies in debarment and suspension proceedings.	(X)	()
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? If not approved, the District's debarment and suspension proceedings may not accurately determine the best interests of the District.	(X)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year? Funds are sufficient in the budget and financial plan to implement the legislation.	(X)	()

Sources of information:	Councilmember: Harold Brazil
	Staff Person & Tel: Barry Kreiswirth 724-8792
	Council Budget Director's Signature: <i>ARTHUR</i> 9/10/03

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-551

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 27, 2004

To amend, on an emergency basis, due to Congressional review, the District of Columbia Noise Control Act of 1977 to exempt the Georgetown underground utility infrastructure upgrade project, known as the Georgetown Project, from the maximum noise level restrictions; to exempt the operators of emergency generator equipment from maximum noise level restrictions as necessary; to clarify the definition of noise disturbance to provide that the measurement of the noise decibel level is not required evidence of violations that occur outside the Central Employment Area, outside an area zoned manufacturing or industrial, or at night; to limit the exemption for music from religious services to exclude amplified sounds; to prohibit noise disturbances from motor vehicle stereo systems; to limit the duration of noise from motor vehicle alarm systems; to allow measurement of noise from 25 feet from the construction or demolition noise when the construction work is performed inside an occupied multi-unit apartment building, hospital, nursing home, community-based residential facility, or other similar facility which serves as a temporary or permanent dwelling for its residents; to expand the exemption for District-owned vehicles to allow residential refuse collection to begin at 6 a.m. during the months of June, July, and August and to clarify the meaning of the operation of a trash collection vehicle; to raise the maximum fine for the violation of any provision of the act from \$300 to \$1000; to amend Title 12A of the District of Columbia Municipal Regulations to exempt the Georgetown Project from the limitations on after-hours work; to amend the Housing Regulations of the District of Columbia to require property owners and landlords to provide tenants with written notice and to comply with the District of Columbia Noise Control Act of 1977 when construction or maintenance work will occur in an occupied unit within an apartment building for over 48 hours and the noise from the work will exceed 60 decibels; and to amend the District of Columbia Noise Control Act of 1977 Amendment Act of 1986 to make technical amendments to correct amendatory numbering designations.

ENROLLED ORIGINAL

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Georgetown Project and Noise Control Amendment Congressional Review Emergency Act of 2004".

Sec. 2. The District of Columbia Noise Control Act of 1977, effective March 16, 1978 (D.C. Law 2-53; 20 DCMR Chapters 27 and 28), is amended as follows:

DCMR

(a) Section 3 (20 DCMR § 2799) is amended as follows:

(1) New subsections (f-2) and (f-3) are added to read as follows:

“(f-2) Emergency Generator Equipment- Generators that supply back-up power to buildings such as hospitals, hotels, and office buildings.

“(f-3)(1) Georgetown Project – The project being undertaken by the District government, the Potomac Electric Power Company, Washington Gas Light Company, the District of Columbia Water and Sewer Authority, and Verizon of Washington, D.C., to rehabilitate, upgrade, and improve utility infrastructure, roadways, sidewalks, and landscaping adjacent to the Georgetown Business District, which is geographically defined as the commercial properties along M Street, N.W., between 28th Street, N.W., and Key Bridge and along Wisconsin Avenue, N.W., between K Street, N.W., and S Street, N.W., which project commenced in September 2001 and is scheduled to be completed no later than December 31, 2006.

“(2) This subsection shall expire 4 years after the effective date of the Georgetown Project and Noise Control Amendment Act of 2004, passed on 2nd reading on July 13, 2004 (Enrolled version of Bill 15-280).”

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

“(n) Noise disturbance – Any sound which is loud and raucous or loud and unseemly and unreasonably disturbs the peace and quiet of a reasonable person of ordinary sensibilities in the vicinity thereof, unless the making and continuing of the noise is necessary for the protection or preservation of the health, safety, life or limb of some person. In making a determination of a noise disturbance, the Mayor shall consider the location, the time of day when the noise is occurring or will occur, and the duration of the noise. In addition, the Mayor may consider the magnitude of the noise relative to the maximum sound levels permitted under this act, the possible obstruction or interference with vehicular or pedestrian traffic, the number of people that are or would be affected, and such other factors as are reasonably related to the impact of the noise on the health, safety, welfare, peace, and quiet of the community. If the noise is outside the Central Employment Area or an area zoned manufacturing or industrial, or if the noise occurs at night, the Mayor shall not be required to measure the decibel level of the noise in order to find a noise disturbance. A sound shall not be considered a noise disturbance if made during noncommercial public speaking during the daytime.”

(b) Section 5 (20 DCMR § 2701 *et seq.*) is amended as follows:

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

(A) Paragraph (11) is amended by striking the period and inserting the phrase “; provided, that this exemption shall not apply to music which is amplified through electronic sound systems.” in its place.

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

“(13) Emergency Generator Equipment – Noise resulting from the operation of emergency generator equipment, when its use is required to protect the health and safety of persons, shall be exempt. Noise resulting from necessary testing of emergency generator equipment shall be exempt on weekdays (excluding holidays) between the hours of 4:00 p.m. and 6:30 p.m.”.

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

(A) Paragraph (1)(A) is amended by striking the phrase “sound amplifier,” and inserting the phrase “sound amplifier, radio, tape recorder, television, compact disc player, stereo system, including those installed in motor vehicles,” in its place.

(B) Paragraph (2)(C) is amended striking the period and inserting the phrase “; provided, that when construction work is performed inside an occupied multi-unit apartment building, hospital, nursing home, community-based residential facility, or other similar facility which serves as a temporary or permanent dwelling for its residents, measurement of noise from the construction or demolition shall be made twenty-five (25) feet from the source of the noise. This provision shall be subject to the exemption for emergency work.” in its place.

(C) Paragraph (5) is amended by striking the phrase “radio,” and inserting the phrase “radio, tape recorder, television, compact disc player, stereo system, including those installed in motor vehicles,” in its place.

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

“(7) It shall be unlawful for any person to install, operate, or use any vehicle theft alarm system that emits or causes the emission of an audible sound that is not, or does not become, automatically and completely silenced within five (5) minutes. The time period shall be calculated based upon the emission of the first audible sound and shall end five (5) minutes thereafter, notwithstanding any variation or stoppage in the emissions of audible sound.”.

(3) Subsection (e)(4) is amended to read as follows:

“(4) Nighttime Trash Collection. (A) No person shall operate or permit the operation of any refuse collection vehicle in, or within three hundred (300) feet of, any residential, special purpose, or waterfront zone, at nighttime on any day of the week. The terms “operate” and “operation” in this section shall mean the stopping of the vehicle and the collection of trash by the refuse vehicle. This prohibition shall not apply to vehicles owned by the District government employed for emptying litter receptacles. Violation of this paragraph on more than one occasion within a 6-month period may be deemed a nuisance under subsection 709.7 of Title 21 of the District of Columbia Municipal Regulations (21 DCMR § 709.7) and shall constitute grounds for suspension or revocation of the endorsement issued for solid waste

collectors or solid waste vehicles pursuant to D.C. Official Code § 47-2851.03a(d).

