



***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- Alcoholic Beverage Regulation Administration adopts public safety plan requirements for on-premise licensees
- Department of Health adopts rules that require health care providers to report pregnancies in HIV-infected women
- Department of Consumer and Regulatory Affairs solicits public comments on simplifying regulatory requirements for doing business in the District of Columbia
- District Department of Transportation proposes consolidation of Visitor Parking Pass pilot programs into an annual Visitor Parking Pass program
- Department of Housing and Community Development invites lenders and real estate agents to participate in the Inclusionary Zoning Program
- Department of Small and Local Business Development announces funding availability for the DC Commercial Clean Team Program

# DISTRICT OF COLUMBIA REGISTER

## Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances (ODAI) publishes the *District of Columbia Register* (ISSN 0419-439X) (*D.C. Register*) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979 (25 DCR 6960). The policies which govern the publication of the *D.C. Register* are set forth in Title 1 of the District of Columbia Municipal Regulations, Chapter 3 (Rules of the Office of Documents and Administrative Issuances.) Copies of the Rules may be obtained from the Office of Documents and Administrative Issuances. Rulemaking documents are also subject to the requirements of the *District of Columbia Administrative Procedure Act*, District of Columbia Official Code, §§2-501 *et seq.*, as amended.

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Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *D.C. Register*. Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act*. The Administrator of the Office of Documents hereby certifies that this issue of the *D.C. Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act*.

## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

441 4<sup>th</sup> STREET - SUITE 520 SOUTH - ONE JUDICIARY SQ. - WASHINGTON, D.C. 20001 - (202) 727-5090

VINCENT C. GRAY  
MAYOR

VICTOR L. REID, ESQ.  
ADMINISTRATOR

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AN ACT  
D.C. ACT 20-128

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 26, 2013

To approve, on an emergency basis, Change Orders No. FY13-001 through No. FY13-006 to Contract No. GM-10-S-0707A-FM for on-call small capital projects between the District of Columbia government and Keystone Plus Construction Corporation, and to authorize payment to Keystone Plus Construction Corporation, in the aggregate amount of \$2,168,675.58 for the goods and services to be received under these change orders.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Change Orders No. FY13-001 through No. FY13-006 to Contract GM-10-S-0707A-FM Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202(a) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02(a)), the Council approves Change Orders No. FY13-001 through No. FY13-006 to Contract No. GM-10-S-0707A-FM with Keystone Plus Construction Corporation, for on-call small capital projects, and authorizes payment in the aggregate amount of \$2,168,675.58 for the goods and services to be received under these change orders.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal statement of the Office 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.

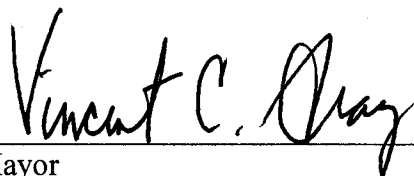
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

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  
July 26, 2013

ENROLLED ORIGINAL

AN ACT  
D.C. ACT 20-129

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
JULY 26, 2013

To approve, on an emergency basis, the base year and Option Year One of Contract No. GAGA-2011-C-0137 with Wireless Generation, Inc., on behalf of the District of Columbia Public Schools, Office of Contracts and Acquisitions to support the continuation of test development and delivery and administration of assessments aligned to the Common Core State Standards, scoring and reporting services for paced interim assessments in English language arts (up to 5 each in grades 2 through 10) and mathematics (up to 5 each in grades 2 through 8), and to authorize payment for the services received and to be received under this contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. GAGA-2011-C-0137 Base Year and Option Year One Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Notwithstanding section 902 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-359.02), and section 27-2425.9 of the District of Columbia Municipal Regulations (27 DCMR § 2425.9), the Council ratifies the base year of Contract No. GAGA-2011-C-0137.

Sec. 3. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code §§ 2-352.02), the Council approves Option Year One of Contract No. GAGA-2011-C-0137 for the support of test development, delivery, and administration of assessments aligned to the Common Core State Standards, and scoring and reporting services, and authorizes payment not to exceed \$1,206,967.40 for Option Year One for services received and to be received under the contract.

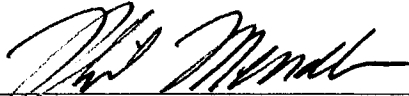
Sec. 4. Fiscal impact statement.

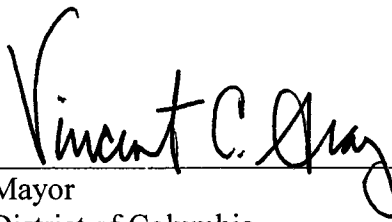
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), 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  
July 26, 2013

ENROLLED ORIGINAL

AN ACT  
D.C. ACT 20-130

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 30, 2013

To enact and amend, on an emergency basis, provisions of the law necessary to support the fiscal year 2014 budget.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2014 Budget Support Emergency Act of 2013".

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- Subtitle N. Tax Revision Commission Extension and Procurement Streamlining
- Subtitle O. Tax Clarifications
- Subtitle P. Tax Abatement Financial Analysis Requirements
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- Subtitle R. Income Tax Withholding Statements Electronic Submission
- Subtitle S. Clean Hands
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- Subtitle Z. Basilica of the National Shrine of the Immaculate Conception Real Property Tax Exemption
- Subtitle AA. Jubilee Housing Residential Rental Project Property Tax Exemption
- Subtitle BB. Marriage Equality Estate Tax Clarification
- Subtitle CC. Motor Vehicle Fuel Tax
- Subtitle DD. Title-Holding Entity Real Property Tax Exemption
- Subtitle EE. Internet Sales Tax, Homelessness Prevention, and WMATA Momentum Fund Establishment
- Subtitle FF. Age-in-Place and Equitable Senior-citizen Real Property and Relief Payment Plan
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**TITLE VIII. CAPITAL BUDGET**

- Subtitle A. Waterfront Park Bond
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**TITLE IX. COUNCIL REPORTING REQUIREMENTS**

**TITLE X. REVISED REVENUE ESTIMATE ADJUSTMENT ALLOCATION**

**TITLE XI. APPLICABILITY, FISCAL IMPACT, AND EFFECTIVE DATE**

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**TITLE I. GOVERNMENT DIRECTION AND SUPPORT**

**SUBTITLE A. BONUS AND SPECIAL PAY**

Sec. 1001. Short title.

This subtitle may be cited as the "Bonus and Special Pay Limitation Emergency Act of 2013".

Sec. 1002. Bonus and special pay limitations.

(a) For fiscal year 2014, no funds may be used to support the categories of special awards pay or bonus pay; provided, that funds may be used to pay:

- (1) Retirement awards;
- (2) Hiring bonuses for difficult-to-fill positions;
- (3) Additional income allowances for difficult-to-fill positions;
- (4) Agency awards or bonuses funded by private grants or donations;
- (5) Safe driving awards;
- (6) Gainsharing incentives in the Department of Public Works;
- (6) Suggestion or invention awards; or
- (7) Any other award or bonus required by an existing contract or collective bargaining agreement that was entered into before the effective date of this subtitle.

(b) No special awards pay or bonus pay may be paid to a subordinate agency head or an assistant or deputy agency head unless required by an existing contract that was entered into before the effective date of this subtitle.

(c) Notwithstanding any other provision of law, no restrictions on the use of funds to support the categories of special awards pay (comptroller subcategory 0137) or bonus pay (comptroller subcategory 0138) shall apply in fiscal year 2014 to employees of the District of Columbia Public Schools who are based at a local school or who provide direct services to individual students.

**SUBTITLE B. INNOVATION FUND ESTABLISHMENT**

Sec. 1011. Short title.

This subtitle may be cited as the "Innovation Fund Establishment Emergency Act of 2013".

Sec. 1012. Definitions.

For the purposes of this subtitle, the term:

- (1) "Fund" means the Innovation Fund established in section 1013.
- (2) "Grant-managing entity" means the Community Foundation for the National Capital Region pursuant to section 1016.

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## Sec. 1013. Innovation Fund.

(a) There is established a Innovation Fund ("Fund") to provide subgrants to nonprofit organizations in education, job training, health, services for seniors, arts, public safety, and the environment.

(b) The Mayor shall make a grant to a single grant-managing entity of which at least 94% shall be used to make subgrants for the purpose of promoting a growing economy, educational improvement, increasing sustainability, and improving the quality of life for all residents. The remaining 6% shall be utilized for administrative expenses and evaluation of the Fund.

(c) The Fund is designed to provide subgrants to nonprofits in education, job training, health, services for seniors, arts, public safety, and the environment. The funds shall be available for conveyance to a grant-managing entity for the purposes identified in subsection (b) of this section.

(d) Subgrants shall be awarded, subject to the availability of funding, as follows:

(1) All subgrants shall be awarded on a competitive basis;

(2) The subgrants shall not exceed \$100,000 per year;

(3) Capacity-building subgrants are one-time and can be carried over for a maximum of 3 years;

(4) Program-development subgrants are limited to a maximum of 3 years and contingent on first-year grant outcomes;

(5) The subgrant funds shall be used exclusively to serve District of Columbia residents;

(6) Independent review panels shall be used as part of the subgrant selection process; and

(7) All subgrants shall be subject to District transparency requirements, such as Freedom of Information Act requests.

(e) The Fund shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337).

## Sec. 1014. Required information before approval.

(a) To be eligible to receive a subgrant from the grant-managing entity pursuant to section 1013, a subgrantee shall submit the following required documentation to the grant-managing entity as well as any additional information required by the grant-managing entity:

(1) Internal Revenue Service certification that the organization is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

(2)(A) The organization's most recent financial audit, not more than 2 years old;  
or

(B) A recent financial statement, not more than one year old, prepared by a certified accountant that shows that the organization is in good financial standing and which delineates its:

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- (i) Existing assets and liabilities;
  - (ii) Pending lawsuits, if any; and
  - (iii) Pending and final judgments, if any;
- (3) Internal Revenue Service Form 990 covering the organization's most recently completed fiscal year;
- (4) A notarized statement from the subgrantee certifying that:
- (A) The organization is current on District and federal taxes;
  - (B) The grant-managing entity is authorized to verify the organization's tax status with the Office of Tax and Revenue and the Office of Tax and Revenue is authorized to release this information to the grant-managing entity;
  - (C) The grant-managing entity shall have access to the subgrantees financial, administrative, and operational records, including specific consent for the grant-managing entity to access its books, accounts, records, findings, and documents related to the subgrant; and
  - (D) The subgrantee is registered with the Department of Consumer and Regulatory Affairs; and
- (5) A comprehensive program statement that includes a detailed:
- (A) Scope of work; and
  - (B) Budget that describes how the subgrant funds shall be spent.

**Sec. 1015. Reporting requirements.**

Beginning January 2, 2015, the grant-managing entity shall submit an annual report to the Mayor and the Council of all District funds allocated, which includes:

- (1) Detailed subgrantee data;
- (2) Performance measures and performance outcomes under each subgrant;
- (3) The specific services provided under each subgrant;
- (4) The entity providing the services, if one other than the subgrantee;
- (5) The time period of delivery of the services;
- (6) The type of service provided;
- (7) The actual amount paid for the services; and
- (8) The amount of other expenditures under the subgrant, if any.

**Sec. 1016. Authorization for grant-managing entity.**

For fiscal years 2014, 2015, and 2016, the Community Foundation for the National Capital Region ("Community Foundation") is designated as the grant-managing entity. The Community Foundation shall be required to enter into a Memorandum of Understanding ("MOU") with the District of Columbia government. The MOU shall set forth certain administrative requirements for the Community Foundation to abide by when it obtains District funds and awards subgrants involving District funds, and will clarify and reaffirm the Community Foundation's responsibility and obligation with respect to District funds, including the monitoring of the use of District funds.

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Sec. 1017. Limitation on duplicative projects.

(a) The grant-managing entity shall take steps to avoid awarding subgrants to a nonprofit that has been awarded or is being awarded funds from the DC Children and Youth Investment Trust Corporation ("Trust") for the same or similar program purposes for which it is applying for funding from the Fund.

(b) Within 30 days after the effective date of the MOU, the grant managing entity shall provide to the Mayor, or his or her designee, and the Council, a plan that sets forth procedures for avoiding the award of duplicative funds from the Trust and the Fund.

**SUBTITLE C. DEPARTMENT OF GENERAL SERVICES PROTECTIVE SERVICES DIVISION**

Sec. 1021. Short title.

This subtitle may be cited as the "Department of General Services Protective Services Division Emergency Amendment Act of 2013".

Sec. 1022. Section 1023(6) of the Department of General Services Establishment Act of 2011, effective September 14, 2011 (D.C. Law 19-21; D.C. Official Code § 10-551.02(6)), is amended to read as follows:

"(6) Protective Services Division, which shall coordinate, manage, and provide security services for District government facilities through the use of special police officers and security officers, as defined in D.C. Official Code § 47-2839.01, civilian employees, or contractors."

**SUBTITLE D. CAPTIVE INSURANCE**

Sec. 1031. Short title.

This subtitle may be cited as the "Captive Insurance Emergency Amendment Act of 2013".

Sec. 1032. The District of Columbia Medical Liability Captive Insurance Agency Establishment Act of 2008, effective July 18, 2008 (D.C. Law 17-196; D.C. Official Code § 1-307.81 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-307.81) is amended as follows:

(1) Paragraph (2) is amended by striking the phrase "District of Columbia Medical Liability Captive Insurance Agency" and inserting the phrase "Captive Insurance Agency" in its place.

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

"(2A) "Act of terrorism" shall have the same meaning as provided in section 102(1) of the Omnibus Anti-Terrorism Act of 2002, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 22-3152(1))."

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

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"(4A) "District real property asset" means improved real property owned by the District and includes all structures of a permanent character erected on or affixed to the property."

(5) Paragraph (5) is amended by striking the phrase "Medical Liability Captive" both places it appears and inserting the phrase "Captive" in its place.

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

"(8A) "Medical malpractice" means professional negligence by act or omission by a health care provider in which the treatment provided falls below the accepted standard of practice in the medical community and causes injury or death to the patient, with most cases involving medical error."

(7) A new paragraph (9A) is added to read as follows:

"(9A) "Property insurance" means an insurance policy that protects against most risks to property such as earthquakes, floods, acts of terrorism, fires, boiler or machinery failures, business interruptions, pollution, fidelity, builders risk, debris removal, and weather damage."

(b) Section 3 (D.C. Official Code § 1-307.82) is amended to read as follows:

"Sec. 3. Establishment of the Captive Insurance Agency.

"(a) There is established, as a subordinate agency, the Captive Insurance Agency.

"(b) The purpose of the Agency is to:

"(1) Provide medical malpractice liability insurance policies for health centers, including coverage for the staff, contractors, and volunteer service providers for the services provided at the health centers; and

"(2) Provide property insurance for District real property assets.

"(c) The liability of the Agency for medical malpractice liability and property insurance policies shall be limited to the funds in the Captive Trust Fund."

(c) Section 4(a) (D.C. Official Code § 1-307.83(a)) is amended follows:

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

"(1) By delegation from the Mayor, to exercise procurement authority as is necessary or proper to carry out the provisions and purposes of this act, including contract oversight and contracting with:

"(A) Other insurance companies, captives, risk pools, re-insurers, and other similar entities;

"(B) Similar captives of other states, municipalities, or counties for the joint performance of common administrative functions; and

"(C) Persons or other entities for the performance of organizational, management, or administrative functions;"

(2) A new paragraph (4A) is added to read as follows:

"(4A) Obtain and issue policies of property insurance, in accordance with the requirements of the plan of operation under section 8;"

(d) Section 6 (D.C. Official Code § 1-307.85) is amended as follows:

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

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"(b) The Advisory Council shall consist of 7 members appointed by the Risk Officer. One member shall represent the District of Columbia Primary Care Association, 2 members shall represent District health centers, 2 members shall have expertise in general property insurance and re-insurance, and 2 members shall have general insurance expertise, whether medical malpractice or general property insurance."

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

(A) Paragraph (2) is amended by striking the word "and" at the end.

(B) A new paragraph (2A) is added to read as follows:

"(2A) Assess the needs and interests of the District with respect to obtaining property insurance through the Agency; and".

(e) Section 7(b) (D.C. Official Code § 1-307.86(b)) is amended by striking the phrase "March 2" and inserting the phrase "December 15" in its place.

(f) Section 8(b) (D.C. Official Code § 1-307.87(b)) is amended by adding a new paragraph (4A) to read as follows:

"(4A) Establish procedures for the offering of property insurance for District real property assets;"

(g) Section 11 (D.C. Official Code § 1-307.90) is amended to read as follows:

"Sec. 11. Coverage.

"(a) The Agency shall offer:

"(1) Health centers medical malpractice insurance that is consistent with coverage offered in the market; and

"(2) Property insurance for the benefit of the District for District real property assets consistent with coverage offered in the market.

"(b) The insurance policies and coverage offered pursuant to this act shall be established by the Risk Officer with the advice of the Advisory Council and subject to the approval of the Commissioner.

"(c) Any policy offered by the Agency shall state that the liability of the Agency shall be limited to the funds in the Captive Trust Fund."

(h) Section 12(a) (DC Official Code § 1-307.91(a)) is amended by striking the phrase "Medical Liability Captive" and inserting the phrase "Captive" in its place.

(i) A new section 16 is added to read as follows:

"Sec. 16. Short title.

"This act may be cited as the "Captive Insurance Agency Establishment Act of 2008"."

#### **SUBTITLE E. TECHNOLOGY SERVICES SUPPORT**

Sec. 1041. Short title.

This subtitle may be cited as the "Technology Services Support Emergency Amendment Act of 2013".

Sec. 1042. The Technology Services Support Act of 2007, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code § 1-1431 *et seq.*), is amended as follows:

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(a) Section 1002 (D.C. Official Code § 1-1431) is amended by repealing paragraphs (1), (2), (5), and (6).

(b) Section 1004 (D.C. Official Code § 1-1433) is amended to read as follows:

"Sec. 1004. Technology Infrastructure Services Support Fund.

"(a) There is established as a special fund the Technology Infrastructure Services Support Fund ("Fund"), which shall be administered by the Chief Technology Officer in accordance with subsection (c) of this section.

"(b) The Fund shall consist of the revenue from payments by independent District government agencies and federal agencies for services provided by the Office of the Chief Technology Officer in accordance with subsection (c) of this section.

"(c) The Fund shall be used solely to defray operational costs of programs of the Office of the Chief Technology Officer, other than the DC-Net program, that the Chief Technology Officer shall designate based on the use of such programs to provide services to independent agencies of the District and agencies of the federal government.

"(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation."

#### **SUBTITLE F. EASTERN MARKET JURISDICTION CLARIFICATION**

Sec. 1051. Short title.

This subtitle may be cited as the "Eastern Market Jurisdiction Clarification Emergency Amendment Act of 2013".

Sec. 1052. The Eastern Market Real Property Asset Management and Outdoor Vending Act of 1998, effective April 16, 1999 (D.C. Law 12-228; D.C. Official Code § 37-101 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 37-101) is amended as follows:

(1) Paragraph (12) is amended to read as follows:

"(12) "Eastern Market Special Use Area" means:

"(A) Eastern Market Square, including the North Hall Plaza;

"(B) The Capitol Hill Natatorium Plaza;

"(C) The playground and parking lot of Hine Junior High School, as of the effective date of the Eastern Market Jurisdiction Clarification Amendment Act of 2013, passed on 2<sup>nd</sup> reading on June 26, 2013 (Enrolled version of Bill 20-199), until commencement of construction with respect to new development on the Hine Junior High School site;

"(D) 7th Street, S.E., between North Carolina Avenue, S.E., and Pennsylvania Avenue, S.E., including the area between the curb and near edge of the sidewalk on both the east and west sides of the street and excluding the area between the property line and far edge of the sidewalk on both sides of the street;



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"(E) The new C Street, S.E., to be constructed between 7th and 8th Streets, S.E., including the area between the curb and near edge of the sidewalk on both the north and south sides of the street and excluding the area between the property line and the far edge of the sidewalk on both sides of the street; and

"(F) Other privately owned or controlled lands or buildings that are directly adjacent to the area defined in subparagraphs (A), (B), (C), and (D) of this paragraph, each being subject to a lease or management agreement between the market manager and such owner or controlling entity, and for durations and under conditions defined in the lease or management agreements."

(2) Paragraph (21) is amended to read as follows:

"(21) "Market manager" means a person or persons, having experience relevant to operating an historic urban fresh food or farmers' market, employed to provide unified and coordinated management for the Eastern Market Special Use Area."

**SUBTITLE G. COMMUNITY AFFAIRS GRANT-MAKING AUTHORITY**

Sec. 1061. Short title.

This subtitle may be cited as the "Community Affairs Grant-Making Authority Authorization Emergency Amendment Act of 2013".

Sec. 1062. Section 303(10) of the District of Columbia Latino Community Development Act, effective September 29, 1976 (D.C. Law 1-86; D.C. Official Code § 2-1313(10)), is amended by striking the word "act" and inserting the phrase "act; provided, that grants shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337)" in its place.

Sec. 1063. Section 304(c)(9) of the Office on Asian and Pacific Islander Affairs Establishment Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 2-1373(c)(9)), is amended by striking the word "act" and inserting the phrase "act; provided, that grants shall be administered pursuant to the requirements set forth in the Grant Administration Act of 2013, passed on first reading on May 22, 2013 (subtitle J of title I of Bill 20-199)" in its place.

Sec. 1064. Section 3 of the Office and Commission on African Affairs Act of 2006, effective June 8, 2006 (D.C. Law 16-111; D.C. Official Code § 2-1392), is amended as follows:

(a) Paragraph (8) is amended by striking the word "and" at the end.

(b) Paragraph (9) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(c) A new paragraph (10) is added to read as follows:

"(10) Issue grants to organizations that provide services to African residents of the District in furtherance of the mission of the Office or the purposes of this act; provided, that

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grants shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337)."

**SUBTITLE H. DISTRICT OF COLUMBIA GOVERNMENT COMPREHENSIVE MERIT PERSONNEL**

Sec. 1071. Short title.

This subtitle may be cited as the "District of Columbia Government Comprehensive Merit Personnel Emergency Amendment Act of 2013".

Sec. 1072. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 909(a) (D.C. Official Code § 1-609.03) is amended as follows"

(1) Paragraph (1) is amended by striking the phrase ", no more than 2 of whom may be appointed or detailed to a single agency, other than the Executive Office of the Mayor or the Office of the City Administrator".

(2) Paragraph (9) is amended by striking the number "6" and inserting the number "10" in its place.

(b) Section 1052 (D.C. Official Code § 1-610.52) is amended by added a new subsection (b-1) to read as follows:

"(b-1) Notwithstanding subsections (a) and (b) of this section, the compensation of the Chief Medical Examiner ("CME") shall not exceed \$253,000 unless approved by an act of the Council. The level of compensation as provided in this subsection shall be the total annual salary amount that the CME may receive. The CME may not receive longevity pay, bonus pay, including performance bonus pay, retention pay, per annum percentage increases for cost-of-living purposes or due to any collective bargaining activity within the agency, or any equivalent financial incentives or salary enhancements."

**SUBTITLE I. DISTRICT OF COLUMBIA UNIFORM LAW COMMISSION**

Sec. 1081. Short title.

This subtitle may be cited as the "District of Columbia Uniform Law Commission Amendment Emergency Act of 2013".

Sec. 1082. Section 4(b) of the District of Columbia Uniform Law Commission Act of 2010, effective March 12, 2011 (D.C. Law 18-313; D.C. Official Code § 3-1433(b)), is amended by adding a new paragraph (3) to read as follows:

"(3) The District may expend funds necessary to cover the costs of commissioners' attendance at the annual meeting as required under paragraph (1) of this subsection, the annual dues for the NCCUSL, and any other expenses as required."

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**SUBTITLE J. GRANT ADMINISTRATION**

Sec. 1091. Short title.

This subtitle may be cited as the "Grant Administration Emergency Act of 2013".

Sec. 1092. Definitions.

For the purposes of this subtitle, the term:

- (1) "Grant program" means the management or administration by a grantor of grant-making or grant-issuing authority as covered by this subtitle.
- (2) "Grantee" means the person that receives funds under a grant program.
- (3) "Grantor" means a District agency, board, commission, instrumentality, or program designated by law as the grant-managing entity for a grant program.

Sec. 1093. Applicability of requirements on grants.

Notwithstanding any other provision of law, and except where the law establishing authority for the grant exempts or modifies the requirements of this subtitle by specific reference, any grant-making or grant-issuing authority established under the Fiscal Year 2014 Budget Support Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337), shall be administered pursuant to the requirements of this subtitle.

Sec. 1094. Requirements for award of grants.

(a) Any grant of \$50,000 or more that is made pursuant to an authority described in section 1093 shall be awarded on a competitive basis and solely for the purpose or purposes identified in the statute establishing the grant-making or grant-issuing authority.

(b) A grantor shall, before providing notice of the availability of grant funds as required by subsection (c) of this section, establish criteria or standards for the selection of a grantee or grantees under the grant program, and shall set priorities among those criteria or standards.

(c) A grantor shall publish notice in the District of Columbia Register for a minimum of 14 days in advance of making or issuing a grant of the following:

- (1) A detailed description of the availability of grant funds, including the amount, the number of likely grant awards to be made, and any limitations or requirements on the use of such grant funds;
- (2) Eligibility requirements for receiving funds under the grant program, including the requirements in section 1095;
- (3) Selection criteria for the awarding of funds under the grant program;
- (4) A description of the application process under the grant program, including the date after which applications will no longer be received; and
- (5) The date that final determination of grant awards will be made.

Sec. 1095. Requirements for administration of grant programs.

A grantor administering a grant program covered by this subtitle shall:

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(1) Within 30 days from the closing date of the grant application process, provide notification to all applicants of the acceptance or rejection of their application for the grant funds; and

(2)(A) Maintain records of any written communications as well as a description of any other communications, including telephonic or face-to-face communications, between the grantor and any District government official or staff regarding:

- (i) The development of the selection criteria or eligibility requirements;
- (ii) Selection by the grantor of a grantee; or
- (iii) Issues with a grantee's compliance with grant-program requirements.

(B) Records required under this paragraph shall be provided, upon request, within a reasonable time, to the Mayor, or his or her designee, or to a member of the Council.

**Sec. 1096. Eligibility requirements for receiving grants.**

In addition to any other eligibility requirements provided under the enabling statute of the grant program, to be eligible to receive funds under a grant program covered by this subtitle, an individual or entity must be current on all taxes and liabilities owed to the District, or have a plan to resolve such taxes and liabilities that is satisfactory to the grantor.

**Sec. 1097. Reporting requirements.**

Beginning in 2014, a grantor managing a grant program covered by this subtitle shall submit a report to the Mayor and the Council by November 1 of each year, the following information:

- (1) All funds allocated pursuant to a grant program in the previous fiscal year;
- (2) The type of services and a timeline for delivery of services for the grant; and
- (3) Performance measures and performance outcomes for each grant issued during the previous fiscal year.

**SUBTITLE K. DISCRETIONARY FUNDS RENAMING**

**Sec. 1101. Short title.**

This subtitle may be cited as the "Discretionary Fund Renaming Emergency Act of 2013".

**Sec. 1102. Section 26 of An Act To authorize certain programs and activities of the government of the District of Columbia, and for other purposes, approved October 26, 1973 (87 Stat. 509; D.C. Official Code § 1-333.10), is amended by adding a new subsection (c) to read as follows:**

"(c) This section may be cited as the "Discretionary Funds Act of 1973".".

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**TITLE II. ECONOMIC DEVELOPMENT AND REGULATION****SUBTITLE A. DEPUTY MAYOR FOR PLANNING AND ECONOMIC DEVELOPMENT LIMITED GRANT-MAKING AUTHORITY**

Sec. 2001. Short title.

This subtitle may be cited as the "Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Emergency Amendment Act of 2013".

Sec. 2002. The Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 20, 2012 (D.C. Law 19-168; codified in scattered cites in the D.C. Official Code), is amended as follows:

(a) Section 2032 (D.C. Official Code § 1-328.04) is amended as follows:

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

(A) Paragraph (2) is amended by striking the phrase "project;" and inserting the phrase "project; and" in its place.

(B) Paragraph (3) is repealed.

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

"(b-1)(1) The Deputy Mayor may make grants for fiscal year 2014 as follows:

"(A) An amount of \$100,000 for sector consultants;

"(B) An amount of \$350,000 for local business promotion;

"(C) An amount of \$75,000 for regional economic development; and

"(D) An amount of \$50,000 for increasing access to financial services and products to unbanked and under-banked residents.

"(2) Grants made pursuant to this subsection shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337)."

(b) Section 2033 (D.C. Official Code § 1-325.211) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "Deputy Mayor for Planning and Economic Development" and inserting the phrase "Commission on Arts and Humanities" in its place.

(2) Subsection (b)(1) is amended as follows:

(A) Subparagraph (A) is amended by striking the word "and".

(B) Subparagraph (B) is amended by striking the period and inserting the phrase "; and" in its place.

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

"(C) An annual appropriation of \$107,000."

(3) A new subsection (d) is added to read as follows:

"(d) The Commission on Arts and Humanities is authorized to make grants for the purposes described in this section. Grants made under this section shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337)."

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Sec. 2003. Section 5 of the Commission on Arts and Humanities Act, effective October 21, 1975 (D.C. Law 1-22; D.C. Official Code § 39-204), is amended as follows:

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

"(3A) Make grants to neighborhood or civic associations for the purpose of providing funds for parades, festivals, and any other celebrations sponsored by a neighborhood or civic association in accordance with section 2033(c) and (d) of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-325.211(c) and (d))."

(b) Paragraph (5)(C) is amended by striking the phrase "in the Fund" and inserting the phrase "in the Fund or in the Neighborhood Parade and Festival Fund, established by section 2033 of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-325.211), if the donation, gift, or grant is designated to be used for a parade, festival, or any other celebration sponsored by a neighborhood or civic association" in its place.

Sec. 2004. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE B. WORKFORCE INVESTMENT COUNCIL AND WORKFORCE INTERMEDIARY GRANT-MAKING AUTHORITY**

Sec. 2011. Short title.

This subtitle may be cited as the "Workforce Investment Council and Workforce Intermediary Grant -Making Authority Emergency Amendment Act of 2013".

Sec. 2012. Section 4 of the Workforce Investment Implementation Act of 2000, effective July 18, 2000 (D.C. Law 13-150; D.C. Official Code § 32-1603), is amended by adding new subsections (c) and (d) to read as follows:

"(c) The Council shall have grant-making authority for the purpose of providing competitive grants under the authority granted to the Council by this act; provided, that grants shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337).

"(d) The Council shall have grant-making authority for the purpose of providing competitive grants based on the recommendations of the Workforce Intermediary Task Force, pursuant to the Workforce Intermediary Task Force Establishment Temporary Act of 2011, effective December 2, 2011 (D.C. Law 19-414; 58 DCR 8962), approved by the Council of the District of Columbia, the Workforce Intermediary Task Force Recommendations Emergency Approval Resolution of 2012, effective June 5, 2012 (Res. 19-454; 59 DCR 7454); provided, that grants shall be administered pursuant to the requirements set forth in the Grant Administration

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Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337).1".

**SUBTITLE C. UNEMPLOYMENT COMPENSATION ANTI-FRAUD FEDERAL CONFORMITY**

Sec. 2021. Short title.

This subtitle may be cited as the "Unemployment Compensation Anti-Fraud Federal Conformity Emergency Amendment Act of 2013".

Sec. 2022. Section 19(e) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 946; D.C. Official Code § 51-119(e)), is amended by adding a new paragraph (3) to read as follows:

"(3) Beginning on October 1, 2013, at the time the Director determines an erroneous payment was made to an individual due to fraud committed by such individual, the Director shall assess a penalty on the individual in an amount of 15% of the amount of the erroneous payment. Penalties paid pursuant to this paragraph shall be deposited in the District Unemployment Fund, established by section 2. The penalty assessed by this paragraph shall not be deducted from any future benefits payable to claimant under this act."

**SUBTITLE D. UNEMPLOYMENT COMPENSATION PENALTY REDUCTION**

Sec. 2031. Short title.

This subtitle may be cited as the "Unemployment Compensation Penalty Reduction Emergency Amendment Act of 2013".

Sec. 2032. Section 4(c)(2) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 948; D.C. Official Code § 51-104(c)(2)), is amended by striking the number "25" and inserting the number "10" in its place.

**SUBTITLE E. UNEMPLOYMENT COMPENSATION BENEFITS CHANGES FEDERAL CONFORMITY**

Sec. 2041. Short title.

This subtitle may be cited as the "Unemployment Compensation Benefit Charges Federal Conformity Emergency Amendment Act of 2013".

Sec. 2042. Section 3(c)(2) of the District of Columbia Unemployment Compensation Act, approved August 28, 1935 (49 Stat. 947; D.C. Official Code § 51-103(c)(2)), is amended by adding a new subparagraph (F) to read as follows:

"(F) Commencing with overpayments of benefits established after September 30, 2013, no employer shall be relieved of benefit charges for payments made from the District Unemployment Fund if the charges resulted from benefit payments made because the employer or the employer's agent was at fault for failing to respond timely or adequately to the

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request of the Director for information relating to the claim for benefits and the employer or agent has established a pattern of failing to respond timely or adequately to such requests unless the Director finds such failure was for good cause."

**SUBTITLE F. WORKERS' COMPENSATION AVERAGE WEEKLY WAGE  
CALCULATION ALIGNMENT**

Sec. 2051. Short title.

This subtitle may be cited as the "Workers' Compensation Average Weekly Wage Calculation Alignment Emergency Amendment Act of 2013".

Sec. 2052. Section 6(d) of the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D. C. Official Code § 32-1505(d)), is amended to read as follows:

"(d) For the purposes of this section, the average weekly wage of insured employees in the District shall be determined by the Mayor as follows:

"(1) For the calendar year 2013, the average weekly wage rate is set at \$1,416.00.

"(2) For years commencing after January 1, 2013, on or before November 1st of each preceding year, the total wages reported on contribution reports for employees, excluding employees of the District government and the United States government, to the Department of Employment Services for the year ending on the preceding June 30th shall be divided by the average number of such employees (determined by dividing the sum of total employees reported in each quarter for the preceding year, excluding employees of the District government and the United States government, by 4). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the year beginning the following January 1".