“(B) Notwithstanding the prohibitions in subparagraph (A) of this paragraph, the collection of residential refuse by District government-owned vehicles may commence at 6 a.m. during the months of June, July, and August or when the daily high temperature is forecast to be above 90 degrees Fahrenheit.”

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

“(f)(1) Notwithstanding any other provision of this act, noise emanating from construction equipment and any activities related to the Georgetown Project shall be exempt at all times from any noise limitations contained in this act, including sections 5(a), (b), (d)(2), and (e)(2), and shall not be subject to enforcement under any provision of this act.

“(2) This subsection shall expire 4 years after the effective date of the Georgetown Project and Noise Control Amendment Act of 2004, passed on 2nd reading on July 13, 2004 (Enrolled version of Bill 15-280).”

(c) Section 13(c) is amended as follows:

(1) Strike the phrase “three hundred dollars (\$300)” and insert the phrase “one thousand dollars (\$1000)” in its place.

(2) Strike the phrase “noise disturbance,” and insert the phrase “noise disturbance, or a noise-producing activity, during days or hours when prohibited, or beyond its authorized duration,” in its place.

Sec. 3. Section 107 of Title 12A of the District of Columbia Municipal Regulations (12A DCMR § 107), is amended by adding a new subsection 107.2.8.2 to read as follows:

DCMR

“107.2.8.2 Georgetown Project. The limitations on the issuance of after-hours permits set forth in § 107.2.8.1 shall not apply to after-hours work related to the Georgetown Project. For the purposes of this section, the “Georgetown Project” means the project being undertaken by the District government, the Potomac Electric Power Company, Washington Gas Light Company, the District of Columbia Water and Sewer Authority, and Verizon of Washington, D.C. to rehabilitate, upgrade, and improve utility infrastructure, roadways, sidewalks, and landscaping adjacent to the Georgetown Business District, which is geographically defined as the commercial properties along M Street, N.W., between 28th Street, N.W., and Key Bridge and along Wisconsin Avenue, N.W., from K Street, N.W., to S Street, N.W., which project commenced in September 2001 and is scheduled to be completed no later than December 31, 2006. This subsection shall expire 4 years after the effective date of the Georgetown Project and Noise Control Amendment Act of 2004, passed on 2nd reading on July 13, 2004 (Enrolled version of Bill 15-280).”

Sec. 4. Article 250 of the Housing Regulations of the District of Columbia, issued August 11, 1955 (C.O. 15-1503; 14 DCMR Chapter 7), is amended by adding a new section 2515 to read as follows:

DCMR

ENROLLED ORIGINAL

"2515 CONSTRUCTION WORK IN OCCUPIED BUILDINGS OR DWELLINGS

"2515.1 Where construction work is conducted in an occupied rental unit within an apartment building, the owner shall comply with the District of Columbia Noise Control Act of 1977.

"2515.2 Except as provided in subsection 2515.3, in any case where noise from construction, repair, or maintenance work will continue over a period of more than forty-eight (48) hours from the time the work is first initiated until the conclusion of the job (including periods of time when no work is being done) and the noise from the work will exceed sixty (60) decibels, the landlord shall provide the tenant with not less than five (5) days written notice of the construction, repair, or maintenance work, including the dates and times that the work will occur and a description of the work to be done.

"2515.3 Subsection 2515.2 shall not apply to emergency work which is necessary to restore property to a safe condition following a public calamity or act of God, or work required to protect the health and safety of persons; provided, that the work shall be undertaken promptly and it is not feasible to provide advance notice."

Sec. 5. Section 4 of the District of Columbia Noise Control Act of 1977 Amendment Act of 1986, effective February 24, 1987 (D.C. Law 6-180; 27 DCMR §§ 2800.4 and 2880.5), is amended as follows: DCMR

(a) The statutory citation is amended by striking the phrase "Section 5(e)(1)" and inserting the phrase "Section 5" in its place.

(b) Subsection (a) is amended by striking the phrase "Section 3100.2" and inserting the phrase "Subsection (d)(1)" in its place.

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

(1) Strike the phrase "By adding 2 new subsections 3100.4 and 3100.5" and insert the phrase "New paragraphs (4) and (5) are added" in its place.

(2) Strike the phrase "3100.4 Sounds" and insert the phrase "(4) Sounds" in its place.

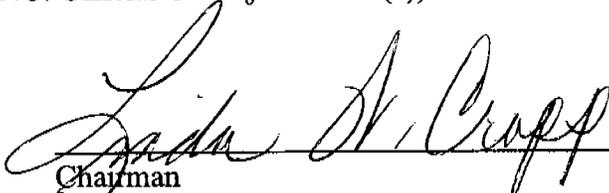
(3) Strike the phrase "3100.5 It" and insert the phrase "(5) It" in its place.

Sec. 6. The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602 (c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat.813; D.C. Official Code § 1-206.02 (c)(3)).

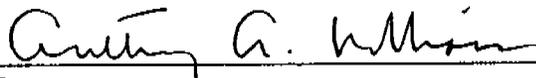
Sec. 7. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia

ENROLLED ORIGINAL

in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 27, 2004

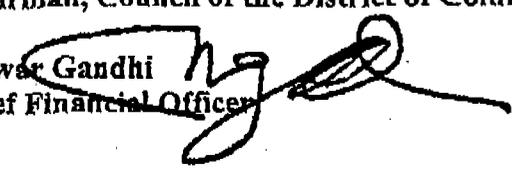
Government of the District of Columbia
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer



MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar Gandhi
Chief Financial Officer 

DATE: MAR -2 2004

SUBJECT: Fiscal Impact Statement: "Georgetown Project and Noise Control Amendment Act of 2003"

REFERENCE: Bill 15-280

Conclusion

Funds are sufficient in the proposed FY 2004 budget and the proposed FY 2004 through FY 2007 financial plan to implement the "Georgetown Project and Noise Control Amendment Act of 2003." The proposed legislation has no fiscal impact.

Background

The "Georgetown Project and Noise Control Amendment Act of 2003" amends the District of Columbia Noise Control Act of 1977 and the District of Columbia Construction Codes to exempt the Georgetown underground utility infrastructure upgrade project (the "Georgetown Project") from maximum noise level restrictions and limitations on after-hours work and to provide a number of other noise-related provisions, including clarifying the definition of a noise disturbance, limiting the exemption for music from religious services to exclude amplified sounds, prohibiting noise disturbances from motor vehicle stereo systems and limiting the duration of noise from motor vehicle alarm systems. The proposed legislation also prohibits nighttime refuse collection within 300 feet of a hotel or a residence in a CM zone while allowing residential collection to begin at 6 a.m. during June, July and August. In addition, the proposed legislation increases the fee for violation of any provision of the Act from \$300 to \$1,000.

10354

The Honorable Linda W. Cropp
FIS: "Georgetown Project and Noise Control Amendment Act of 2003"

Financial Plan Impact

The provisions in the proposed legislation provide a variety of exemptions, limitations, and clarifications that will not affect District staff or resources. It is not possible to estimate the impact of the fee increase.

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-552

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
OCTOBER 26, 2004

Codification
District of
Columbia
Official Code
2001 Edition
2005 Winter
Supp.
West Group
Publisher

To amend, on an emergency basis, the District of Columbia Housing Authority Act of 1999 to clarify the original intent of the tax exemption provisions of the District of Columbia Housing Authority-authorizing legislation to assure that the exemption is limited to affordable housing activities and ensure no interruption in the District of Columbia Housing Authority's revitalization and redevelopment projects involving critical affordable housing.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Housing Authority Revitalization Projects Emergency Amendment Act of 2004".

Sec. 2. The District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-201 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 6-201) is amended by adding a new paragraph (19A) to read as follows:

Note,
§ 6-201

"(19A) "For-profit activities" means ancillary activities to the main activities of the District of Columbia Housing Authority, such as retail, commercial office, manufacturing, or recreational real property development activities undertaken by for-profit entities intended to support or contribute to the financial viability of Housing Properties, but does not include residential real property development activities."

(b) Section 5 (D.C. Official Code § 6-204) is amended as follows:

Note,
§ 6-204

(1) Subsection (a) is amended by striking the phrase "for-profit activities involving Housing Properties" and inserting the phrase "for-profit activities" in its place.

(2) Subsection (b) is amended by striking the phrase "for-profit activities involving Housing Properties" and inserting the phrase "for-profit activities" in its place.

Sec. 3. Fiscal impact statement.

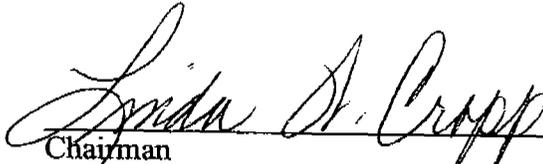
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

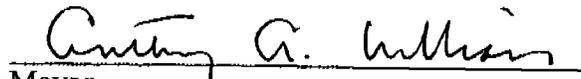
Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED
October 26, 2004

Bill Number:	Type: Emergency () Temporary (x) Permanent ()	Date Reported: October 5, 2004
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Subject/Short Title: "District of Columbia Housing Authority Revitalization Projects Temporary Amendment Act of 2004"

Part I. Summary of the Fiscal Estimates of the Bill

1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	YES	NO
	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.		
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue. See below	()	(x)
d) It will impact intra-District revenue.		
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).		
Explanation: This legislation will have no fiscal impact on the District's funds or financial plan. DCHA receives no direct District of Columbia appropriations.		

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

	YES	NO
1. It will affect an agency and/or agencies in the District. DCHA is an independent agency of the District of Columbia government.	(x)	()
2. Are there performance measures/output for this bill?	()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	(x)	()
This is clarifying legislation so that current revitalization projects of DCHA and their development partners may proceed without interruption as they finalize financing for several projects which require clarity about the tax status of the housing and non-housing for-profit activities in the projects. This is a technical amendment to clarify that Housing Properties qualify for the tax exemption contained in section 5 of the District of Columbia Housing Authority Act of 2000, as distinct from those for-profit activities that do not involve housing, but rather are commercial or retail in nature, although being developed as part of the revitalization project. This legislation will not modify the requirement that for-profit, ancillary activities to the main activities of the DCHA, such as those of a commercial office or retail nature, even when these are in support of affordable housing development, will require a special action by the Council to be tax-exempt.	()	(x)
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?		

Sources of information: Council staff; DCHA	Councilmember: Sharon Ambrose, Chair, Committee on Consumer and Regulatory Affairs ----- Staff Person & Tel: Esther Bushman, Committee Clerk, Committee on Consumer and Regulatory Affairs 202-727-8230 ----- Council Budget Director's Signature: <i>Sharon Ambrose</i>
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10/1/04

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-553

*Codification
 District of
 Columbia
 Official Code*

2001 Edition

2005 Winter
 Supp.

West Group
 Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 26, 2004

To amend, on an emergency basis, due to Congressional review, the Office of Administrative Hearings Establishment Act of 2001 to clarify the office's jurisdiction over tax assessment protests and to provide that a person who has chosen to challenge a proposed tax assessment by appealing to the office is deemed to have waived a challenge to the proposed tax assessment in any other forum, and to provide that a board or commission may delegate its authority to hear occupational or professional licensing and discipline cases to the office, with the office's final order appealable to the board or commission; and to amend Title 47 of the District of Columbia Official Code to make conforming changes to reflect the Office of Administrative Hearings' jurisdiction for tax assessment protests.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004".

Sec. 2. The Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*), is amended as follows:

Note,
 § 2-1831.03

(a) Section 6 (D.C. Official Code § 2-1831.03) is amended as follows:

(1) Subsection (b)(4) is amended to read as follows:

"(4) All adjudicated cases of the Office of Tax and Revenue arising from tax protests filed pursuant to D.C. Official Code § 47-4312."

(2) Subsection (c) is amended by striking the word "agencies" and inserting the phrase "agencies, boards, and commissions" in its place.

(3) New subsections (i) and (j) are added to read as follows:

"(i)(1) A board or commission with authority to issue professional or occupational licenses may delegate to the Office its authority to conduct a hearing and issue an order on the proposed denial, suspension, or revocation of a license or on any proposed disciplinary action against a licensee or applicant for a license. The Office's order shall be appealable to the board or commission pursuant to section 19(b).

"(2) A case that was delegated by a board or commission to an administrative law judge or hearing examiner employed by an agency subject to this act shall be deemed to have been delegated to the Office pursuant to this section as of the date that the agency's adjudicated cases became subject to this act.

ENROLLED ORIGINAL

"(j) A person who has filed a protest of a proposed assessment under D.C. Official Code § 47-4312 and requested a hearing with the Office shall be deemed to have elected adjudication by the Office as the exclusive means of adjudication of all challenges to the proposed assessment, and to have waived any right to adjudication of a challenge to the proposed assessment in any other forum. Nothing in this subsection limits the right of any person to judicial review of an order of the Office pursuant to section 19. This subsection shall apply as of October 1, 2004."

(b) Section 19(b) (D.C. Official Code § 2-1831.16(b)) is amended by adding a sentence at the end to read as follows:

Note,
§ 2-1831.16

"A board or commission that delegates a matter pursuant to section 6(i) shall have jurisdiction of any appeal by any party from an order of an Administrative Law Judge issued in that matter."

Sec. 3. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1528 is amended to read as follows:

"§ 47-1528. Deficiency; request for hearing.

Note,
§ 47-1528

"(a) Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312."

(b) Section 47-1812.05 is amended by striking the first 2 sentences, and inserting the following in their place:

Note,
§ 47-1812.05

"Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312."