**SUBTITLE G. WAGE THEFT PREVENTION**

Sec. 2061. Short title.

This subtitle may be cited as the "Wage Theft Prevention Emergency Amendment Act of 2013".

Sec. 2062. An Act to provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*), is amended as follows:

(a) Section 1(3) (D.C. Official Code § 32-1301(3)) is amended to read as follows:

"(3) "Wages" means all monetary compensation after lawful deductions, owed by an employer, whether the amount owed is determined on a time, task, piece, commission, or other basis of calculation. The term "wages" includes a:

"(A) Bonus;

"(B) Commission;

"(C) Fringe benefits paid in cash;



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"(D) Overtime premium; and

"(E) Other remuneration promised or owed:

"(i) Pursuant to a contract for employment, whether written or oral;

"(ii) Pursuant to a contract between an employer and another

person or entity; or

"(iii) Pursuant to District or federal law."

(b) Section 3(4) (D.C. Official Code § 32-1303(4)) is amended by striking the phrase "equal to the unpaid wages" and inserting the phrase "equal to treble the unpaid wages" in its place.

(c) Section 5 (D.C. Official Code § 32-1305) is amended as follows:

(1) The existing language is designated as subsection (a).

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

"(b) In enforcing the provisions of this act, the remuneration promised by an employer to an employee shall be presumed to be at least the amount required by federal law, including federal law requiring the payment of prevailing wages, or by District law."

(d) Section 6(a) (D.C. Official Code § 32-1306(a)) is amended as follows:

(1) Strike the phrase "for penalties" and insert the phrase "for the payment of wages, liquidated damages, and penalties" in its place.

(2) A new sentence is added to the end to read as follows: "The Mayor shall inform any employee affected by a prosecution brought under this section of the proceedings of the prosecution and shall consult with the employee concerning appropriate restitution and damages."

Sec. 2063. Section 13(f) of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 19-248; D.C. Official Code § 32-1012(f)), is amended by striking the phrase "wages owed" and inserting the phrase "wages and liquidated damages owed" in its place.

Sec. 2064. Section 108 of the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code § 2-220.08), is amended as follows:

(a) Strike the phrase "wages required" and insert the phrase "wages, enforcement of non-payment, and penalties and remedies for non-payment required" in its place.

(b) A new sentence is added to the end to read as follows: "Failure to pay wages in conformance with this act shall constitute unpaid wages and shall subject the violator to all procedures, liquidated damages and penalties, and any other remedies or relief applicable under An Act To provide for the payment and collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1301 *et seq.*)".

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**SUBTITLE H. HOUSING PRODUCTION TRUST FUND REVENUE  
DEDICATION**

Sec. 2071. Short title.

This subtitle may be cited as the "Housing Production Trust Fund Revenue Dedication Emergency Amendment Act of 2013".

Sec. 2072. Section 2072 of the Fiscal Year 2013 Budget Support Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025), is repealed.

**SUBTITLE I. SENIOR HOUSING MODERNIZATION GRANT FUND**

Sec. 2081. Short title.

This subtitle may be cited as the "Senior Housing Modernization Grant Fund Emergency Amendment Act of 2013".

Sec. 2082. The Senior Housing Modernization Grant Fund Act of 2010, effective August 12, 2010 (D.C. Law 18-218; D.C. Official Code § 1-325.161 *et seq.*), is amended as follows:

(a) Section 2(1) (D.C. Official Code § 1-325.161(1)) is amended to read as follows:

"(1) "Director" means the Director of the Department of Housing and Community Development."

(b) Section 3(b) (D.C. Official Code § 1-325.162(b)) is amended as follows:

(1) Strike the phrase "Deputy Mayor" and insert the word "Director" in its place.

(2) Strike the phrase "\$5,000" and insert the phrase "\$20,000" in its place.

(3) Add the following sentence at the end: "Administration of grants from the Fund shall be exempt from the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337)."

(c) Section 4 (D.C. Official Code 1-325.163) is amended as follows:

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

"(a) An applicant is eligible for a grant if the applicant is a qualified senior citizen; provided, that the Director shall give priority consideration to lower-income applicants."

(2) Strike the phrase "Deputy Mayor" wherever it appears and insert the word "Director" in its place.

(d) Section 5 (D.C. Official Code § 1-325.164) is amended by striking the phrase "provisions of this act" and inserting the phrase "provisions of this act within 60 days of the effective date of the Senior Housing Modernization Grant Fund Emergency Amendment Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337)" in its place.

Sec. 2083. Applicability.

This subtitle shall apply as of the effective date of this act.

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**SUBTITLE J. LOCAL RENT SUPPLEMENT SUSTAINMENT**

Sec. 2091. Short title.

This subtitle may be cited as the "Local Rent Supplement Sustainment Emergency Amendment Act of 2013".

Sec. 2092. The Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*), is amended by adding a new section 8c to read as follows:

"Sec. 8c. Placement of first priority homeless families.

"The Mayor and the District of Columbia Housing Authority shall fill vacant Rent Supplement Program tenant-based vouchers, established by section 26c of the District of Columbia Housing Authority Act of 1999, effective March 2, 2007 (D.C. Law 16-192; D.C. Official Code § 6-228), with homeless families referred by the Department of Human Services and determined to have first priority to shelter pursuant to 29 DCMR § 2508.01(a)(1). The referrals shall be made in accordance with the special eligibility criteria set forth in 29 DCMR § 2556 through 29 DCMR § 2558."

Sec. 2093. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE K. WALTER REED ARMY MEDICAL CENTER COMMUNITY  
ADVISORY COMMITTEE**

Sec. 2101. Short title.

This subtitle may be cited as the "Walter Reed Army Medical Center Community Advisory Committee Emergency Amendment Act of 2013".

Sec. 2102. The Walter Reed Army Medical Center Base Realignment and Closure Homeless Assistance Submission Approval Act of 2012, effective October 16, 2012 (D.C. Law 19-175; D.C. Official Code § 10-1901 *et seq.*), is amended by adding a new section 6a to read as follows:

"Sec. 6a. Establishment of advisory committee.

"(a) There is established a Walter Reed Army Medical Center Site Reuse Advisory Committee ("Committee").

"(b)(1) The Committee shall consist of the following 9 members:

"(A) The Master Developer or the Master Developer's designee;

"(B) The Deputy Mayor for Planning and Economic Development or the Deputy Mayor's designee;

"(C) The Chairman of the Council or the Chairman's designee;

"(D) The Councilmember from Ward 4 or the Councilmember's designee;

"(E) Three community members, appointed by the Mayor, one member each from the Brightwood, Shepherd Park, and Takoma communities;

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"(F) One member of ANC4A chosen by ANC4A; and

"(G) One member of ANC4B chosen by ANC4B.

"(2) Members of the Committee appointed pursuant to paragraph (1)(E) of this subsection shall have expertise in economic development, public safety, law, transportation, affirmative action, or local community issues.

"(3) Each member of the Committee, except the Master Developer or the Master Developer's designees, shall be a District resident.

"(4) The Chairperson of the Committee shall be designated by the Mayor.

"(5) Members shall serve without compensation.

"(6) Members shall serve until replaced by their appointing authority.

"(7) The member appointed pursuant to paragraph (1)(A) of this subsection shall not be a voting member.

"(c) The Committee shall advise the LRA and Master Developer with respect to the following:

"(1) The needs of the community, including providing retail uses that are accessible to the community that serve the needs of both the community and visitors to the Walter Reed Army Medical Center Site, and adequate security in and around the Walter Reed Army Medical Center Site;

"(2) Parking issues, including parking for persons using or employed at the Walter Reed Army Medical Center Site and the prevention of parking in the surrounding neighborhoods by non-residents of those neighborhoods;

"(3) Transportation issues, including:

"(A) Proposals for directing traffic to and from the Walter Reed Army Medical Center Site away from the surrounding residential streets;

"(B) Providing a method of truck staging to minimize any adverse impact on the surrounding neighborhoods;

"(C) Restricting the parking of trucks, trailers, and buses at the Walter Reed Medical Center Site or other areas outside of the area surrounding the Walter Reed Medical Center Site; and

"(D) Providing adequate pull-off areas for taxicabs, buses, and shuttles;

"(4) Economic-development opportunities that may be created for surrounding neighborhoods as a result of the reuse of the Walter Reed Army Medical Center Site;

"(5) The development of environmental guidelines, including the mitigation of adverse noise and air-quality impacts;

"(6) Any request for proposal or contract modification for economic-development projects, streetscape or pedestrian movement projects, and transportation or parking projects; and

"(7) Other issues directly related to the operation or redevelopment or reuse of the Walter Reed Army Medical Center Site that are likely to have an impact on the community.

"(d) A quorum of the Committee shall meet at least 6 times per year.

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"(e) For purposes of this section, the term "Master Developer" means the real-estate-development team selected by the Walter Reed LRA to implement the Walter Reed Reuse Plan.

"(f) The committee shall be subject to the provisions of the Open Meetings Amendment Act of 2010, effective March 31, 2010 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*)

"(g) This section shall sunset as of December 31, 2023."

Sec. 2103. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE L. FOSTER YOUTH TRANSIT SUBSIDY**

Sec. 2111. Short title.

This subtitle may be cited as the "Foster Youth Transit Subsidy Emergency Amendment Act of 2013".

Sec. 2112. Section 2 of the School Transit Subsidy Act of 1978, effective March 3, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233), is amended by adding a new subsection (f) to read as follows:

"(f)(1) Youth in the District's foster care system shall be eligible for a foster-youth transit-subsidy program ("Program") as established by the Mayor until they reach 21 years of age.

"(2) The Program shall allow qualified foster youth to travel on Metrobus, Metrorail, and public transportation services offered by the District at subsidized or reduced fares.

"(3) The subsidized or reduced foster-youth fare set forth in this subsection shall be valid only for the transportation of foster youth for educational or employment purposes."

**SUBTITLE M. HOUSING PRODUCTION TRUST FUND SECURITIZATION**

Sec. 2121. Short title.

This subtitle may be cited as the "Housing Production Trust Fund Securitization Emergency Amendment Act of 2013".

Sec. 2122. The Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2801 *et seq.*), is amended as follows:

(a) Section 3(b-2) (D.C. Official Code § 42-2802(b-2)) is amended by adding a new paragraph (3) to read as follows:

"(3) This subsection shall not apply to the new issuance of bonds after May 1, 2013."

(b) Section 203 (D.C. Official Code § 42-2812.03) is amended by adding a new subsection (e) to read as follows:

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"(e) After May 1, 2013, the Housing Production Trust Fund established pursuant to section 3 may not be used to support the new issuance of bonds under subsection (a) of this section."

**SUBTITLE N. AFRICAN-AMERICAN CIVIL WAR MEMORIAL FREEDOM FOUNDATION INC. MUSEUM DEVELOPMENT**

Sec. 2131. Short title.

This subtitle may be cited as the "African-American Civil War Memorial Freedom Foundation Inc., Museum Development Emergency Act of 2013".

Sec. 2132. Grimke School covenant.

(a) Notwithstanding any rule, regulation, or other law to the contrary, the District may not convey, exchange, lease, sell, transfer, or otherwise dispose to any person of the real property located at 1925 Vermont Avenue, N.W., known for tax and assessment purposes as Lot 0827, Square 0361 ("the Grimke School"), unless the District places a covenant that provides for the exclusive use, renovation, and expansion of a space of not less than 10,000 square feet for the establishment and operation of the African-American Civil War Memorial Museum and Visitor's Center.

(b) The covenant required under this section shall:

- (1) Be binding upon the person and the person's heirs, successors, and assigns, and upon occupiers or users of the Grimke School;
- (2) Run with the land both as to benefit and as to burden; and
- (3) Run with the land in perpetuity.

Sec. 2133. Restriction on disposal.

The Mayor may not transmit, pursuant to section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), or otherwise, any disposition of the Grimke School that does not include a provision that ensures that exclusive use, renovation, and expansion of a space not less than 10,000 square feet for the establishment and operation of an African American Civil War Memorial Museum and Visitor's Center.

Sec. 2134. Applicability.

This subtitle shall apply upon the effective date of this act.

**SUBTITLE O. NOMA PARKS GRANT AUTHORIZATION**

Sec. 2141. Short title.

This subtitle may be cited as the "NoMa Parks Grant Authorization Emergency Act of 2013".

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Sec. 2142. Grant for NoMa Public Parks authorized.

(a) The Director of the Department of General Services ("DGS") may issue grants to the NoMa BID, the NoMa Parks Foundation, or a related Friends of NoMa Parks organization for the purpose of acquiring land and building public parks and public spaces that are to be owned by the District, or for which the District has received a suitable and permanent easement, covenant, or ground lease, in accordance with the NoMa Public Realm Design Plan from the funds made available to DGS.

(b) Notwithstanding the provisions of D.C. Official Code §47-368.06, grants may be issued pursuant to this section through use of an intra-District transfer, a memorandum of understanding, or a reprogramming from an agency lacking grant-making authority.

(c) This subtitle shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337).

**SUBTITLE P. UNIVERSITY OF THE DISTRICT OF COLUMBIA  
COMMUNITY COLLEGE WORKFORCE DEVELOPMENT PROGRAM**

Sec. 2151. Short title.

This subtitle may be cited as the "University of the District of Columbia Community College Workforce Development Emergency Act of 2013".

Sec. 2152. Notwithstanding any other provision of law, any funds not subject to federal requirements that are transferred from the Department of Employment Services ("Department") to the Workforce Development Program at the University of the District of Columbia Community College ("Community College") for workforce-development purposes shall be used by the Community College without regard to any reporting requirements or other oversight requirements by the Department. The Community College shall adopt or use policies and procedures currently in place to ensure appropriate reporting, tracking of funds, and controls.

**TITLE III. PUBLIC SAFETY AND JUSTICE**

**SUBTITLE A. DEPARTMENT OF CORRECTIONS CENTRAL CELLBLOCK  
MANAGEMENT**

Sec. 3001. Short title.

This subtitle may be cited as the "Department of Corrections Central Cellblock Management Emergency Amendment Act of 2013".

Sec. 3002. Section 2 of An Act To create a Department of Corrections in the District of Columbia, approved June 27, 1946 (60 Stat. 320; D.C. Official Code § 24-211.02), is amended by adding a new subsection (a-1) to reads as follows:

"(a-1)(1) The Department of Corrections shall have charge of the management and operation of the Central Cellblock, located at 300 Indiana Avenue, N.W., Washington, D.C., and

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shall be responsible for the safekeeping, care, and protection of all persons detained at the Central Cellblock, by the Metropolitan Police Department, before their initial court appearance.

"(2) Nothing in this subsection shall be construed as:

"(A) Removing any authority from the Metropolitan Police Department to determine where to hold in custody any person arrested and awaiting an initial court appearance;

"(B) Granting any arrest powers to any employee of the Department of Corrections performing any duty at the Central Cellblock; or

"(C) Limiting any powers or authority of the Metropolitan Police Department or the Department of Corrections."

**Sec. 3003. Transfers.**

All property, records, unexpended balances of appropriations, allocations, and other funds required for the management and operation of the Central Cellblock at 300 Indiana Avenue, N.W., Washington, D.C. are hereby transferred from the Metropolitan Police Department to the Department of Corrections.

**SUBTITLE B. SECURITY LICENSE STREAMLINING**

**Sec. 3011. Short title.**

This subtitle may be cited the "Security Licensing Streamlining Emergency Act of 2013".

**Sec. 3012.** Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2839 is amended by adding a new subsection (g) to read as follows:

"(g) All license fees collected pursuant to this section shall be deposited into the Occupations and Professions Licensing Special Account established pursuant to § 47-2853.11."

(b) Section 47-2839.01 is amended by adding a new subsection (f) to read as follows:

"(f) All license fees collected pursuant to this section shall be deposited into the Occupations and Professions Licensing Special Account established pursuant to § 47-2853.11."

(c) Section 47-2853.11 is amended as follows:

(1) Subsection (a) is amended by striking the phrase "identified in this subchapter" and inserting the phrase "identified in §§ 47-2839 and 47-2839.01, and this subchapter" in its place.

(2) Subsection (c) is amended by striking the phrase "this subchapter" wherever it appears and inserting the phrase "§§ 47-2839 and 47-2839.01, and this subchapter" in its place.

(3) Subsection (d) is amended by striking the phrase "this subchapter" and inserting the phrase "§§ 47-2839 and 47-2839.01, and this subchapter" in its place.

**SUBTITLE C. AUTOMATED TRAFFIC ENFORCEMENT ENHANCEMENT**

**Sec. 3021. Short title.**

This subtitle may be cited as the "Automated Traffic Enforcement Enhancement Emergency Amendment Act of 2013".



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Sec. 3022. Section 604c(2) of the Emergency and Non-Emergency Number Telephone Calling Systems Fund Act of 2000, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 34-1803.03(2)), is amended to read as follows:

"(2) From fines paid due to automated photo enforcement in any one fiscal year:

"(A) Aggregate revenues in excess of \$105,791,000 in fiscal year 2013;

"(B) Aggregate revenues in excess of \$141,348,000 in fiscal year 2014;

"(C) Aggregate revenues in excess of \$155,812,000 in fiscal year 2015;

"(D) Aggregate revenues in excess of \$148,020,000 in fiscal year 2016;

and

"(E) Aggregate revenues in excess of \$140,618,000 in fiscal year 2017

and in each fiscal year thereafter."