(c) Section 47-2019 is amended by striking everything after the first sentence and inserting the following in its place:

Note,
§ 47-2019

"Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312."

(d) Section 47-2316 is amended by striking everything after the first 2 sentences and inserting the following in their place:

Note,
§ 47-2316

"Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312."

(e) Section 47-2410 is amended as follows:

Note,
§ 47-2410

(1) Subsection (a) is amended by striking everything after the first sentence and inserting the following in its place:

"Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312."

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

"(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable."

(f) Section 47-2412 is amended as follows:

Note,
§ 47-2412

(1) Strike the word "Mayor" everywhere it appears, except for its first appearance, and insert the phrase "Office of Administrative Hearings" in its place.

(2) Add a sentence at the end to read as follows:

"This section does not authorize the filing of a request for a hearing with respect to any tax, penalty, or interest that was, or could have been, at issue in any prior proceeding that was conducted by the Superior Court of the District of Columbia or the Office of Administrative Hearings."

ENROLLED ORIGINAL

(g) Section 47-2413 is amended by striking the word "Any" and inserting the phrase "Except as provided in § 47-4312, any" in its place.

Note,
§ 47-2413

(h) Section 47-3717 is amended as follows:

Note,
§ 47-3717

(1) Subsection (a) is amended by striking everything after the first sentence and inserting the following in its place:

"Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312."

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

"(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable."

(3) Subsection (c) is amended by striking the phrase "Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor" and inserting the phrase "Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax" in its place.

(i) Section 47-3908 is amended as follows:

Note,
§ 47-3908

(1) Subsection (a) is amended by striking everything after the first sentence and inserting the following in its place:

"Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312."

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

"(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable."

(3) Subsection (c) is amended by striking the phrase "Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor" and inserting the phrase "Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax" in its place.

(j) Section 47-4217 is amended as follows:

Note,
§ 47-4217

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

"(f)(1) Assessment of any penalty under this section shall be governed by § 47-4312.

"(2) Any assessment of a penalty that has become final pursuant to § 47-4312 shall be due and payable within 30 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable."

(2) Subsection (g) is repealed.

(k) Section 47-4303 is amended by striking the phrase "court," and inserting the phrase "court, and for the period between the filing of a protest in the Office of Administrative Hearings pursuant to § 47-4312 and the issuance of a final order by the Office of Administrative Hearings," in its place.

Note,
§ 47-4303

(l) Section 47-4312 is amended to read as follows:
"§ 47-4312. Protest of assessment.

Note,
§ 47-4312

"(a) Unless otherwise provided in this title, before a final assessment of a deficiency, interest, or penalties against a person, the Mayor shall send the person a proposed assessment. No later than 30 days after the proposed assessment is sent, the person may file a protest with the Office of Administrative Hearings, and shall serve a copy on the Mayor. The protest shall explain why the deficiency, interest, and penalties should not be assessed.

"(b) If the person fails to file a protest in a timely manner under subsection (a) of this

ENROLLED ORIGINAL

section, the Mayor shall send the person a final assessment of the deficiency, interest, or penalties.

“(c) If a protest is filed in a timely manner under subsection (a) of this section, the Mayor may not issue a final assessment of the deficiency, interest, or penalties, and the Office of Administrative Hearings shall decide, after providing an opportunity for a hearing, whether the deficiency, interest, or penalties are proper. Filing a protest shall be deemed to be an election that the Office of Administrative Hearings shall be the exclusive forum to adjudicate all challenges to the proposed assessment, and shall be deemed to be an irrevocable waiver of any right to adjudication of all such challenges in any other forum. Nothing in this subsection limits the right of any person to judicial review pursuant to § 2-1831.16.

“(d) Nothing in this section or in § 2-1831.03(b)(4) shall limit or preclude any person from appealing any assessment to the Superior Court of the District of Columbia pursuant to § 47-3303, or other applicable law, as an alternative to filing a protest with the Office of Administrative Hearings.

“(e) Except with respect to the election of remedy and the waiver of rights required by subsection (c) of this section and by § 2-1831.03(j), a final order of the Office of Administrative Hearings in any matter in which a protest has been filed shall have the same effect as a final assessment of a deficiency, interest, or penalties, and the Mayor may undertake any lawful collection efforts for any amount that such final order determines is due from any person.

“(f) By October 7, 2004, the Office of Tax and Revenue shall notify in writing any person who filed a timely protest of a proposed assessment with the Office of Tax and Revenue on or before September 30, 2004, of his or her right to file a request for a hearing with the Office of Administrative Hearings on or before November 1, 2004. If any such person does not file a timely request for a hearing pursuant to this subsection, the Mayor shall send the person a final assessment of any deficiency, interest, or penalties.”

(m) Section 47-4406(b) is amended by striking the word “Mayor” and inserting the phrase “Mayor, the Office of Administrative Hearings,” in its place.

Note,
§ 47-4406

(n) Section 47-4433 is amended as follows:

Note,
§ 47-4433

(1) The second sentence of subsection (a) is amended by striking the phrase “and provide a period of at least 30 days after the notice is sent to the taxpayer to file a protest.” and inserting the phrase “that he or she may file a protest with the Office of Administrative Hearings to challenge the proposed refund offset within 30 days of service of the notice.” in its place.

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

“(b) Any notice of refund offset described in subsection (a) of this section shall be governed by the procedures set forth in § 47-4312 for assessments of deficiencies.”

(3) Subsection (c) is amended by striking the word “Mayor” and inserting the phrase “Office of Administrative Hearings” in its place.

(o) Section 47-4451(b) is amended to read as follows:

Note,
§ 47-4451

“(b) If a jeopardy assessment has been made, the taxpayer shall have the right to file, within 5 business days, a protest of the assessment of tax, the seizure of property, or both. The protest shall be governed by the procedures set forth in § 47-4312, except that the 30-day filing deadline established in § 47-4312(a) shall not apply. If a timely protest is filed, the property seized for the collection of the tax shall not be sold until completion of the proceedings in the Office of Administrative Hearings.”

(p) Section 47-4452(b) is repealed.

Note,
§ 47-4452

Sec. 4. Fiscal impact statement.

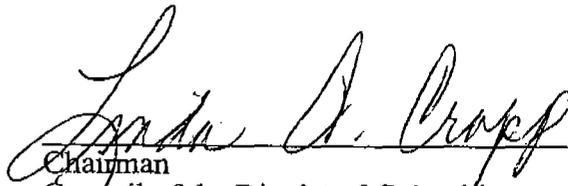
The legislation will not have any adverse fiscal impact. The first main provision of the legislation, which requires an individual or business pursuing a tax protest to select either the Office of Administrative Hearings or the Superior Court of the District of Columbia as the exclusive forum for pursuing the protest, should have a positive fiscal impact. This requirement will conserve the resources of the Office of Administrative Hearings (as well as the resources of the Superior Court, which is funded by the federal government) and promote efficiency by barring a taxpayer from filing the same protest in 2 forums.

The second main provision, which allows boards and commissions to delegate cases to the Office of Administrative Hearings, will not have a fiscal impact because the delegation is optional and requires the approval of the Office of Administrative Hearings' Chief Judge as well as the Mayor. These protections ensure that the Office of Administrative Hearings will not have to take cases if it does not have the funds to do so. Moreover, the health occupational and professional boards previously delegated their cases to a central adjudication panel in the Department of Health, which has already transferred its functions, financial resources, and positions to the Office of Administrative Hearings. Therefore, there will be no fiscal impact on the Office of Administrative Hearings due to the adoption of this provision because the new responsibilities have been accompanied by the resources associated with the responsibilities.

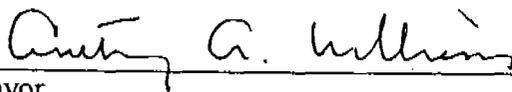
The changes to Title 47 of the District of Columbia Official Code are conforming changes that align the provisions of the Office of the Administrative Hearings Establishment Act of 2001 with those in Title 47. Therefore, these changes will not have a fiscal impact.

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 26, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-554

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 26, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

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

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

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

(a) The table of contents for Chapter 28 is amended by adding the phrase "47-2850. Rules governing the business of furnishing towing services for motor vehicles."

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

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

"(a) The Mayor is authorized, in accordance with Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-502 *et seq.*), to:

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

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

"(b) Rules proposed pursuant to this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed regulation, in whole or in part, by resolution, within this 45-day review period, the proposed regulations shall be deemed disapproved.

ENROLLED ORIGINAL

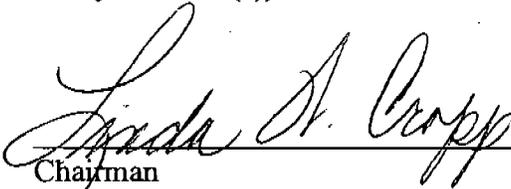
“(c) Any person who violates any of the rules promulgated pursuant to this section shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine not exceeding \$1,000 per violation, and imprisonment for not more than 90 days, or both. All prosecutions for violations of any rule or regulation issued pursuant to this section shall be in the Criminal Division of the Superior Court of the District of Columbia in the name of the District of Columbia by information signed by the Attorney General or one of his or her assistants. Civil fines and penalties may be imposed as alternative sanctions for any infraction of the rules issued pursuant to this section, pursuant to Chapter 18 of Title 2. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2.”.

Sec. 3. Fiscal impact statement.

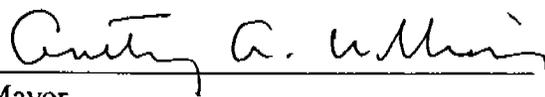
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 26, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (<input checked="" type="checkbox"/>) Temporary (<input type="checkbox"/>) Permanent (<input type="checkbox"/>)	Date Reported: 10/4/04
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Subject/Short Title: "Towing Regulation and Enforcement Authority Emergency Act of 2004"

Fiscal Summary of the Fiscal Estimate of the Bill		
	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	(X)
b) It will affect federal expenditures.	()	(X)
c) It will affect private/other expenditures.	()	(X)
d) It will affect intra-District expenditures.	()	(X)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(X)
a) It will impact local revenue.	()	(X)
b) It will impact federal revenue.	()	(X)
c) It will impact private/other revenue.	()	(X)
d) It will impact intra-District revenue.	()	(X)
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(X)	()
<p>Explanation: This bill will have no or minimal fiscal impact because it would merely continue the authority of the Mayor to promulgate rules governing the business of furnishing towing services for motor vehicles.</p>		

Detailed Other Impact of the Bill		
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
	YES	NO
1. It will affect an agency and/or agencies in the District.	()	(X)
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? The authority of the Mayor to promulgate rules governing the business of furnishing towing services for motor vehicles would lapse.	(X)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(X)

Sources of information:	Councilmember: Carol Schwartz
Council staff:	Staff Person & Tel: Andrew Gerst (202) 727-8272
	Council Budget Director's Signature: 

10/4/04

AN ACT

D.C. ACT 15-555

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 26, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend, on an emergency basis, An Act To regulate the manufacturing, dispensing, selling, and possession of narcotic drugs in the District of Columbia to authorize the District of Columbia Housing Authority Police Department to obtain and act on search warrants for controlled substances.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Housing Authority Police Department Emergency Amendment Act of 2004".

Sec. 2. Section 14 of An Act To regulate the manufacturing, dispensing, selling, and possession of narcotic drugs in the District of Columbia, approved June 20, 1938 (52 Stat. 792; D.C. Official Code § 48-921.02), is amended as follows:

*Note,
§ 48-921.02*

(a) Subsection (e) is amended to read as follows:

"(e) If the judge or Magistrate is thereupon satisfied of the existence of the grounds of the application or that there is probable cause to believe their existence, he shall issue a search warrant, signed by him, to the Chief of Police of the District of Columbia or any member of the Metropolitan Police Department, the Chief or any member of the District of Columbia Housing Authority Police Department, or the Chief or any member of the United States Park Police, stating the particular grounds or probable cause for its issue and the names of the persons whose affidavits have been taken in support thereof, and commanding the Chief of Police or member of the Metropolitan Police Department, the Chief or member of the District of Columbia Housing Authority Police Department, or the Chief or member of the United States Park Police forthwith to search the place named for the property specified and to bring it before the judge or Magistrate."

(b) Subsection (j) is amended by striking the phrase "Metropolitan Police Department" and inserting the phrase "Metropolitan Police Department, the District of Columbia Housing Authority Police Department, or the United States Park Police" in its place.

(c) Subsection (k) is amended by striking the phrase "Metropolitan Police Department" and inserting the phrase "Metropolitan Police Department, the District of Columbia Housing Authority Police Department, or the United States Park Police" in its place.

Sec. 3. Fiscal impact statement.

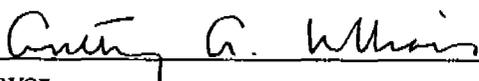
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 26, 2004

Bill Number:	Type: Emergency (x) Temporary () Permanent ()	Date Reported: October 5, 2004
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Subject/Short Title: "District of Columbia Housing Authority Police Department Emergency Amendment Act of 2004"

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.	()	(x)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue. See below	()	(x)
d) It will impact intra-District revenue.	()	(x)
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).		
Explanation: This legislation will have no adverse fiscal impact on the District's funds or financial plan and may very well have a favorable impact. D.C. Housing Authority receives no direct District of Columbia appropriations, including for operations of the DCHAPD. Allowing DCHAPD the statutory authority to seek search warrants for controlled substances should free up MPD personnel time currently needed to handle these requests on behalf of DCHAPD for cases on DCHA properties.		