**SUBTITLE D. DOMESTIC VIOLENCE HOTLINE ESTABLISHMENT**

Sec. 3031. Short title.

This subtitle may be cited as the "Domestic Violence Hotline Establishment Emergency Act of 2013".

Sec. 3032. Definitions.

For the purposes of this subtitle, the term:

(1) "Domestic violence" means a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner, dating partner, or family member. Domestic violence includes physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This consists of any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

(2) "Domestic violence counselor" shall have the same meaning as provided in D.C. Official Code § 14-310(a)(2).

(3) "Domestic violence program" shall have the same meaning as provided in D.C. Official Code § 14-310(a)(3).

(4) "Hotline" means the Domestic Violence Hotline program established by section 3033.

(5) "Office" means the Office of Victim Services, established by Mayor's Order 2004-119, issued July 19, 2004 (51 DCR 7997).

Sec. 3033. Domestic Violence Hotline.

(a) The Office shall establish the Domestic Violence Hotline to provide assistance for victims and potential victims of domestic violence beginning October 1, 2014.

(b)(1) The Hotline shall:

(A) Be operated by a domestic violence program funded and supported by the Office;

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(B) Provide a direct toll-free number that accepts calls and text messages;  
 (C) Be directly available to callers, without an intermediary agency;  
 (D) Be available on a 24-hour basis;  
 (E) Provide live assistance by domestic violence counselors; and  
 (F) Offer anonymity and confidentiality to enable a victim or a friend or family member of a victim to seek support without giving their legal name.

(2) The requirements of paragraph (1)(F) of this subsection shall not be construed to limit or supersede any mandatory reporting requirements under District law.

(c) The Office shall develop and implement an outreach campaign to educate District residents about the Hotline.

**Sec. 3034. Task force.**

(a) Beginning October 1, 2013, the Office shall establish a task force to:

- (1) Assess staff and technology needs of the Hotline; and
- (2) Develop mechanisms for administration of the Hotline; and
- (3) Develop standards that coincide with the standards used by the existing domestic violence first responder line.

(b) The task force shall include representatives from the D.C. Coalition Against Domestic Violence, governmental victim services programs, and domestic violence programs.

(c) By January 30, 2014, the task force shall transmit to the Office and to the Office of the Secretary to the Council a report that includes the assessments and developments completed pursuant to subsection (a) of this section.

**SUBTITLE E. JUVENILE WORKING GROUP ESTABLISHMENT**

**Sec. 3041. Short title.**

This subtitle may be cited as the "Alternatives to Juvenile Arrest and Secured Detention Working Group Establishment Emergency Act of 2013".

**Sec. 3042. Alternatives to Juvenile Arrest and Secured Detention Working Group establishment.**

(a) There is established an Alternatives to Juvenile Arrest and Secured Detention Working Group ("Working Group").

(b) The Working Group shall be convened by the following:

- (1) The Attorney General for the District of Columbia; and
- (2) The City Administrator.

(c) The Working Group shall include the following members or their designees:

- (1) The Chief of Police;
- (2) The Director of the Child and Family Services Agency;
- (3) The Director of the Department of Behavioral Health;
- (4) The Chancellor of the District of Columbia Public Schools;
- (5) Director, Department of Youth Rehabilitation Services;

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- Board;
- (6) The Executive Director of the District of Columbia Public Charter School
  - (7) The Chief of the District of Columbia Public Schools Patrol Services Division;
  - (8) The Executive Director of the Criminal Justice Coordinating Council;
  - (9) The Chairperson of the Council Committee on the Judiciary and Public Safety;
  - (10) The Chairperson of the Council Committee on Human Services; and
  - (11) Representatives from public agencies, community-based, nonprofit organizations, and educational institutions that represent court-involved youth in delinquency matters in the District or conduct research on local juvenile justice issues.
- (d) The Working Group shall invite the Chief Judge of the Family Court of the Superior Court of the District of Columbia or his designee to participate.

## Sec. 3043. Responsibilities of working group.

The Working Group shall:

- (1) Review data regarding juvenile arrests in the District from at least January 2011 to present as the basis for its review, analysis, and recommendations. The juvenile arrest data review should also include a review of the number and type of arrests made that arise from school-based or school-related incidents;
- (2) Review data regarding the Youth Services Center population from at least January 2011 to present as the basis for its review, analysis, and recommendations;
- (3) Develop and propose a differential response policy, program, and budget for juvenile arrests with the goal of diverting more youth from arrest, prosecution, overnight detention, or pre-trial detention. In doing so, the group shall consider the policies and practices of the Annie E. Casey Foundation's Juvenile Detention Alternative Initiatives and other innovative programs, such as the Florida Juvenile Civil Citation program, that are consistent with positive public safety and youth development outcomes; and
- (4) Review policies guiding the detention of probation violators and assessment of youth posing a public-safety risk or risk to himself or herself.

## Sec. 3044. Report.

No later than February 28, 2014, the Working Group shall submit a report to the Mayor and the Council that includes recommendations for diversion and detention-policy changes, practices, and proposed budget.

## Sec. 3045. Sunset.

This subtitle shall sunset 30 days after the submission of the report required by section 3044.

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**SUBTITLE F. FIRE AND EMERGENCY MEDICAL SERVICES OVERTIME LIMITATION**

Sec. 3061. Short title.

This subtitle may be cited as the "Fire and Emergency Medical Services Overtime Limitation Emergency Amendment Act of 2013".

Sec. 3062. Section 1103(f) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.03(f)), is amended as follows:

(a) Paragraph (2)(B) is amended as follows:

(1) Strike the phrase "2011, 2012, and 2013" and insert the phrase "2011, 2012, 2013, and 2014" in its place.

(2) Strike the phrase "Battalion Fire Chief and above in the Firefighting Division" and insert the phrase "Deputy Fire Chief and above in the Firefighting Division" in its place.

(b) Paragraph (4)(A) is amended by striking the phrase "2011, 2012, and 2013" and inserting the phrase "2011, 2012, 2013, and 2014" in its place.

Sec. 3063. Section 2 of An Act To amend the Act entitled "An Act to classify the officers and members of the Fire Department of the District of Columbia, and for other purposes", approved June 20, 1906, and for other purposes, approved June 19, 1948 (62 Stat. 498; D.C. Official Code § 5-405), is amended as follows:

(a) Subsection (f) is amended by striking the phrase "2011, 2012, and 2013" and inserting the phrase "2011, 2012, 2013, and 2014" in its place.

(b) Subsection (g) is amended by striking the phrase "2011, 2012, and 2013" and inserting the phrase "2011, 2012, 2013, and 2014" in its place.

Sec. 3064. Section 202(c) of the Omnibus Public Safety Agency Reform Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-441(c)), is amended by striking the phrase "2012, and 2013" and inserting the phrase "2012, 2013, and 2014" in its place.

**SUBTITLE G. RETURNING CITIZENS CLARIFICATION**

Sec. 3061. Short title.

This subtitle may be cited as the "Returning Citizens Renaming Emergency Amendment Act of 2013".

Sec. 3062. The Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006, effective March 8, 2007 (D.C. Law 16-243; 24-1301 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 24-1301) is amended as follows:

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(1) Paragraph (1) is amended by striking the phrase "Commission on Re-entry and Ex- Offender Affairs" and inserting the phrase "Commission on Re-Entry and Returning Citizen Affairs" in its place.

(2) Paragraphs (2) and (4) are amended by striking the phrase "Office on Ex-Offender Affairs" and inserting the phrase "Office on Returning Citizen Affairs" in its place.

(3) Paragraph (3) is repealed.

(4) A new paragraph (5) is added to read as follows:

"(5) Returning citizens" means persons who are residents of the District who were previously incarcerated.".(b) Section 3 (D.C. Official Code § 24-1302) is amended as follows:

(1) The heading and subsection (a) are amended by striking the phrase "Office on Ex-Offender Affairs" and inserting the phrase "Office on Returning Citizen Affairs" in its place.

(2) Strike the phrase "ex-offenders" wherever it appears and insert the phrase "returning citizens" in its place.

(c) Section 4 (D.C. Official Code § 24-1303) is amended as follows:

(1) The heading is amended by striking the phrase "Commission on Re-Entry and Ex-Offender Affairs" and inserting the phrase "Commission on Re-Entry and Returning Citizen Affairs" in its place.

(2) Subsection (a) is amended by striking the phrase "Commission on Re-entry and Ex-Offender Affairs" and inserting the phrase "Commission on Re-Entry and Returning Citizen Affairs" in its place.

(3) Strike the phrase "ex-offenders" wherever it appears and insert the phrase "returning citizens" in its place.

(4) Subsection (b)(8) is amended by striking the phrase "and returning citizens".

#### **SUBTITLE H. CRIMINAL JUSTICE COORDINATING COUNCIL CRIMINAL JUSTICE AGENCY**

Sec. 3071. Short title.

This subtitle may be cited as the "Criminal Justice Coordinating Council Criminal Justice Designation Emergency Amendment Act of 2013".

Sec. 3072. Section 1505 of the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2011, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 22-4234), is amended by adding a new subsection (c) to read as follows:

"(c) The CJCC is designated as a criminal justice agency for purposes of transmitting electronically to local, state, and federal agencies criminal-justice-related information, as required by CJCC to perform the duties specified under this section and in accordance with the terms and conditions regarding data sharing approved by the agency that is the source of the information for transmission."

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**TITLE IV. PUBLIC EDUCATION**

**SUBTITLE A. FUNDING FOR PUBLIC SCHOOLS AND PUBLIC CHARTER SCHOOLS**

Sec. 4001. Short title.

This subtitle may be cited as the "Funding for Public Schools and Public Charter Schools Emergency Amendment Act of 2013".

Sec. 4002. The Uniform Per Student Funding Formula for Public Schools and Public Charter Schools and Tax Conformity Clarification Amendment Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901 *et seq.*), is amended as follows:

(a) Section 104 (D.C. Official Code § 38-2903) is amended by striking the phrase "\$9,124 per student for fiscal year 2013" and inserting the phrase "\$9,306 per student for fiscal year 2014" in its place.

(b) Section 105 (D.C. Official Code § 38-2904) is amended by striking the tabular array and inserting the following chart in its place:

<b>Grade Level</b>	<b>Weighting</b>	<b>Per Pupil Allocation in FY 2014</b>
Pre-School	1.34	\$12,470
Pre-Kindergarten	1.30	\$12,098
Kindergarten	1.30	\$12,098
Grades 1-3	1.00	\$9,306
Grades 4-5	1.00	\$9,306
Grades 6-8	1.03	\$9,585
Grades 9-12	1.16	\$10,795
Alternative program	1.17	\$10,888
Special education school	1.17	\$10,888
Adult	0.75	\$6,980

(c) Section 106(c) (D.C. Official Code § 38-2905(c)) is amended to read as follows:

"(c) The supplemental allocations shall be calculated by applying weightings to the foundation level as follows:

"General Education Add-ons:

<b>"Level/ Program</b>	<b>Definition</b>	<b>Weighting</b>	<b>Per Pupil FY 2014</b>
"LEP/NEP	Limited and non-English proficient students	0.45	\$4,188
"Summer	An accelerated instructional program in the summer for students who do not meet literacy standards pursuant to	0.17	\$1,582

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	promotion policies of the District of Columbia Public Schools and public charter schools		
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"Special Education Add-ons:

Level/ Program	Definition	Weighting	Per Pupil FY 2014
"Level 1: Special Education	Eight hours or less per week of specialized services	0.58	\$5,397
"Level 2: Special Education	More than 8 hours and less than or equal to 16 hours per school week of specialized services.	0.81	\$7,538
"Level 3: Special Education	More than 16 hours and less than or equal to 24 hours per school week of specialized services	1.58	\$14,703
"Level 4: Special Education	More than 24 hours per week which may include instruction in a self-contained (dedicated) special education school other than residential placement	3.10	\$28,849
"Special Education Capacity Fund	Weighting provided in addition to special education level add-on weightings on a per student basis for each student identified as eligible for special education.	0.40	\$3,722
"Residential	D.C. Public School or public charter school that provides students with room and board in a residential setting, in addition to their instructional program	1.70	\$15,820

"Residential Add-ons:

"Level/ Program	Definition	Weighting	Per Pupil FY 2014
"Level 1: Special Education - Residential	Additional funding to support the after-hours level 1 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	0.374	\$3,480
"Level 2: Special Education - Residential	Additional funding to support the after-hours level 2 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	1.360	\$12,656
"Level 3: Special Education - Residential	Additional funding to support the after-hours level 3 special education needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	2.941	\$27,369
"Level 4: Special	Additional funding to support the after-hours level 4 special education needs of limited and non- English	2.924	\$27,211

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Education - Residential	proficient students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting		
"LEP/NEP - Residential	Additional funding to support the after-hours Limited and non-English proficiency needs of students living in a D.C. Public School or public charter school that provides students with room and board in a residential setting	0.68	\$6,328

"Special Education Add-ons for Students with Extended School Year ("ESY") Indicated in Their Individualized Education Programs ("IEPs"):

"Level/ Program	Definition	Weighting	Per Pupil FY 2014
"Special Education Level 1 ESY	Additional funding to support the summer school/program need for students who require extended school year (ESY) services in their IEPs.	0.064	\$596
"Special Education Level 2 ESY	Additional funding to support the summer school/program need for students who require extended school year (ESY) services in their IEPs	0.231	\$2,150
"Special Education Level 3 ESY	Additional funding to support the summer school/program need for students who require extended school year (ESY) services in their IEPs	0.500	\$4,653
"Special Education Level 4 ESY	Additional funding to support the summer school/program need for students who require extended school year (ESY) services in their IEPs	0.497	\$4,625".

**SUBTITLE B. PUBLIC CHARTER SCHOOL PAYMENT IMPROVEMENT**

Sec. 4021. Short title.

This subtitle may be cited as the "Public Charter Schools Payment Improvement Emergency Amendment Act of 2013".

Sec. 4022. Section 107b of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2906.02), is amended as follows:

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

(1) Strike the phrase "4 equal".

(2) Strike the phrase "October 15" and insert the phrase "October 25" in its place.

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

(1) The introductory text is amended by striking the phrase "Each payment shall be one-fourth of each public charter school's entitlement, determined" and inserting the phrase "Payments shall be determined" in its place.



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(2) Paragraph (1) is amended by striking the period and inserting the phrase "and shall be 30% of the school's entitlement." in its place.

(3) Paragraph (2) is amended as follows:

(A) Strike the phrase "and January 15 payments" and insert the word "payment" in its place.

(B) Strike the phrase "October 5" and insert the phrase "October 5 and shall be equal to 55% of the school's entitlement less amounts paid in July" in its place.

(4) Paragraph (3) is amended to read as follows:

"(3) The basis of the January 15 payment shall be the unaudited October enrollment numbers for that school contained in reports submitted by the eligible chartering authorities on October 5 and shall be equal to 80% of the school's entitlement less amounts paid in July and October."

(5) A new paragraph (4) is added to read as follows:

"(4) The basis of the April 15 payment shall be the audited October enrollment numbers and shall be equal to 100% of the school's entitlement less amounts paid in July, October, and January; provided, that these amounts shall be adjusted in accordance with the provisions of subsection (c) of this section."

(c) Subsection (c) is amended by striking the phrase "October 15" and inserting the phrase "October 25" in its place.

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

(1) The existing text is designated as paragraph (1).

(2) The newly designated paragraph (1) is amended by striking the phrase "such students" and inserting the phrase "such students, as set forth in subsection (g) of this section" in its place.

(3) New paragraphs (2) and (3) are added to read as follows:

"(2)(A) Payments for summer school shall be made by the Chief Financial Officer on April 15 on the basis of a funding schedule from the District of Columbia Public Charter School Board listing each charter school offering a summer school program in accordance with the requirements of section 2401(b)(3)(B) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code §38-1804.01(b)(3)(B)).

"(B) The Office of the State Superintendent of Education shall certify enrollment projections based upon information contained in the state education longitudinal data system that form the basis of the funding schedule. The payment amount shall be equal to 75% of the total summer school entitlement for each charter school.

"(C) Not later than August 25 of each year, the Office of the State Superintendent of Education shall certify the final actual summer school enrollment for each charter school. The final payment for summer school will be issued to each charter school not later than September 30 of each year and shall be equal to the remainder of the school's entitlement.

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"(3) Payments for the Special Education Extended School Year add-on shall be made in-full to each charter school by the Chief Financial Officer following certification of the actual enrollment for each school by the Office of the State Superintendent of Education."

**SUBTITLE C. STATE ATHLETIC ACTIVITIES, PROGRAMS, AND OFFICE FUND**

Sec. 4031. Short title.

This subtitle may be cited as the "State Athletic Activities, Programs, and Office Fund Emergency Act of 2013".

Sec. 4032. Advertisements and sponsorships.

(a) Notwithstanding any other provision of law, the Mayor, through the Office of the State Superintendent of Education ("OSSE"), may enter into written agreements for advertisements and sponsorships for the State Athletic Office's ("SOA") athletic activities and programs, including those organized or directed by the SOA of OSSE or the District of Columbia State Athletic Association ("DCSAA") to supplement local funding of the DCSAA.