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

	YES	NO
1. It will affect an agency and/or agencies in the District. D.C. Housing Authority is an independent agency of the District of Columbia government.	(x)	()
2. Are there performance measures/output for this bill?	()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? See explanation above -- Until this bill is passed the MPD would have to secure search warrants for the DCHAPD for controlled substances cases, including those on DCHA property.	(x)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(x)

Sources of information: Council staff; DCHA; MPD; U.S. Attorney's Office	Councilmember: Sharon Ambrose, Chair, Committee on Consumer and Regulatory Affairs <hr/> Staff Person & Tel: Esther Bushman, Committee Clerk, Committee on Consumer and Regulatory Affairs <hr/> Council Budget Director's Signature: <i>[Signature]</i>
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9130104

AN ACT

D.C. ACT 15-556

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
OCTOBER 26, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend, on an emergency basis, due to Congressional review, the Free Clinic Assistance Program Act of 1986 to extend the life of the free clinic assistance program until October 1, 2008.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Free Clinic Assistance Program Extension Congressional Review Emergency Amendment Act of 2004".

Sec. 2. Section 7(b) of the Free Clinic Assistance Program Act of 1986, effective September 23, 1986 (D.C. Law 6-155; D.C. Official Code § 1-307.26), is amended by striking the phrase "September 23, 2004" and inserting the phrase "October 1, 2008" in its place.

Note,
§ 1-307.26

Sec. 3. Applicability.
This act shall apply as of October 17, 2004.

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

Sec. 5. Effective date.
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR
FISCAL IMPACT STATEMENT

Bill Number	Type: Emergency (X) Temporary () Permanent () Amendment ()	Date Reported: 6/25/04
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Subject/Short Title: The "Free Clinic Assistance Program Extension Emergency Amendment Act of 2004"

Part I: Summary of the Fiscal Estimates of the Bill		
	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.	()	(x)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue.	()	(x)
d) It will impact intra-District revenue.	()	(x)
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(x)	()

Part II: Other Impact of the Bill		
If you check "Yes" for each question, please explain on separate sheet, if necessary.	YES	NO
1. It will affect an agency and/or agencies in the District.	()	(x)
2. Are there performance measures/output for this bill?	()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	(x)	()
Without an extension of this program, the free clinics will be unable to operate.		
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	(x)	()
It is covered by the District's settlements and judgments account.		

Sources of information:	Councilmember Sandy Allen
	Staff Person & Tel: Eric J. Goulet (202) 724-8060
	Council Budget Director's Signature: <i>ADA RGA</i>

6/25/04

AN ACT
D.C. ACT 15-557

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 26, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend, on an emergency basis, due to Congressional review, Chapter 5 of Title 21 of the District of Columbia Official Code to provide that the commitment of a person for an indeterminate period under section 21-545 of the District of Columbia Official Code shall expire 548 days after the effective date of a federal law enacting provisions of the Mental Health Civil Commitment Act of 2002 that will make all subsequent commitments for a one-year period, unless the chief clinical officer of the Department, facility, hospital, or mental health provider has petitioned for recommitment of the person.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Mental Health Civil Commitment Extension Second Congressional Review Emergency Act of 2004".

Sec. 2. Chapter 5 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase "21-589.01. Interim provisions for term of commitment for persons committed prior to January 1, 2003." and inserting the phrase "21-589.01. Interim provisions for term of commitment." in its place.

(b) Section 21-589.01 is amended to read as follows:

"§ 21-589.01. Interim provisions for term of commitment.

"(a) The commitment of a person committed under section 21-545 for an indeterminate period of time shall expire 548 days after the effective date of the federal law enacting section 2(d), (e), (l)(2), (r)(3) and (4), (t), and (u) of the Mental Health Civil Commitment Act of 2002, effective April 4, 2003 (D.C. Law 14-283; 50 DCR 917), unless the chief clinical officer of the Department, facility, hospital, or mental health provider has petitioned for recommitment of the person.

"(b) A petition for recommitment under this section shall be subject to the provisions for a petition for renewal of commitment brought under section 21-545.01 unless the provision is inconsistent with this section.

Note,
§ 21-589.01

ENROLLED ORIGINAL

“(c) A petition for recommitment may be filed at any time during the 548-day period, but not later than 60 days prior to the expiration of the 548-day period. For good cause shown, a petition for recommitment may be filed within the last 60 days of the 548-day period.

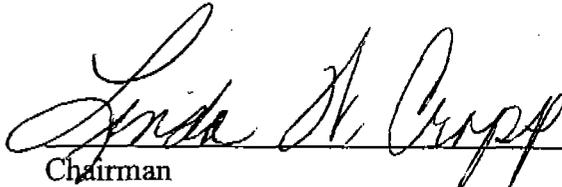
“(d) If a petition for recommitment is pending at the expiration of the 548-day period, the period of commitment shall be extended pending resolution of the petition.”

Sec. 3. Fiscal impact statement.

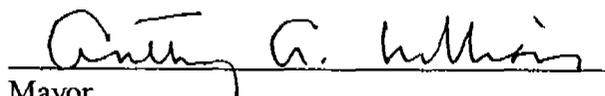
The Council adopts the May 28, 2004 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

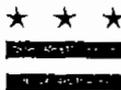


Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 26, 2004

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: MAY 28 2004

SUBJECT: Fiscal Impact Statement: "Mental Health Civil Commitments Emergency Extension Act of 2004"

REFERENCE: Draft Legislation – Bill Number Not Available

Conclusion

Funds are sufficient in the proposed FY 2005 through FY 2008 budget and financial plan to implement the proposed legislation because there is no significant financial impact associated with the provisions of the proposal.

Background

The proposed emergency legislation would postpone the expiration of certain mental health civil commitments ordered by the Superior Court.

The Council passed the Mental Health Civil Commitment Act, which took effect on April 4, 2003. This legislation provided that all indeterminate commitments be limited to one year terms, by allowing for their termination in July 2004 unless a petition for recommitment is filed. However, Congress has not yet approved the portions of the legislation that created a mechanism for reviewing and recommitting individuals. Thus, the proposed legislation would postpone the expiration of the commitments to allow for consideration, filing and prosecuting of recommitment petitions in existing cases.

Financial Plan Impact

Funds are sufficient in the proposed FY 2005 through FY 2008 budget and financial plan to implement the proposed legislation because there is no significant financial impact associated with the provisions of the proposal.

AN ACT

D.C. ACT 15-558

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 26, 2004

Codification
District of
Columbia
Official Code

2001 Edition

2005 Winter
Supp.

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Publisher

To amend, on an emergency basis, Chapter 20 of Title 21 of the District of Columbia Official Code to add a definition of "emergency care" to the guardianship law, and to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to authorize the Administrator of the Mental Retardation and Developmental Disabilities Administration, or the Administrator's designee, to grant, refuse, or withdraw consent, with certain limitations, on behalf of incapacitated customers, for health care services, treatment, or procedures, upon the certification of 2 licensed physicians.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Citizens with Mental Retardation Substituted Consent for Health Care Decisions Emergency Amendment Act of 2004".