(b) The State Superintendent of Education may delegate, by written order, the authority to contract for advertisements or sponsorships to officials within OSSE, including to the State Athletic Officer.

(c) An agreement pursuant to this section shall not require the District to expend funds.

(d) Only advertisements shall be agreed to in exchange for corporate goods, services, or currency.

(e) There shall be no limit to the value of goods, services, or currency that may be received from a foreign organization registered or not outside of the District of Columbia or from an individual domiciled outside of the District of Columbia.

(f) There shall be a \$1,000 limit on the value of goods, services, and currency that may be received during one school year from a domestic organization registered or not within the District of Columbia or from an individual domiciled in the District of Columbia.

(g) Sponsorships and advertisements shall be memorialized by written agreement of the parties.

(h) The Chief Financial Officer shall deposit all cash proceeds received from advertisements and sponsorships pursuant to this section to the credit of OSSE in the State Athletics Activities, Programs, and Office Fund established in section 4033 in the same manner as that used for donations under section 115 of the District of Columbia Appropriations Act, 2003, approved February 20, 2003 (117 Stat. 123; D.C. Official Code § 1-329.01).

Sec. 4033. State Athletic Activities, Programs, and Office Fund.

(a) There is established as a special fund the State Athletic Activities, Programs, and Office Fund ("Fund"), which shall be used solely as provided in subsection (b) of this section, and which shall be administered by the State Superintendent of Education. The State

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Superintendent of Education may designate or assign the authority to administer the Fund to an entity within the Office of State Superintendent of Education, including the SOA.

(b)(1) The Fund shall be used to enhance the development of state interscholastic athletic programs and competitions and to supplement the operations budget of the District of Columbia State Athletic Association ("DCSAA"). The Statewide Director of Athletics shall prioritize resources from the Fund to ensure well-designed and effective interscholastic athletic programs and competitions.

(2) The Fund may be used for the financial support of state athletic programs and competitions that are well-designed and effective and comply with National Federation of State High School Associations standards and District laws and regulations, including for:

- (A) Championship events;
- (B) Equipment;
- (C) Memorabilia;
- (D) Training;
- (E) Security;
- (F) Awards; and
- (G) Related operations.

(c) The Fund shall consist of the revenue from the following sources:

- (1) Annual appropriations;
- (2) Any proceeds resulting from athletic programs and activities organized or directed by the SAO or DCSAA, or both, including:
  - (A) Sponsorships or advertisements;
  - (B) Ticket or merchandise sales;
  - (C) Fundraising activities;
  - (D) Competitions; or
  - (E) Other athletic programs and activities; and
- (3) Interest earned on funds deposited into the Fund.

(d)(1) The money deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

Sec. 4034. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this subtitle. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within the 30-day period, the proposed rules shall be deemed approved.

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Sec. 4035. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE D. UNIVERSITY OF DISTRICT OF COLUMBIA ACCREDITATION**

Sec. 4041. Short title.

This subtitle may be cited as the "University of the District of Columbia Accreditation Emergency Amendment Act of 2013".

Sec. 4042. Section 4042 of the University of the District of Columbia Community College Autonomy Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 38-1271.01, note), is amended by adding a new subsection (c) to read as follows:

"(c) By December 1, 2013, the University of the District of Columbia shall submit to the Council a timeline, using existing resources, for the separate accreditation of the University of the District of Columbia Community College. This timeline shall address the following areas:

"(1) Transition of financial and administrative independence in the areas of student affairs and academic affairs of the University of the District of Columbia Community College from the University of the District of Columbia;

"(2) Ability of the University of the District of Columbia Community College to obtain self-sufficiency in the areas of admissions and financial aid;

"(3) A separate personnel classification of University of the District of Columbia Community College employees;

"(4) Ability for the University of the District of Columbia Community College to initiate and sustain its own academic programs;

"(5) A policy for the University of the District of Columbia Community College Chief Executive Officer to regularly report to the University of the District of Columbia's Board of Trustees regarding the University of the District of Columbia Community College's affairs;

"(6) A fully operational University of the District of Columbia Community College foundation;

"(7) A financial plan for the University of the District of Columbia Community College that addresses funding, resource planning, and allocation responsibilities;

"(8) Approval of degree-granting authority from the Office of the State Superintendent for Education; and

"(9) Other evidence that the University of the District of Columbia Community College is effectively fulfilling its mission and serving students in a manner consistent with Middle States Commission on Higher Education's 10 requirements of affiliations and 14 accreditation standards."

Sec. 4043. In fiscal year 2014, of the funds allocated to Non-Departmental, an amount up to \$1 million shall be transferred to the University of the District of Columbia ("UDC") if, by January 1, 2014, UDC raises an amount of \$1 million from private donations for the purpose of

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meeting accreditation standards. The amount transferred under this section shall be matched dollar-for-dollar from the amount raised.

**SUBTITLE E. LIBRARY COLLECTIONS ACCOUNT**

Sec. 4051. Short title.

This subtitle may be cited as the "Library Collections Account Emergency Amendment Act of 2013".

Sec. 4052. An Act To establish and provide for the maintenance of a free public library and reading room in the District of Columbia, approved June 3, 1896 (29 Stat. 244; D.C. Official Code § 39-101 *et seq.*), is amended as follows:

(a) Section 7 (D.C. Official Code § 39-107) is amended by striking the phrase "into the Books and Other Library Materials Account, established by section 14" and inserting the phrase "into the Library Collections Account, established by section 14" in its place.

(b) Section 14 (D.C. Official Code § 39-114) is amended by striking the phrase "Books and Other Library Materials Account" both times it appears and inserting the phrase "Library Collections Account" in its place.

**SUBTITLE F. STATE BOARD PERSONNEL**

Sec. 4061. Short title.

This subtitle may be cited as the "State Board Personnel Emergency Amendment Act of 2013".

Sec. 4062. Section 903(a)(10) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-609.03(a)(10)), is amended to read as follows:

"(10) The State Board of Education may appoint staff to serve an administrative role for the elected members of the Board; provided, that funding is available and that at least 3 full-time equivalent employees are appointed to the Office of Ombudsman for Public Education."

**SUBTITLE G. ATTENDANCE ZONE BOUNDARIES**

Sec. 4071. Short title.

This subtitle may be cited as the "Attendance Zone Boundaries Emergency Act of 2013".

Sec. 4072. Attendance zone boundaries; establishment, modification, alteration.

Except as required due to a school closure or a consolidation of schools, upon the effective date of this subtitle, notwithstanding any other law or regulation, no approved establishment, modification, or alteration of any attendance zone boundary shall be implemented, or in any manner initiated, until the 2015-2016 school year or with less notice than a full school year to the parent or guardian of each affected student, whichever is greater; provided, that

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nothing in this subtitle shall prohibit the Chancellor from proposing or implementing changes to school feeder patterns that would result in additional options in next-level schools for a feeder school.

**SUBTITLE H. PUBLIC EDUCATION MASTER FACILITIES PLAN  
APPROVAL**

Sec. 4081. Short title.

This subtitle may be cited as the "Public Education Master Facilities Plan Approval Emergency Act of 2013".

Sec. 4082. Pursuant to section 1104 of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D. C. Official Code § 38-2803), the Council approves the 2013 Master Facilities Plan for public education facilities submitted by the Mayor on March 28, 2013.

Sec. 4083. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE I. DEPUTY MAYOR FOR EDUCATION LIMITED GRANT-  
MAKING AUTHORITY**

Sec. 4091. Short title.

This subtitle may be cited as the "Deputy Mayor for Education Limited Grant-Making Authority Emergency Act of 2013".

Sec. 4092. Deputy Mayor for Education grant-making authority.

For fiscal year 2014, the Deputy Mayor for Education shall have grant-making authority solely for the purpose of providing a capital grant of \$6 million for facility construction of a language-immersion public-charter school serving middle and high school-aged students in the District; provided, that the grant issued under this section shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337).

**SUBTITLE J. EDUCATION FUNDING FORMULA EQUITY**

Sec. 4101. Short title.

This subtitle may be cited as the "Education Funding Formula Equity Emergency Amendment Act of 2013".

Sec. 4102. Section 115 of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 38-2913), is amended by striking the phrase "fiscal year 2014" and inserting the phrase "fiscal year 2015" in its place.

**ENROLLED ORIGINAL****SUBTITLE K. SOUTH CAPITOL STREET MEMORIAL**

Sec. 4111. Short title.

This subtitle may be cited as the "South Capitol Street Memorial Emergency Amendment Act of 2013".

Sec. 4112. Section 601 of the South Capitol Street Memorial Act of 2012, effective June 7, 2012 (D.C. Law 19-141; 59 DCR 3083), is amended to read as follows:

"Sec. 601. Applicability.

"Sections 302(b)(1)(A) and (C) and 304(b)(1)(D) shall apply to public charter schools upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register."

**SUBTITLE L. SCHOOL MODERNIZATION LIBRARY FUNDING**

Sec. 4121. Short title.

This subtitle may be cited as the "School Modernization Library Initial Circulation Funding Emergency Act of 2013".

Sec. 4122. For any completed school modernization, unexpended capital funds shall first be used to purchase the initial circulation in that school's library before being reprogrammed for any other purpose.

**TITLE V. HEALTH AND HUMAN SERVICES****SUBTITLE A. DC HEALTHCARE ALLIANCE PRESERVATION**

Sec. 5001. Short title.

This subtitle may be cited as the "DC HealthCare Alliance Preservation Emergency Amendment Act of 2013".

Sec. 5002. Section 7(c)(2) of the Health Care Privatization Amendment Act of 2001, effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code § 7-1405(c)(2)), is amended to read as follows:

"(2) A contract between the District and a health maintenance organization or a managed care organization that provides health-care services to persons enrolled in the DC HealthCare Alliance shall include coverage for all services, including hospital-based services, being provided to DC HealthCare Alliance enrollees as of January 1, 2013; provided, that the Department of Health Care Finance shall have the authority to exclude coverage for those hospital-based emergency services that are eligible for Medicaid reimbursement under section 401(b)(1)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 21, 1996 (110 Stat. 502; 8 U.S.C. § 1611(b)(1)(A)), section 1903(v)(3) of the

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Social Security Amendments Act of 1965, approved July 30, 1965 (79 Stat. 286; 42 U.S.C. §1396b(v)(3)), and 42 C.F.R. § 440.255(c)."

Sec. 5003. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE B. DEPARTMENT OF HEALTH CARE FINANCE  
ESTABLISHMENT**

Sec. 5011. Short title.

This subtitle may be cited as the "Department of Health Care Finance Establishment Emergency Amendment Act of 2013".

Sec. 5012. The Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.01 *et seq.*), is amended by adding a new section 6a to read as follows:

"Sec. 6a. Assessment Fund.

"(a) There is established as a special fund the Assessment Fund ("Fund"), which shall be administered by the Department of Health Care Finance in accordance with subsection (c) of this section.

"(b) The fund shall consist of revenue from the following sources:

"(1) User fees; and

"(2) Enrollment fees.

"(c) The Fund shall be used for the following purposes:

"(1) Administration and maintenance of the Department's provider operations;

"(2) Enrollment activities; and

"(3) Health information exchange activities.

"(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation."

**SUBTITLE C. STEVIE SELLOWS INTERMEDIATE CARE FACILITY  
QUALITY IMPROVEMENT**

Sec. 5021. Short title.

This subtitle may be cited as the "Stevie Sellows Intermediate Care Facility Quality Improvement Emergency Act of 2013".

Sec. 5022. Chapter 12D of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1270 is amended as follows:



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(1) Designate paragraph (1) as paragraph (1B).

(2) New paragraphs (1) and (1A) are added to read as follows:

"(1) "Administrative costs" means the costs of DHCF to administer, manage, and monitor the Intermediate Care Facility for People with Intellectual Disabilities reimbursement program and the Stevie Sellows quality improvement funding support, including personnel costs.

"(1A) "DHCF" means the Department of Health Care Finance."

(3) A new paragraph (2A) is added to read as follows:

"(2A) "ICF/IID" means Intermediate Care Facility for People with Intellectual Disabilities."

(4) Paragraph (4) is amended by striking the phrase "the Department of Health" and inserting the acronym "DHCF" in its place.

(5) A new paragraph (5A) is added to read as follows:

"(5A) "Rebasing year" means the third year after the effective date of the State Plan Amendment governing the reimbursement of ICF/IID and every subsequent third year."

(b) Section 47-1271 is amended as follows:

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

"(b) The Fund shall be used to:

"(1) Fund quality of care improvements for those facilities that meet the requirements of the District's State Plan for Medical Assistance and the accompanying rules governing the reimbursement of ICF/IID.

"(2) Cover administrative costs of the DHCF in administering the ICF/IID reimbursement program and the Stevie Sellows quality improvement funding support, which costs shall not be more than 10% of the Fund's total revenues; and

"(3) Cover administrative costs of DHCF in auditing the ICF/IID in a rebasing year or as necessary to ensure the integrity of the ICF/IID reimbursement methodology, which costs shall not be more than 15% of the Fund's total revenues."

(2) Subsection (c) is amended by striking the phrase "ICD/IDD" and inserting the phrase "ICF/IID" in its place.

(c) Section 47-1273 is amended to read as follows:

"§ 47-1273. Assessments on ICF/IID.

"(a) Except as provided in § 47-1278(d), each ICF/IID in the District of Columbia shall pay an assessment of 5.5% of the gross revenues per annum.

"(b) Each ICF/IID shall pay the assessment required by subsection (a) of this section in quarterly installments.

"(c) The Mayor shall provide notice of the amount of the assessment for the quarter to each ICF/IID no later than 30 days after the end of each quarter.

"(d) The assessment required by subsection (a) of this section shall be determined by the Medicaid claims information from the DHCF Medicaid Management Information System ("MMIS").

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"(e) If the total amount of the assessments to be collected for a fiscal year is inadequate to cover disbursements required under § 47-1271(b), the Mayor may raise the assessment to the maximum allowed under federal law."

(d) Section 47-1274(b) is repealed.

**SUBTITLE D. DEVELOPMENTAL DISABILITIES SERVICE MANAGEMENT REFORM**

Sec. 5031. Short title.

This subtitle may be cited as the "Developmental Disabilities Service Management Reform Emergency Amendment Act of 2013".

Sec. 5032. The Department on Developmental Disabilities Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.01 *et seq.*), is amended by adding a new section 105a to read as follows:

"Sec. 105a. Ticket to Work Employment Network Fund.

"There is established as a special fund the Ticket to Work Employment Network Fund ("Fund"), which shall be administered by DDS in accordance with subsection (c) of this section.

"(b) The fund shall consist of revenue from payments from the Social Security Administration as an Employment Network for the Ticket to Work and Self-Sufficiency Program (Pub. L. 106-170, the "Ticket to Work and Work Incentives Improvement Act of 1999").

"(c) The Fund shall be used for the Ticket to Work and Self-Sufficiency Program; provided, that to the extent that payments received from the Social Security Administration represent administrative or other fee payments, those amounts shall be available to DDS to defray the costs and expenses associated with administering the program or for any other purpose as determined by the Director

"(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation."

**SUBTITLE E. MEDICAL ASSISTANCE PROGRAM**

Sec. 5041. Short title.

This subtitle may be cited as the "Medical Assistance Program Emergency Amendment Act of 2013".

Sec. 5042. Section 1(a)(of An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (a)), is amended as follows:

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

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"(7) Review and approval by the Council of the Fiscal Year 2014 Budget and Financial Plan shall constitute the Council review and approval required by paragraph (2) of this subsection of any amendment, modification, or waiver of the state plan required to:

"(A) Establish a supplemental payment to rectify historic underpayments to District Medicaid hospitals for outpatient and emergency room services;

"(B) Implement Title II of the Patient Protection and Affordable Care Act, approved March 23, 2010 (124 Stat 119; Pub. L. No. 111-148), to:

"(i) Provide for new Modified Adjusted Gross Income eligibility methodologies;

"(ii) Streamline the application process;

"(iii) Align Medicaid eligibility determinations, renewals, and appeals with eligibility determinations and appeals of cost sharing and advanced premium tax credits for the Health Benefit Exchange;

"(iv) Secure enhanced federal medical assistance percentages for newly eligible Medicaid beneficiaries and preventive services, including tobacco cessation;

"(v) Provide coverage for former foster care children through age 25;

"(vi) Implement presumptive eligibility by hospitals;

"(vii) Extend the District's current Section 1115 demonstration for childless adults ages 21 through 64 years with incomes between 133% and up to 200% of the federal poverty level to provide stop-gap coverage for these beneficiaries until the District establishes the basic health plan; and

"(viii) Create health homes for chronically ill District residents;

"(C) Implement needed reforms to Medicaid-funded, long-term care services and supports including:

"(i) The establishment of a single-point-of-entry system and a standardized, conflict-free assessment tool and process;

"(ii) Clarification of eligibility requirements for institutional long-term care services; and

"(iii) The creation of new programming including adult day health services pursuant to Title XIX of the Social Security Act to ensure that District residents may be served in the most integrated setting appropriate to their needs; and

"(D) Implement an annual inflation rate adjustment for nursing facilities."

Sec. 5043. Applicability.

This subtitle shall apply as of the effective date of this act.

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**SUBTITLE F. DEPARTMENT OF HUMAN SERVICES' CONFORMING AMENDMENTS**

Sec. 5051. Short title.