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

(a) Section 21-2011 is amended by adding a new paragraph (5A) to read as follows:

Note,
§ 21-2011

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

(b) Section 21-2046(a) is amended by striking the phrase "life threatening emergency" and inserting the phrase "life-threatening situation or a situation involving emergency care" in its place.

Note,
§ 21-2046

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

(a) Section 507 (D.C. Official Code § 7-1305.07) is amended to read as follows:

Note,
§ 7-1305.07

"Sec. 507. (a) Subject to the limitations provided in subsection (b) of this section, if a customer is certified as an incapacitated individual in accordance with D.C. Official Code § 21-2204, and there is no known person reasonably available, mentally capable, and willing to act

pursuant to D.C. Official Code § 21-2210, the Administrator of the Mental Retardation and Developmental Disabilities Administration ("Administrator"), or the Administrator's designee, is authorized to grant, refuse, or withdraw consent on behalf of a customer with respect to the provision of any health care service, treatment, or procedure; provided, that 2 licensed physicians have certified in writing that the health care service, treatment, or procedure is clinically indicated to maintain the health of the customer.

"(b) The Administrator, or the Administrator's designee, is not authorized, unless authorized by a court, to consent to the following:

"(1) An abortion, sterilization, psychosurgery, or removal of a bodily organ, except to preserve the life or prevent the immediate serious impairment of the physical health of the customer;

"(2) Convulsive therapy;

"(3) Experimental treatments or behavior modification programs involving aversive stimuli or deprivation of rights; or

"(4) The withholding of life-saving medical procedures.

"(c) Nothing in this section shall be read to require any person to execute a durable power of attorney for health care."

(b) A new section 507a is added to read as follows:

"Sec. 507a. (a) It shall be the policy of the District government to ensure that incapacitated persons have available health care decisionmakers. The Administrator of the Mental Retardation and Developmental Disabilities Administration shall establish a plan to encourage, as much as possible, the provision of health care decisionmakers pursuant to D.C. Official Code § 21-2210 for all incapacitated and potentially incapacitated persons under the Administrator's jurisdiction.

"(b) Nothing in this section shall be read to require any person to execute a durable power of attorney for health care."

Sec. 4. Applicability.

This act shall apply as of October 21, 2004.

Sec. 5. Fiscal impact statement.

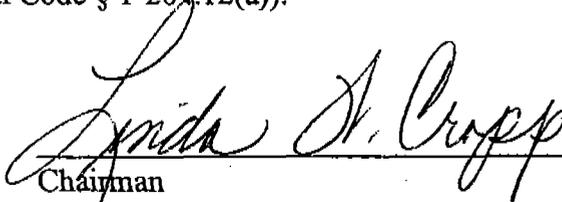
The Council anticipates that this act will reduce costs to the Mental Retardation and Developmental Disabilities Administration by reducing legal costs associated with guardianships. This act will also reduce Medicaid costs to the District of Columbia because prompt attention to medical needs will reduce medical costs.

Sec. 6. Effective date.

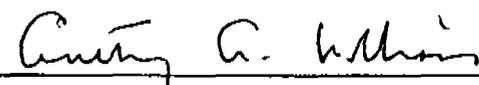
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than

ENROLLED ORIGINAL

90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 26, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-559

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 26, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To establish, on an emergency basis, the Rehabilitation Services Program to assist individuals with disabilities in achieving gainful employment, and to authorize the Mayor to establish an economic needs test to be used in determining the ability of applicants for and recipients of vocational rehabilitation services to contribute to payment of the costs of the vocational rehabilitation services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Rehabilitation Services Program Establishment Emergency Act of 2004".

Sec. 2. Establishment of the Rehabilitation Services Program.

(a) There is established a Rehabilitation Services Program that shall provide comprehensive, coordinated, efficient, and accountable federally subsidized services to individuals with disabilities, including individuals with significant disabilities, to assist those individuals in achieving gainful employment in accordance with the requirements of the Rehabilitation Act of 1973, approved August 7, 1998 (112 Stat. 1116; 29 U.S.C. § 720 *et seq.*).

(b) The Mayor shall establish an economic needs test to be used in determining the ability of applicants for and recipients of vocational rehabilitation services to contribute to the payment of the costs of the vocational rehabilitation services.

Sec. 3. Rules.

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

Sec. 4. Applicability.

This act shall apply as of October 21, 2004.

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Sec. 5. Fiscal impact statement.

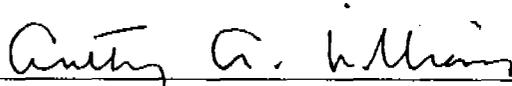
The Council adopts the December 13, 2001 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412 (a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
October 26, 2004

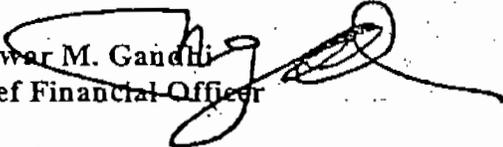
Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: DEC 13 2001

SUBJECT: Fiscal Impact Statement: "District of Columbia Rehabilitation Services Program Establishment Act of 2001"

REFERENCE: Draft Legislation – Bill Number Not Available

Conclusion

Funds are sufficient in the FY 2002 through FY 2005 budget and financial plan to implement the proposed legislation because any costs would be absorbed with existing resources. The proposed legislation would give legislative authority to actions already implemented by the Department of Human Services (DHS), Rehabilitation Services Administration (RSA).

Background

The proposed legislation would establish a formal, statutory vocational rehabilitation services program for the District. It also would authorize the Mayor to establish an economic needs test to determine whether applicants for and recipients of vocational rehabilitation services should pay a portion of the costs of the services received.

Under current law, vocational rehabilitation services are provided based on the requirements of the Rehabilitation Act of 1973. However, these services are limited because the program was not formalized as a government entity, preventing the implementation of the optional and discretionary provisions of the Act. One such optional provision is an economic needs test. RSA has implemented such a needs test, but the test has been challenged by advocates who claim RSA requires specific legislative authority for such requirements.

Honorable Linda W. Cropp
FIS: "District of Columbia Rehabilitation Services
Program Establishment Act of 2001"
Page 2 of 2

DHS indicates that by collecting funds from clients with the ability to pay, it is able to maximize its budgeted fiscal year resources to serve severely disabled individuals as well as the less severely disabled who also require rehabilitation services. In absence of an economic needs test, some eligible clients currently being served by DHS would not be able to receive services within budgeted resources.

Financial Plan Impact

The proposed legislation would not require additional expenditures in FY 2002 through FY 2005 because it creates specific statutory authority for actions already undertaken by DHS and RSA with existing resources. The proposed legislation would not generate net revenues.