This subtitle may be cited as the "Department of Human Services Conforming Amendments Emergency Act of 2013".

Sec. 5052. The District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-201.01 *et seq.*), is amended as follows:

(a) Section 101(5A)(b) (D.C. Official Code § 4-201.01(5A)(B)) is amended by striking the phrase "18 years of age, a full-time student in a secondary school or in the equivalent level of vocational or technical training, and who is expected to graduate from such school or training by the person's 19th birthday" and inserting the phrase "less than 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training)" in its place.

(b) Section 515 (D.C. Official Code § 4-205.15), is amended as follows:

(1) Subsection (a)(2) is amended by striking the phrase "or age 18 and expected to complete high school before reaching age 19" and inserting the phrase "or under age 19 and are full-time students in a secondary school (or in the equivalent level of vocational or technical training)" in its place.

(2) Subsection (b) is amended by striking the phrase "the Mayor shall determine the meaning of the term "full-time student", shall determine which vocational or technical training courses are equivalent to the level of secondary school, and shall determine which factors will be considered in deciding whether an individual may reasonably be expected to complete the program of study or training before reaching age 19" and inserting the phrase "the Mayor shall determine the meaning of the term "full-time student" and shall determine which vocational or technical training courses are equivalent to the level of secondary school" in its place.

**SUBTITLE G. DEPARTMENT OF HEALTH FUNCTIONS CLARIFICATION**

Sec. 5061. Short title.

This subtitle may be cited as the "Department of Health Functions Clarification Emergency Amendment Act of 2013".

Sec. 5062. Section 4907a of the Department of Health Functions Clarification Act of 2001, effective March 3, 2010 (D.C. Law 18-111; D.C. Official Code § 7-736.01), is amended by adding new subsections (c) and (d) to read as follows:

"(c) For fiscal year 2014, the Director of the Department of Health shall have the authority to issue grants to:

"(1) Qualified community organizations for the purpose of providing the following services:

"(A) Ambulatory health services for an amount not to exceed \$3,236,980;

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"(B) Poison control hotline and prevention education services for an amount not to exceed \$350,000; and

"(C) Operations and primary care services for school-based health clinics for an amount not to exceed \$2,250,000; and

"(2) Organizations for the purpose of providing the following programs and services:

"(A) A teen pregnancy prevention program for an amount not to exceed \$400,000;

"(B) Programs designed to promote healthy development in girls attending public and chartered schools in grades 9 through 12 located in areas of the city possessing the highest rates of teen pregnancy and highest enrollment in state-funded health programs in the District of Columbia, not to exceed \$400,000;

"(C) Farmers market incentive programs not to exceed \$200,000;

"(D) Food-pantry services, not to exceed \$52,000;

"(E) Wildlife rehabilitation services not to exceed \$250,000;

"(F) Mother-to-child (vertical) HIV transmission programs and services not to exceed \$50,000; and

"(G) Nonprofit organizations dedicated to preventing any of the following chronic diseases, not to exceed \$850,000:

"(i) Asthma;

"(ii) Cancer;

"(iii) Diabetes;

"(iv) Hypertension;

"(v) Kidney disease; and

"(vi) Obesity.

"(d)(1) All grants issued pursuant to subsection (c) of this section shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337).

'(2) The Department of Health shall submit a quarterly report to the Secretary to the Council on all grants issued pursuant to the authority granted in subsection (c) of this section."

**SUBTITLE H. MEDICAID HOSPITAL OUTPATIENT SUPPLEMENTAL PAYMENT**

Sec. 5071. Short title.

This subtitle may be cited as the "Medicaid Hospital Outpatient Supplemental Payment Emergency Act of 2013".

Sec. 5072. Definitions.

For the purposes of this subtitle, the term:

- (1) "Department" means the Department of Health Care Finance.

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(2) "Gross patient revenue" means the amount calculated in accordance with generally accepted accounting principles for hospitals that is reported as the sum of Worksheet G-2; Column 1; Lines 1, 2, 2.01, 15, 17 and 18 and Worksheet G-2; Column 2; Lines 17, 18, 18.5 and 18.51 of the Medicare Cost Report (2552-96) excluding long-term care inpatient ancillary revenues.

(3) "Hospital" shall have the same meaning as provided in section 2(a)(1) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(a)(1)), but excludes any hospital operated by the federal government.

(4) "Hospital system" means any group of hospitals licensed separately but operated, owned, or maintained by a common entity.

(5) "Medicaid" means the medical assistance programs authorized by Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 *et seq.*), and by section 1 of An Act To enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), and administered by the Department of Health Care Finance.

Sec. 5073. Hospital Provider Fee Fund.

(a) Effective May 1, 2013, there is established as a special fund the Hospital Provider Fee Fund ("Fund"), which shall be administered by the Department and used in accordance with subsection (c) of this section.

(b) The Fund shall consist of revenue from the following sources:

- (1) All moneys collected or received by the Department from the hospital provider fee imposed by this subtitle;
- (2) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to moneys deposited in the Fund;
- (3) Interest and penalties collected under this subtitle; and
- (4) Interest earned by the Fund.

(c) Notwithstanding any other provision of law, the Fund may only be used for the following purposes:

- (1) For making Medicaid outpatient hospital access payments to hospitals as required under section 5076;
- (2) For payment of administrative expenses incurred by the Department or its agent in performing the activities authorized by this subtitle at an amount not to exceed the prorated amount of \$150,000 annually; and
- (3) For making refunds to hospital providers pursuant to section 5075.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

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(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(e) The Fund shall not be used to replace any moneys appropriated to the Medicaid program.

Sec. 5074. Hospital provider fee.

(a) Subject to section 5075, the District may charge a fee at a uniform rate on the gross patient revenue of each hospital beginning May 1, 2013. The District may charge the fee retroactively to May 1, 2013, upon the effective date of this subtitle. The uniform rate shall be applied to each hospital's gross patient revenue as derived from each hospital's filed Medicare cost report ending between July 1, 2009, and June 30, 2010. The hospital provider fee is applied at a uniform rate necessary to generate the following:

(1) An amount equal to the non-federal share of the total available spending room under the Medicaid upper payment limit for private hospitals applicable to District fiscal years ("DFY") 2013 and 2014 consistent with the federal approval of the authorizing Medicaid State Plan amendment; plus

(2) An amount equal to the lesser of the non-federal share of the total available spending room under the Medicaid upper payment limit for District operated hospitals applicable to DFY 2013 and 2014 consistent with the federal approval of the authorizing Medicaid State Plan amendment or United Medical Center's Medicaid disproportionate share hospital limit as adjusted by the District in accordance with the federally approved Medicaid State Plan; plus,

(3) An amount equal to the Department's administrative expenses as described in section 5073(c)(2).

(b) A psychiatric hospital provider that is an agency or a unit of the District government is exempt from the fee imposed under this subtitle, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case a psychiatric hospital provider that is an agency or a unit of the District government shall pay the fee imposed by this subtitle.

Sec. 5075. Applicability of fees.

(a) The fee imposed by section 5074 shall not be due and payable until such time that the federal Centers for Medicare and Medicaid Services approves the Medicaid State Plan amendment authorizing the Medicaid payments described in section 5076.

(b) The fee imposed by section 5074 shall cease to be imposed, and any moneys remaining in the Fund shall be refunded to hospital providers in proportion to the amounts paid by them, if:

(1) The Department makes changes in its rules that reduce the hospital inpatient or outpatient Medicaid payment rates, including adjustment payment rates, in effect on October 1, 2012; or

(2) The payments to hospitals required under section 5076 are modified in any way other than to secure federal approval of such payments as described in section 5076 or are not eligible for federal matching funds under Title XIX of the Social Security Act.

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(c) The fee imposed by section 5074 shall not take effect or shall cease to be imposed if the fee is determined to be an impermissible tax under Title XIX of the Social Security Act.

(d) Should the fee imposed by section 5074 not take effect or cease to be imposed, moneys in the Fund derived from the imposed fee shall be disbursed in accordance with section 5076 to the extent federal matching is available. If federal matching is not available due to a determination by the Centers for Medicare and Medicaid Services that the provider fee is impermissible, any remaining moneys shall be refunded to hospital providers in proportion to the amounts paid by them.

Sec. 5076. Medicaid outpatient hospital access payments.

(a) For visits and services beginning May 1, 2013, quarterly Medicaid outpatient hospital access payments shall be made to each private hospital. Each payment will be equal to the hospital's DFY 2011 outpatient Medicaid payments divided by the total private hospital DFY 2011 outpatient Medicaid payments multiplied by one quarter of the total outpatient private hospital access payment pool minus \$250,000. The total outpatient private hospital access payment pool is equal to the total available spending room under the private hospital outpatient Medicaid upper payment limit for DFY 2013 and 2014, respectively.

(b) The remaining \$250,000 shall be distributed as an adjustment to the quarterly access payments for all private children's hospitals with less than 150 beds and distributed based on the hospital's DFY 2011 outpatient Medicaid payments relative to the total qualifying hospitals' DFY 2011 outpatient Medicaid payments.

(c) Any private hospital that is also a Disproportionate Share Hospital ("DSH") will receive no more than the available room under their District-adjusted hospital-specific DSH limit. Any Medicaid outpatient hospital access payments that would otherwise exceed a private disproportionate share hospital's adjusted DSH limit shall be distributed to the remaining private hospitals consistent with each private hospital's relative share of DFY 2011 Medicaid payments.

(d) For visits and services beginning May 1, 2013, outpatient hospital access payments shall be made to the United Medical Center. Each payment will be equal to one quarter of the total outpatient public hospital access payment pool. The total outpatient public hospital access payment pool is equal to the lesser of the total available spending room under the District-operated hospital outpatient Medicaid upper payment limit for DFY 2013 and 2014, respectively and the United Medical Center District-adjusted Medicaid DSH limit.

(e) The quarterly Medicaid outpatient hospital access payments will be made within 15 business days of the end of each DFY quarter for the Medicaid visits and services rendered during that quarter.

(f) No payments shall be made under this section until such time that the federal Centers for Medicare and Medicaid Services approves the Medicaid State Plan amendment authorizing the Medicaid payments described in this subtitle.

(g) The Medicaid payment methodologies authorized under this subtitle shall not be altered in any way unless such alteration is necessary to gain federal approval from the Centers for Medicare and Medicaid Services.



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## Sec. 5077. Quarterly notice and collection.

(a) The fee will be due and payable by the 15th of the last month of each DFY quarter.

(b) The fee imposed under section 5074 shall be calculated, due, and payable on a quarterly basis, but shall not be due and payable until:

(1) The District issues the written notice that the payment methodologies to hospitals required under section 5076 have been approved by the federal Centers for Medicare and Medicaid Services;

(2) The District issues written notice to each hospital informing the hospital of its fee rate, gross patient revenue subject to the fee, and the fee amount owed on a quarterly basis; and

(3) The initial written notice from the District shall include all fee amounts owed beginning with the period May 1, 2013, in order to ensure all applicable fee obligations have been identified.

(d) When a hospital fails to pay the full amount of its fee by the date required, the unpaid balance shall accrue interest at the rate of 1.5% per month or any fraction thereof, which shall be added to the unpaid balance. The Chief Financial Officer may arrange a payment plan for the amount of the fee and interest in arrears.

(e) The payment by the hospital of the fee created in this subtitle shall be reported as an allowable cost for purposes of Medicaid hospital reimbursement.

## Sec. 5078. Multi-hospital systems, closure, merger, and new hospitals.

(a) If a hospital system conducts, operates, or maintains more than one hospital licensed by the Department of Health, the provider shall pay the fee for each hospital separately.

(b) Notwithstanding any other provision in this subtitle, in the case of a person who ceases to conduct, operate, or maintain a hospital for which the person is subject to the fee under this subtitle as a hospital provider, the fee for the DFY in which the cessation occurs shall be adjusted by multiplying the fee computed under section 5074 by a fraction, the numerator of which is the number of days in the year during which the provider conducts, operates, or maintains the hospital and the denominator of which is 365. Immediately upon ceasing to conduct, operate, or maintain a hospital, the person shall pay the fee for the year as so adjusted (to the extent not previously paid).

(c) Notwithstanding any other provision in this subtitle, a provider who conducts, operates, or maintains a hospital, upon notice by the Department, shall pay the fee computed under section 5074 and subsection (a) of this section in installments on the due dates stated in the notice and on the regular installment due dates for the DFY occurring after the due dates of the initial notice.

## Sec. 5079. Rules.

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

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Sec. 5080. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE I. DEPARTMENT OF PARKS AND RECREATION O-TYPE**

Sec. 5101. Short title.

This subtitle may be cited as the "Department of Parks and Recreation O-Type Emergency Amendment Act of 2013".

Sec. 5102. Section 4(c)(2) of the Recreation Act of 1994, effective March 23, 1995 (D.C. Law 10-246; D.C. Official Code § 10-303(c)(2)), is amended to read as follows:

"(2) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time."

**SUBTITLE J. DEPARTMENT OF BEHAVIORAL HEALTH ESTABLISHMENT**

Sec. 5111. Short title.

This subtitle may be cited as the "Department of Behavioral Health Establishment Emergency Act of 2013".

Sec. 5112. Definitions.

For the purposes of this subtitle, the term:

- (1) "Behavioral health" means a person's overall social, emotional, and psychological well-being and development.
- (2) "Behavioral health services" means stand-alone and co-occurring, integrated treatment services for substance abuse and mental health disorders that are designed to promote a person's behavioral health.
- (3) "Comprehensive Psychiatric Emergency Program" or "CPEP" means a 24-hour/7-days a week program providing emergency psychiatric evaluation and stabilization.
- (4) "Department" means the Department of Behavioral Health.
- (5) "Director" means the Director of the Department of Behavioral Health.
- (6) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.
- (7) "Recovery support services" means substance abuse treatment, care coordination, and community-based support that promote recovery.
- (8) "Substance abuse" means a pattern of pathological use of a drug or alcohol that causes impairment in social or occupational functioning or produces physiological dependency evidenced by physical tolerance or physical symptoms when the drug or alcohol is not used.

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## Sec. 5113. Establishment of the Department of Behavioral Health.

(a) There is established as a separate, cabinet-level Department, subordinate to the Mayor, the Department of Behavioral Health.

(b) The Department shall be the successor-in-interest to the Department of Mental Health, established by the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*), and the Department of Health Addiction Prevention and Recovery Administration, established in the Department of Health by the Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3).

## Sec. 5114. Appointment of Director.

The Department shall be headed by a Director, who shall:

(1) Be appointed by the Mayor with the advice and consent of the Council, pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a));

(2) Be qualified by experience and training to carry out the purposes of the Department as set forth in section 5116; and

(3) Serve at the pleasure of the Mayor.

## Sec. 5115. Duties of Director.

In addition to other duties as may be lawfully imposed, the Director shall supervise and direct the Department, organize the Department for its efficient operation, including creating offices within the Department, as necessary, and exercise any other powers necessary and appropriate to implement the provisions of this subtitle.

## Sec. 5116. Purpose of the Department.

The Department shall:

(1) Ensure the provision of high-quality behavioral health services by establishing District-wide behavioral health standards and policies;

(2) Foster and promote behavioral health education and disease prevention;

(3) Provide high-quality prevention, treatment, and recovery support services related to mental health disorders, addictions, and the abuse of alcohol, tobacco, and other drugs in the District;

(4) Develop and maintain an efficient and cost-effective behavioral health care financing system; and

(5) Implement, monitor, and evaluate the District's strategic behavioral health plan.

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## Sec. 5117. Powers and duties of the Department.

Notwithstanding any other provision of law, the Department shall:

- (1) Plan, develop, coordinate, and monitor comprehensive and integrated behavioral health systems of care for adults and for children, youth, and their families in the District, so as to maximize utilization of behavioral health services and behavioral health supports;
- (2) Assure that services for priority populations identified in the Department's annual plan are funded within the Department's appropriations or authorizations by Congress and are available;
- (3) Serve as the state mental health authority and arrange for all authorized, publicly funded behavioral health services and behavioral health supports for the residents of the District, whether operated directly by, or through contract with, the Department; provided, that the Department of Youth Rehabilitation Services ("DYRS") shall be responsible for the delivery of behavioral health services to youth in custody in DYRS secure facilities;
- (4) Serve as the single state agency for substance abuse services and promulgate rules, regulations, and certification standards for high-quality prevention, treatment, and recovery support services related to addictions and the abuse of alcohol, tobacco, and other drugs in the District of Columbia;
- (5) Maximize and leverage local, federal, and other available funding to support behavioral health prevention, treatment, and recovery support services;
- (6) Directly operate a hospital to provide inpatient mental health services, and maintain the hospital's certification by the Department of Health and the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services;
- (7) Make grants, pay subsidies, purchase services, and provide reimbursement for behavioral health services and behavioral health supports; provided that any grants shall be administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337);
- (8) Arrange for, or directly provide, a Comprehensive Psychiatric Emergency Program for all persons identified to the Department who meet criteria for admission for such services;
- (9) Arrange for a 24-hour, District-wide telephone communication service to provide intervention services for adults, children, and youth in need of behavioral health services and behavioral health supports, including observation, evaluation, emergency treatment, and, when necessary, referral for behavioral health services and behavioral health supports;
- (10) Be the exclusive agency to regulate all behavioral health services and behavioral health supports, including outpatient behavioral health services and all substance abuse and detoxification services;
- (11) Facilitate the delivery of acute inpatient behavioral health services and behavioral health supports through community or public hospitals in the District, including coordinating comprehensive behavioral health services and behavioral health supports for children, youth, and their families;

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(12) Upon request or on its own initiative, investigate, or ask another agency to investigate, any complaint alleging abuse or neglect of any consumer of behavioral health services, and, if the investigation by the Department or an investigation by any other agency or entity substantiates the charge of abuse or neglect, take appropriate action to correct the situation, including notification of other appropriate authorities; and

(13) Exercise all other powers, duties, functions, and responsibilities previously assigned to the Department of Mental Health pursuant to the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*), and to the Department of Health Addiction Prevention and Recovery Administration pursuant to Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3).

Sec. 5118. Transfer of authority, functions, property, and personnel.

The following powers, duties, functions, and responsibilities are hereby transferred to the Department of Behavioral Health, effective October 1, 2013:

(1) All real and personal property, Career and Excepted Service, Management Supervisory Service, trainee positions, assets, records, obligations, unexpended balances of appropriations, allocations, and other funds available or to be made available to the Department of Mental Health and the Department of Health Addiction Prevention and Recovery Administration, or relating to the powers, duties, functions, operations, and administration set forth in section 5117;

(2) All of the functions assigned and authorities granted and delegated to the Director of the Department of Mental Health, and the Department of Mental Health, as set forth in the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*); and

(3) All of the functions assigned and authorities granted and delegated to the Department of Health Addiction Prevention and Recovery as set forth in section IV(A)(3) of Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3).

Sec. 5119. Continuation of rules and regulations.

All rulemaking and regulations for the administration of the District's public mental health system and the addiction, recovery, and prevention system, issued under appropriate authority, shall continue in full force and effect until otherwise superseded.

Sec. 5120. Construction and abolishment.

(a) To the extent any provision of the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*), is inconsistent with a provision of this subtitle, the provision of this subtitle shall govern and shall be deemed to supersede the inconsistent provision.

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(b) The Department of Health Addiction Prevention and Recovery Administration as set forth in section IV(A)(3) of Reorganization Plan No. 4 of 1996, effective July 17, 1996 (D.C. Official Code, Vol. 3), is abolished.

**SUBTITLE K. PUBLIC ASSISTANCE**

Sec. 5121. Short title.

This subtitle may be cited as the "District of Columbia Public Assistance Emergency Amendment Act of 2013".

Sec. 5122. Section 5173 of the Temporary Assistance for Needy Families Time Limit Amendment Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025), is repealed as of October 1, 2013.

**SUBTITLE L. DEPARTMENT OF HUMAN SERVICES MEMORANDUM OF UNDERSTANDING AUTHORITY FOR SUBSTANCE ABUSE TREATMENT**

Sec. 5131. Short title.

This subtitle may be cited as the "Department of Human Services Memorandum of Understanding Authority for Substance Abuse Treatment Emergency Act of 2013".

Sec. 5132. For fiscal year 2014, the Department of Human Services ("DHS") shall enter into a Memorandum of Understanding of up to \$2.5 million with the Department of Behavioral Health ("DBH") for a substance abuse treatment program for Temporary Assistance for Needy Families ("TANF") clients. DHS shall work with DBH, other agencies, and community-based experts as necessary to establish an integrated system of care for TANF beneficiaries living with barriers including mental health disorders, alcohol and substance abuse, and HIV/AIDS. DHS shall present the integrated system of care plan to the Committee on Human Services no later than December 1, 2013.

**SUBTITLE M. PUBLIC ASSISTANCE HUMAN IMPACT**

Sec. 5141. Short title.

This subtitle may be cited as the "Public Assistance Human Impact Emergency Amendment Act of 2013".

Sec. 5142. Section 511c of the District of Columbia Public Assistance Act of 1982, effective April 8, 2011 (D.C. Law 4-101; D.C. Official Code § 4-205.11c), is amended as follows:

(a) The introductory text is amended by striking the phrase "Within 60 days of January 19, 2011" and inserting the phrase "Within 120 days of October 1, 2013" in its place.

(b) Paragraph (3) is amended as follows:

(1) The lead-in language is amended by striking the number "35" and inserting the number "100" in its place.

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(2) Subparagraph (D) is amended by striking the phrase "Court Social Services or Department of Youth Rehabilitation Services" and inserting the phrase "Child and Family Services Agency, Department of Human Services, Court Social Services, or Department of Youth Rehabilitation Services" in its place.

**SUBTITLE N. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES TIME LIMIT**

Sec. 5151. Short title.

This subtitle may be cited as the "Temporary Assistance for Needy Families Time Limit Emergency Amendment Act of 2013".

Sec. 5152. Section 5163 of the Temporary Assistance for Needy Families Time Limit Amendment Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025), is repealed as of October 1, 2013.

Sec. 5153. The District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-201.01 *et seq.*), is amended as follows:

(a) Section 205(d) (D.C. Official Code § 4-202.05(d)) is amended to read as follows:

"(d) Within 30 days of the effective date of the Temporary Assistance for Needy Families Time Limit Amendment Act of 2013, passed on 2nd reading on June 26, 2013 (Enrolled version of Bill 20-199) ("Time Limit Act"), the Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of the Time Limit Act."

(b) Section 511b (D.C. Official Code 4-205.11b) is amended as follows:

- (1) Subsection (c) is repealed.
- (2) Subsection (d) is repealed.
- (3) Subsection (f) is repealed.

(c) Section 572a(a) (D.C. Official Code 4-205.72a(a)) is amended as follows:

(1) The lead-in language is amended by striking the number "2012" and inserting the number "2013" in its place.

(2) Paragraph (3)(D) is amended by striking the phrase "old; or" and inserting the phrase "old;" in its place.

(3) Paragraph (4) is repealed.

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

"(5) Is a parent or caretaker who is 60 years of age or older; or

"(6) Is the head of an assistance unit who is meeting the full requirements of his or her Individual Responsibility Plan and can show that he or she is enrolled in an accredited postsecondary education program or a Department of Employment Services approved job training program in which he or she is working towards the attainment of a degree, certificate, or official credential."

(d) Section 519a (D.C. Official Code § 4-205.19a) is amended as follows:

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(1) Subsection (c) is repealed.  
(2) Subsection (d) is amended by striking the phrase “and TANF hardship extensions”.

(3) A new subsection (e) is added to read as follows:

“(e) Other than victims of domestic violence, pursuant to section 572a(a)(2)(A), no TANF recipients eligible for POWER pursuant to section 572a may receive case management services beyond the services currently being received on the effective date of this act, unless the Department of Human Services deems such services as necessary and funding is available.”.

**SUBTITLE O. INTERIM DISABILITY ASSISTANCE**

Sec. 5161. Short title.

This subtitle may be cited as the "Interim Disability Assistance Emergency Amendment Act of 2013".

Sec. 5162. Section 407(d) of the District of Columbia Public Assistance Act of 1982, effective April 3, 2001 (D.C. Law 13-252; D.C. Official Code § 4-204.07(d)), is amended as follows:

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

“(A) Applies to the Social Security Administration for SSI benefits and maintains or pursues an active SSI application, motion for reconsideration, or request for hearing before an Administrative Law Judge, subject to the limitations of paragraph (3) of this subsection;”.

(b) Paragraph (3) is amended as follows:

(1) Subparagraph (B) is amended to read as follows:

“(B) An otherwise qualified individual’s period of eligibility for IDA benefits shall end either at the end of the month in which the Social Security Administration begins payment of SSI benefits, or at the end of the month in which an Administrative Law Judge issues a decision denying the IDA recipient’s SSI application following a hearing pursuant to 20 C.F.R. § 416.1429.”.

(2) Subparagraph (C) is repealed.

(3) Subparagraph (D) is amended as follows:

(A) Strike the phrase “and an appeal is filed timely”.

(B) Strike the phrase “IDA recipient” and insert the word “individual” in its place.

Sec. 5163. This subtitle shall not be construed as affecting the eligibility of an otherwise qualified individual who has a Social Security application pending at the time of the effective date of this subtitle.



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**SUBTITLE P. HOMELESS PREVENTION AND RAPID RE-HOUSING PILOT INITIATIVE**

Sec. 5171. Short title.

This subtitle may be cited as the “Homelessness Prevention and Rapid Re-Housing Pilot Initiatives Emergency Act of 2013”.

Sec. 5172. (a)(1) For fiscal year 2014, the Department of Human Services (“Department”) shall implement an Emergency Rental Assistance Program (“ERAP”) pilot initiative for the purpose of providing emergency rental assistance to non-elderly, non-disabled without minor children in their care adults who would otherwise qualify for emergency rental assistance under Chapter 75 of Title 29 of the District of Columbia Municipal Regulations.

(2) No later than October 1, 2013, the Department shall submit to the Council a plan for the ERAP pilot initiative. The plan shall include the following information:

- (A) An estimated number of clients that will be served by the initiative;
- (B) A timeline for implementation of the initiative;
- (C) Metrics or criteria for measuring the initiative’s outcomes; and
- (D) Any other information the Department believes would assist in

analyzing the initiative’s impact.

(b)(1) For fiscal year 2014, the Department shall implement a Rapid Re-Housing (“RRH”) pilot initiative for the purpose of providing assistance to rapidly re-house adults without minor children in their care who would otherwise qualify for rapid re-housing assistance under Chapter 78 of Title 29 of the District of Columbia Municipal Regulations.

(2) No later than October 1, 2013, the Department shall submit to the Council a plan for the RRH pilot initiative. The plan shall include the following information:

- (A) An estimated number of clients that will be served by the initiative;
- (B) A timeline for implementation of the initiative;
- (C) Metrics or criteria for measuring the initiative’s outcomes; and
- (D) Any other information the Department believes would assist the

Council in analyzing the initiative’s impact.

Sec. 5173. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE Q. HOMELESS SERVICES REFORM**

Sec. 5181. Short title.

This subtitle may be cited as the “Homeless Services Reform Emergency Amendment Act of 2013”.

Sec. 5182. The Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 4-751.01) is amended as follows:

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(1) Paragraph 18(A) is amended by striking the word "immediately" and inserting the phrase "immediately, including any individual or family who is fleeing, or is attempting to flee, domestic violence and who has no other residence and lacks the resources or support networks to obtain safe housing" in its place.

(2) A new paragraph (31A) is added to read as follows:

"(31A) "Rapid Re-Housing" means a program that provides a homeless individual or family with financial assistance to obtain permanent housing, by providing some or all of a security deposit, first month's rent, short-term rental subsidy, and supportive services in order to help the recipient become self-sufficient."

(3) Paragraph (41) is amended as follows:

(A) The lead-in language is amended by striking the word "accommodation" and inserting the phrase "accommodation, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 2 years or a longer period approved by the provider" in its place.

(B) Subparagraph (B) is amended by striking the phrase "up to 2 years or as long as necessary" and inserting the phrase "less than or equal to 2 years or a longer period approved by the provider" in its place.

(b) Section 4(b) (D.C. Official Code § 4-752.01(b)), is amended by adding a new paragraph(1A) to read as follows:

"(1A) The Director to End Homelessness, who shall assist the City Administrator in leading and coordinating the Interagency Council,".

(c) Section 7 (D.C. Official Code § 4-753.01) is amended by adding a new subsection (f) to read as follows:

"(f)(1) The Mayor is authorized to require clients to establish and contribute to a savings or escrow account, or other similar savings arrangement. The savings or escrow arrangement shall be customized to each client so as not to jeopardize another benefit program and to allow for reasonable and necessary expenses.

"(2) A client shall not be terminated for failing to contribute to a savings or escrow account or similar savings arrangement; provided, that other sanctions may be imposed as provided by rule.

"(3) Pursuant to section 31, the Mayor shall issue rules on the establishment of any mandatory savings or escrow accounts, or other similar savings arrangements, authorized by this section. The rules shall provide exceptions to the requirement for mandatory savings or escrow accounts, or other similar savings arrangements."

(d) Section 11 (D.C. Official Code § 4-754.13) is amended as follows:

(1) Paragraph 10 is amended by striking the word "and".

(2) Paragraph 11 is amended to read as follows:

"(11) Establish and contribute to a savings or escrow account, or other similar savings arrangement, if required by rules established by the Mayor pursuant to section 7(f) and included in the provider's Program Rules approved pursuant to section 18(b); and".

(3) A new paragraph 12 added to read as follows:

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“(12) Follow all Program Rules established by a provider pursuant to section 18.”.

(e) Section 18 (D.C. Official Code § 4-754.32) is amended as follows:

(1) Paragraph (7) is amended by striking the word “and”.

(2) Paragraph (8) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph 9 is added to read as follows:

“(9) A description of a client’s responsibilities to establish and contribute to a savings and escrow account, or other similar savings arrangement, if required by rules established by the Mayor pursuant to section 7(f).”.

(f) Section 19 (D.C. Official Code § 4-754.33) is amended as follows:

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

“(c) All providers shall give written and oral notice to clients of their transfer to another provider or of their suspension, termination, or discontinuation from services at least 15 days before the effective date of the transfer, suspension, termination, or discontinuation of services except:

“(1) When the sanction results from the client’s imminent threat to the health or safety of someone on the premises of the provider in accordance with section 24; or

“(2) When the sanction is a suspension of supportive services for a period shorter than 10 days.”.

(2) Subsection (d)(4) is amended to read as follows:

“(4) A clear and complete statement of the client’s right to appeal the sanction or denial through fair hearing proceedings pursuant to section 26 and administrative review proceedings pursuant to section 27, or the client’s right to reconsideration pursuant to rules established by the Mayor in accordance with section 31, including the appropriate deadlines for instituting the appeal or reconsideration; and”.

(g) Section 22 (D.C. Official Code § 4-754.36) is amended to read as follows:

“Sec. 22. Termination.

“(a) A provider may terminate its delivery of services to a client only when:

“(1) The provider documents that it has considered suspending the client in accordance with section 21 or has made a reasonable effort, in light of the severity of the act or acts leading to the termination, to transfer the client in accordance with section 20;

“(2) The client:

“(A) Possesses a weapon on the provider’s premises;

“(B) Possesses or sells illegal drugs on the provider’s premises;

“(C) Assaults or batters any person on the provider’s premises;

“(D) Endangers the client’s own safety or the safety of others on the provider’s premises;

“(E) Intentionally or maliciously vandalizes, destroys, or steals the property of any person on the provider’s premises;

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“(F) Fails to accept an offer of appropriate permanent housing or supportive housing that better serves the client’s needs after having been offered 2 appropriate permanent or supportive housing opportunities; or

“(G) Knowingly engages in repeated violations of a provider’s Program Rules.

“(3) For the purposes of this paragraph (2)(F) of his section, Rapid Re-Housing shall be considered an offer of supportive housing and an offer of 2 different units through a Rapid Re-Housing program shall be considered 2 offers of supportive housing. In determining whether an offer of permanent or supportive housing is appropriate, the results of a research- or evidence-based assessment tool used as part of the decision to make such an offer shall be given great weight.

“(b) In the case of terminations pursuant to subparagraphs (F) and (G) of subsection (a)(2) this section, the provider has made reasonable efforts to help the client overcome obstacles to obtaining permanent housing.”.

(h) A new section 22a is added to read as follows:

"Sec. 22a. Discontinuation of supportive housing services.

“(a) A provider may discontinue supportive housing services for a client only when the client has:

“(1) Relocated to another program or facility for more than 180 days;

“(2) Abandoned his or her unit for more than 60 days and good-faith efforts to locate the client have failed, or the client has been located but has indicated by words or actions that he or she does not intend to return to and reside in the unit; or

“(3) The client has not requested a reasonable accommodation to continue the supportive housing services for disability-related reasons, or has requested a reasonable accommodation and it was denied; and

“(4) No household members who have been approved as part of the household unit for purposes of the program remain in the supportive housing placement.

“(b) Providers of supportive housing shall give oral and written notice, in accordance with section 19(d), to clients of their discontinuation from services only after the required time period in subsection (a) of this section has lapsed, except where there is credible evidence that the client who has relocated to another program or facility is expected to be absent for more than 180 days . Such notice shall be given at least 30 days before the effective date of the discontinuation of services. If it is not possible to provide written notice at the time of the action because the client’s whereabouts are unknown, a written notice shall be delivered to the client’s last known address or, upon request, within 90 days of the discontinuation of services.

“(c) A client whose supportive housing services are discontinued pursuant to this section, shall have the right to be re-housed upon return; provided, that the client continues to meet the eligibility criteria for the program and the services are available. If the services are not available from the original supportive housing provider, the client shall receive the first available opening at the original supportive housing provider’s program, unless an opening elsewhere is available and the client consents to the alternate provider. To the extent possible, a provider who is

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notified of a client's impending return shall make a reasonable effort to work with the client to arrange supportive housing services that will be available upon the client's return."

(i) A new section 31a is added to read as follows:

"Sec. 31a. Director to End Homelessness.

"(a) The Mayor shall appoint a Director to End Homelessness ("Director"), pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)). The Director shall report to the Mayor, and shall be highly qualified and experienced. The Mayor is encouraged to consult with the Interagency Council of Homelessness on the specific qualifications and job description for this position.