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-560IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
OCTOBER 26, 2004*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To authorize, on an emergency basis, due to Congressional review, the Mayor to require the owner of a multiple dwelling, upon written request by a rental tenant or owner-occupant of that dwelling, to order a water lead level test kit for that tenant or owner-occupant within 15 calendar days of receiving the written request to allow the tenant or owner-occupant to collect a sample of his or her tap water and have it tested for lead, to ensure that the water sample is tested for lead and that the result is provided to the tenant or owner-occupant and any other rental tenant or owner-occupant of the dwelling who requests a copy and that the result is conspicuously posted on the premises, and to establish a penalty for failure to comply with the provisions of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Multiple Dwelling Residence Water Lead Level Test Congressional Review Emergency Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Dwelling unit" means any habitable room or group of habitable rooms located within a residential building and forming a single unit which is used or intended to be used for living, sleeping, and the preparation and eating of meals, including a bachelor apartment.

(2) "Multiple Dwelling" means any residential building containing 3 or more dwelling units, 3 or more rooming units, or any combination of dwelling or rooming units totaling 3 or more.

(3) "Owner" means any individual, corporation, association, or partnership listed as the legal title holder of record and any owners' association legally incorporated in accordance with the District of Columbia Cooperation Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Official Code § 29-901 *et seq.*), or the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1901.01 *et seq.*), that is the recognized representative of the households in a condominium or cooperative housing building.

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(4) "WASA" means the District of Columbia Water and Sewer Authority established by section 202 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.02).

Sec. 3. Testing.

(a) The Mayor shall require the owner of a multiple dwelling to order a water lead level test kit from WASA to sample the tap water in a dwelling or rooming unit for the presence of lead within 15 calendar days of a written request to do so by a rental tenant or owner-occupant of the unit. The rental tenant or owner-occupant shall also send a copy of this written request to the Mayor.

(b)(1) The owner shall order a water lead level test kit for each rental tenant and owner-occupant of the dwelling who requests a test, up to a maximum of 2% of the total units in the multiple dwelling or 6 units, whichever is less. In multiple dwellings of less than 50 units, the owner shall order at least one water lead level test kit if requested to by a rental tenant or owner-occupant of the dwelling.

(2) An owner shall be required to order a water lead level test kit pursuant to this act no more than once in a 6-month period for each unit whose rental tenant or owner-occupant requests a test kit.

(c) WASA shall send a water lead level test kit to each owner upon request. At the time WASA sends a water lead level test kit to an owner in response to a request pursuant to this act, WASA shall also send written notice to the Mayor that it has sent the water lead level test kit.

(d) Within 15 calendar days of receiving the water lead level test kit from WASA, the owner shall provide the water lead level test kit to an occupant of each unit being tested and send written certification to the Mayor that the owner has provided the kit.

(e) The rental tenant or owner-occupant of the unit being tested shall send a sample of the water he or she collects from the unit to WASA to have it tested for the lead level.

(f) WASA shall test the water sample at its expense and shall mail the result of the water lead level test to both the dwelling owner and to the rental tenant or owner-occupant of the unit in which the water sample was collected when the result is available.

(g) Within 15 calendar days of receiving the water lead level test result from WASA, the owner shall:

(1) Provide a written copy of the water lead level test result to any rental tenant or owner-occupant of the multiple dwelling who requests a copy of the test result and post the test result in a conspicuous place on the dwelling's premises; and

(2) Send written certification to the Mayor that the owner has provided a written copy of, and posted, the water lead level test result as required by this subsection.

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Sec. 4. Violations.

(a) Whenever the Mayor finds reasonable grounds to believe that a violation of any provision of this act exists, he or she shall give notice of the alleged violation to the person or persons responsible for that violation. Each notice of violation shall be in writing and shall meet the following requirements:

- (1) State the nature of the violation;
- (2) Indicate the provision of this act being violated;
- (3) Allow a reasonable time for the performance of any corrective action

required by the notice; and

- (4) Be signed by the Mayor or the Mayor's authorized agent.

(b) Each notice shall be served upon the persons responsible for correcting the violation described in the notice.

(c) The notice shall be properly served upon the person to be notified if served by any of the following means:

- (1) By serving a copy of the notice upon the person personally;

(2) By leaving a copy of the notice at the person's usual place of business or at the person's usual residence with a person over the age of 16 years;

(3) If no residence or place of business can be found in the District following a reasonable search, by leaving a copy of the notice with any agent of the person to be notified who has any authority or duty with reference to the premises to which the notice relates, or by leaving a copy of the notice at the office of that agent with any person employed in that office;

(4) By mailing a copy of the notice with a receipt of notice included, postage prepaid, to the last known address of the person to be notified; or

(5) By publishing a copy of the notice on 3 consecutive days in a daily newspaper of general circulation published in the District.

(d) Failure of an owner to comply with the provisions of this act upon a determination by the Mayor that a violation has occurred shall be punishable by a fine of \$100 for each day of noncompliance.

Sec. 5. Rules and procedures.

The Mayor is authorized to promulgate rules and to establish procedures to implement this act.

Sec. 6. Fines and penalties.

Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this act, or the rules.

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Sec. 7. Repealer.

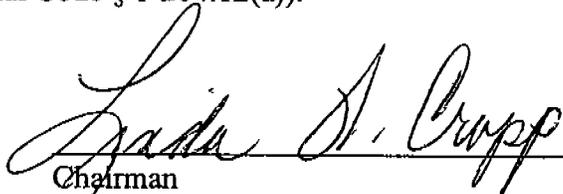
The Residential Water Lead Level Test Emergency Act of 2004, effective May 25, 2004 (D.C. Act 15-436; 51 DCR 5953), is repealed.

Sec. 8. Fiscal impact statement.

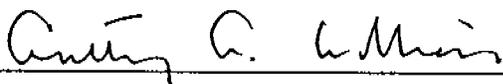
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 9. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
October 26, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (X) Temporary () Permanent ()	Date Reported: 10/4/04
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Subject/Short Title: The "Multiple Dwelling Residence Water Lead Level Test Congressional Review Emergency Act of 2004"

Part II: Summary of Fiscal Estimate of the Bill		
	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	(X)
b) It will affect federal expenditures.	()	(X)
c) It will affect private/other expenditures.	()	(X)
d) It will affect intra-District expenditures.	()	(X)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(X)
a) It will impact local revenue.	()	(X)
b) It will impact federal revenue.	()	(X)
c) It will impact private/other revenue.	()	(X)
d) It will impact intra-District revenue.	()	(X)
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(X)	()
Explanation: This bill will have no or minimal fiscal impact because it is a congressional review emergency and would merely continue a program that is already in effect.		

Part III: Other Impact of the Bill		
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
	YES	NO
1. It will affect an agency and/or agencies in the District.	()	(X)
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? Owners of multiple dwelling residences in the District would have no requirement to test the building's tap water for excessive lead levels once the current temporary law expires.	(X)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(X)

Sources of information: Council staff.	Councilmember: Carol Schwartz
	Staff Person & Tel: Andrew Gerst (202) 727-8272
	Council Budget Director's Signature: <i>Andrew Gerst</i> 10/4/04