"(b) The Director shall:

"(1) Coordinate efforts across agencies to end homelessness in the District;

"(2) Provide a single point of accountability for efforts to end homelessness in the District;

"(3) Help lead and coordinate the Interagency Council on Homelessness;

"(4) Work with community stakeholders and the Interagency Council on Homelessness to create, coordinate, and implement a plan to end homelessness in the District;

"(5) Create and monitor performance measures that track the District's progress on the plan to end homelessness; and

"(6) Report to the Mayor and to the Council by September 30 of each year, beginning in 2014, on the status of ending homelessness in the District."

**SUBTITLE R. END HOMELESSNESS FUND**

Sec. 5191. Short title.

This subtitle may be cited as the "End Homelessness Fund Emergency Act of 2013".

Sec. 5192. End Homelessness Fund.

(a) There is established as a special fund the End Homelessness Fund ("Fund"), which shall be administered by the Department of Human Services in accordance with subsection (c) of this section.

(b) The Fund shall consist of 50% of the revenue from automated traffic enforcement, to the extent that the revenue is offset by revenue from a tax imposed by Chapter 39A of Title 47 of the District of Columbia Official Code on sales made via the Internet and the interest earned on that revenue and not to exceed \$50 million,

(c) The Fund shall be used to end homelessness in the District, as set forth in a plan and legislation prepared by the Director to End Homelessness and the Interagency Council on Homelessness and transmitted to the Council for enactment. No moneys may be used from the Fund to supplant existing funding for programs already in existence.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

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(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

**SUBTITLE S. ASTHMA RESOURCE CENTER**

Sec. 5201. Short title.

This subtitle may be cited as the "Pediatric Asthma Management Emergency Act of 2013".

Sec. 5202. Pediatric asthma management center.

Of the capital funds allocated in fiscal year 2014 for project HTO-UMCOI within the Department of Health Care Finance, up to \$2 million may be used to fund the renovation of existing space on the campus of United Medical Center in support of a pediatric asthma management center.

**TITLE VI. TRANSPORTATION, PUBLIC WORKS, AND THE ENVIRONMENT**

**SUBTITLE A. SAFETY-BASED TRAFFIC ENFORCEMENT FINE REDUCTION**

Sec. 6001. Short title.

This subtitle may be cited as the "Safety-Based Traffic Enforcement Fine Reduction Emergency Amendment Act of 2013".

Sec. 6002. Section 105 of the Safety-Based Traffic Enforcement Amendment Act of 2012, returned unsigned by the Mayor on February 11, 2013 (D.C. Act 19-674; 60 DCR 2753), is repealed.

Sec. 6003. Section 2600.1 of Title 18 of the District of Columbia Municipal Regulations is amended as follows:

(a) The existing text under the subheading "Intersection" is amended by striking the phrase "Failure to clear (including crosswalks) [§ 2201.11] \$100" and inserting the phrase "Failure to clear (including crosswalks) [§ 2201.11] \$50" in its place.

(b) The subheading "Right turn on red" and existing text is amended to read as follows:  
"Right turn on red

- "Failure to come to a complete stop before turning [§ 2103.7] \$50
- "Failure to yield right-of-way to vehicle or pedestrian [§ 2103.7] \$50
- "Violation of "No Turn on Red" sign [§ 4013] \$50".

(c) The existing text under the subheading "Right-of-way" is amended by striking the phrase "Failure to stop and give right-of-way to pedestrian in roadway [§ 2208] \$250" and inserting the phrase "Failure to stop and give right-of-way to pedestrian in roadway [§ 2208] \$75" in its place.

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(d) The existing text under the subheading "Speeding" is amended to read as follows:

"Up to 10 mph in excess of limit [§ 2200]	\$50
"11 to 15 mph in excess of limit [§ 2200]	\$100
"16 to 20 mph in excess of limit [§ 2200]	\$150
"21 to 25 mph in excess of limit [§ 2200]	\$200
"Over 25 mph in excess of limit [§ 2200]	\$300
"Minimum; driving too slowly [§ 2200.10]	\$50
"Unreasonable [§ 2200.3]	\$100".

**SUBTITLE B. DEPARTMENT OF MOTOR VEHICLES IMMOBILIZATION**

Sec. 6011. Short title.

This subtitle may be cited as the "DMV Immobilization Emergency Amendment Act of 2013".

Sec. 6012. Section 6(k) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(k)), is amended by adding a new paragraph (5) to read as follows:

"(5) Before the removal of an immobilization mechanism on a motor vehicle or the release of a motor vehicle from impoundment, the owner shall pay all outstanding fees, charges, civil fines, or penalties incurred pursuant to section 15(b)(2)(A) of the Compulsory/No Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2413(b)(2)(A)), sections 1 and 6 of An Act to provide for the annual inspection of all motor vehicles in the District of Columbia, approved February 18, 1938 (52 Stat. 78; D.C. Official Code §§ 50-1101 and 1106), sections 6, 7, and 8 of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code §§ 50-2201.03, 1401.01, and 1401.02), sections 2 and 3 of Title IV of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 680; D.C. Official Code §§ 50-1501.02 and 1501.03), sections 105 and 304a of The District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code §§ 50-2301.05 and 50-2303.04a), and section 9(a) of the Removal and Disposition of Abandoned and Other Unlawfully Parked Vehicles Reform Act of 2003, effective October 28, 2003 (D.C. Law 15-35; D.C. Official Code § 50-2421.09), against the owner or any motor vehicle in which the owner has an ownership interest or had an ownership interest when a notice of infraction was issued."

Sec. 6013. Section 9(a)(4) of the Removal and Disposition of Abandoned and Other Unlawfully Parked Vehicles Reform Act of 2003, effective October 28, 2003 (D.C. Law 15-35; D.C. Official Code § 50-2421.09(a)(4)), is amended to read as follows:

"(4) Making a payment in accordance with section 6(k)(5) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(k)(5));"

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**SUBTITLE C. STORMWATER IN LIEU FEE SPECIAL FUND**

Sec. 6021. Short title.

This subtitle may be cited as the "Stormwater In-Lieu Fee Special Purpose Revenue Fund Emergency Amendment Act of 2013".

Sec. 6022. The Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.01 *et seq.*), is amended by adding a new section 10b to read as follows:

"Sec. 10b. Stormwater In-Lieu Fee Payment Fund.

"(a) There is established as a special fund the Stormwater In-Lieu Fee Payment Fund ("In-Lieu Fee Fund"), which shall be administered by the Mayor in accordance with subsection (c) of this section.

"(b) The In-Lieu Fee Fund shall consist of revenue from payments to the In-Lieu Fee Fund to achieve stormwater retention obligations of regulated properties, as required by the Municipal Separate Storm Sewer System permit issued to the District by the Environmental Protection Agency.

"(c) The In-Lieu Fee Fund shall be used for the installation, operation, and maintenance of stormwater retention facilities.

"(d)(1) The money deposited into the In-Lieu Fee Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(2) Subject to authorization by Congress, any funds appropriated in the In-Lieu Fee Fund shall be continually available without regard to fiscal year limitation."

"(e) The District Department of the Environment shall publish on its website at least annually a report which includes a description of how revenues are spent from the In-Lieu Fee Fund and Anacostia River Clean Up and Protection Fund, established by the Anacostia River Clean Up and Protection Act of 2009, effective September 23, 2009 (D.C. Law 18-55; D.C. Official Code § 8-102.01 *et seq.*).

"(f) The report on the In-Lieu Fee Fund required by subsection (e) of this section shall include:

"(1) The total amount of in-lieu fees collected to date;

"(2) The total amount of funds spent to date;

"(3) For each sub-drainage area or watershed, the aggregate off-site retention volume per year purchased with in-lieu fees, based on the location of regulated projects paying in-lieu fees; and

"(4) For each of the stormwater retention facilities installed using In-Lieu Fee Fund dollars, the type of best management practices used by the facility, the gallons per year of stormwater volume achieved by the facility, the sub-drainage or watershed location of the facility, and a summary of the capital and maintenance costs of the project."



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**SUBTITLE D. DISTRICT DEPARTMENT OF TRANSPORTATION PARKING METER REVENUE**

Sec. 6031. Short title.

This subtitle may be cited as the "District Department of Transportation Parking Meter Revenue Emergency Amendment Act of 2013".

Sec. 6032. Section 2a of the Performance Parking Pilot Zone Act of 2008, effective November 25, 2008 (D.C. Law 17-279; D.C. Official Code § 50-2531.01), is amended as follows:

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

"(2) Fees collected for the parking of vehicles where meters or devices are installed shall be deposited into the Fund in accordance with section 3(h)(2) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved February 16, 1942 (56 Stat. 91; D.C. Official Code § 50-2603(8)(B))."

(b) Subsection (b) is amended by striking the phrase "for projects within the zone from which revenues were raised".

Sec. 6033. Section 3(h) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved February 16, 1942 (56 Stat. 91; D.C. Official Code § 50-2603(8)), is amended as follows:

(a) Paragraph (1) is amended to read as follows:

"(1) For fiscal year 2014, and each year thereafter, 100% of the amount collected from the parking of vehicles where meters or devices are installed shall be used in accordance with this section to fund the general operations of the Washington Metropolitan Area Transit Authority, with the exception of the portions required to be transferred to the District Department of Transportation Parking Meter Pay-by-phone Transaction Fee Fund and the DC Circulator Fund, in accordance with section 9f of the Department of Transportation Establishment Act of 2002, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-921.14)."

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

"(2)(A) For fiscal year 2013, \$35,264,948 shall be dedicated to paying a portion of the District's annual operating subsidies to the Washington Metropolitan Area Transit Authority.

"(B) Other fees collected for the parking of vehicles where meters or devices are installed in excess of the portions required to be transferred to the District Department of Transportation Parking Meter Pay-by-Phone Transaction Fee Fund and the Parking Meter Fund shall be divided evenly between the Sustainable Transportation Fund established by section 9g of the Department of Transportation Establishment Act of 2002, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-921.15); and the Performance Parking Fund established by section 2a of the Performance Parking Pilot Zone Act of 2008, effective November 25, 2008 (D.C. Law 17-279; D.C. Official Code § 50-2531.01)."

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(c) Paragraph (3) is repealed.

Sec. 6034. Section 9g(b) of the Department of Transportation Establishment Act of 2002, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-921.15(b)), is amended by striking the phrase "section 3(h)(3)" and inserting the phrase "section 3(h)(2)" in its place.

Sec. 6035. Right-of-way revenues.

Notwithstanding any other provision of law, for fiscal year 2014, the Chief Financial Officer shall transfer to the unrestricted fund balance of the General Fund of the District of Columbia and recognize as local funds \$921,000 of fiscal year 2014 right-of-way revenues.

Sec. 6036. Applicability.

Section 6033(b) shall apply as of the effective date of this act.

**SUBTITLE E. ACCESSIBLE PUBLIC VEHICLES-FOR-HIRE FUNDING  
AMENDMENT**

Sec. 6041. Short title.

This subtitle may be cited as the "Accessible Public Vehicles-for-Hire Emergency Amendment Act of 2013".

Sec. 6042. Section 20a(b) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-320(b)), is amended as follows:

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

"(2) For fiscal years 2014 and 2015:

"(A) The first \$4,700,000 of funds deposited into the Fund each year shall be used to support the operations of the Commission pursuant to paragraph (1)(A) of this subsection;

"(B) \$750,000 of the remaining funds deposited into the Fund each year shall be used to increase the number of wheelchair accessible public vehicles-for-hire pursuant to paragraph (1)(B) of this subsection; and

"(C) Any remaining funds in the Fund may be used for any of the purposes described in paragraph (1) of this subsection."

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

"(3) Nothing in this subsection shall affect any requirements imposed upon the Commission by Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*)."

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**SUBTITLE F. BICYCLE ADVISORY COUNCIL CHAIR**

Sec. 6051. Short title.

This subtitle may be cited as the "Bicycle Advisory Council Emergency Amendment Act of 2013".

Sec. 6052. Section 5(b)(2)(B) of the District of Columbia Comprehensive Bicycle Transportation and Safety Act of 1984, effective March 16, 1985 (D.C. Law 5-179; D.C. Official Code § 50-1604(b)(2)(B)), is amended to read as follows:

"(B) A chairperson shall be elected from among the 13 community representatives and shall serve for a term of 2 years."

**SUBTITLE G. PRIORITY SIDEWALK ASSURANCE**

Sec. 6061. Short title.

This subtitle may be cited as the "Priority Sidewalk Assurance Emergency Amendment Act of 2013".

Sec. 6062. Section 2(a) of the Priority Sidewalk Assurance Act of 2010, effective September 24, 2010 (D.C. Law 18-227; D.C. Official Code § 9-425.01(a)), is amended by striking the phrase "road reconstruction or curb and gutter replacement" and inserting the phrase "road reconstruction, installation of a curb and gutter, or curb and gutter replacement" in its place.

**SUBTITLE H. PESTICIDE REGISTRATION FUND PRESERVATION**

Sec. 6071. Short title.

This subtitle may be cited as the "Pesticide Registration Fund Preservation Emergency Amendment Act of 2013".

Sec. 6072. The Pesticide Education and Control Amendment Act of 2012, effective October 23, 2012 (D.C. Law 19-191; D.C. Official Code § 8-431 *et seq.*), is amended by adding a new section 9a to read as follows:

"Sec. 9a. Pesticide Registration Fund.

"(a) There is established as a special fund the Pesticide Registration Fund ("Fund"), which shall be administered by the Department in accordance with subsection (c) of this section.

"(b) The Fund shall consist of revenue from fees collected pursuant to section 9 and other pesticide license and registration fees.

"(c) The Fund shall be used for the administration of the Department's pesticide programs.

"(d) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time."

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Sec. 6073. Section 9084 of the Fiscal Year 2012 Transfer of Special Purpose Funds Act of 2011, effective September 14, 2011 (D.C. Law 19-21; 58 DCR 6362), is repealed.

**SUBTITLE I. PUBLIC SPACE CLEANING GRANTS**

Sec. 6081. Short title.

This subtitle may be cited as the "Public Space Cleaning Grant Emergency Act of 2013".

Sec. 6082. (a) Of the funds appropriated in fiscal years 2014 and 2015 to the Department of Small and Local Business Development for Clean Teams, \$800,000 may be awarded for grants over a 2-year period to include \$400,000 in fiscal year 2014 and \$400,000 in fiscal year 2015 for clean-team services to, at minimum, the following areas:

- (1) Connecticut Avenue, N.W., between Calvert Street and Cathedral Avenue; between Macomb Street and Porter Street; and between Tilden Street and Albemarle Street;
- (2) 12th Street, N.E., from Jackson Street, N.E., to Randolph Street, N.E.; and
- (3) Minnesota Avenue, N.E., from Grant Street, N.E., to East Capitol Street.

(b) An eligible grantee must have experience in:

- (1) Providing clean-team services;
- (2) Providing job-training services to its employees;
- (3) Hiring District residents; and
- (4) Providing social support services to its Clean Team employees.

(c) Grants awarded under this subtitle shall administered pursuant to the requirements set forth in the Grant Administration Emergency Act of 2013, passed on emergency basis on June 26, 2013 (Enrolled version of Bill 20-337).

**SUBTITLE J. TRANSPORTATION FINE AND FEE ADJUSTMENT**

Sec. 6091. Short title.

This subtitle may be cited as the "Transportation Fee and Fine Adjustment Emergency Amendment Act of 2013".

Sec. 6092. Section 2601.1 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 2601.1) is amended by inserting an infraction in between the "Stop sign" and "Tags" infractions to read as follows:

"Street cleaning route, parked on during prohibited period (§ 2423) \$45.00".

**SEC. SEC. SUBTITLE K. SAFETY JUSTIFICATION FOR TRAFFIC CONTROL OFFICERS PLACEMENT**

Sec. 6101. Short title.

This subtitle may be cited as the "Allocation of Traffic Control Officers Emergency Act of 2013".

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Sec. 6102. Safety justification.

The District Department of Transportation ("DDOT") shall:

- (1) Justify the placement of Traffic Control Officers ("TCOs") at intersections based on safety, except when needed to manage special events or construction sites or when safety concerns for TCOs exist; and
- (2) Prioritize placement of TCOs at the 10 most dangerous intersections during peak hazardous times.

Sec. 6103. Public notification of safety justification and dangerous intersections.

On or before February 1, 2014, DDOT shall publish on its website:

- (1) A standard safety justification for the placement of TCOs; and
- (2) A list of the 10 most dangerous intersections that will have TCOs during the most hazardous times of day, and the corresponding justification for these placements.

**SUBTITLE L. DISTRICT DEPARTMENT OF TRANSPORTATION DC CIRCULATOR**

Sec. 6111. Short title.

This subtitle may be cited as the "District Department of Transportation DC Circulator Emergency Amendment Act of 2013".

Sec. 6112. Section 11c(a) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.33(a)), is amended as follows:

- (1) Strike the phrase "lapsing special purpose revenue fund" and insert the phrase "nonlapsing special fund" in its place.
- (2) Strike the phrase "or their agents," and insert the phrase "or their agents, parking meter revenue from the National Park Service for meters on the Mall," in its place.

**SUBTITLE M. DISTRICT DEPARTMENT OF TRANSPORTATION JURISDICTION**

Sec. 6121. Short title.

This subtitle may be cited as the "District Department of Transportation Jurisdiction Emergency Amendment Act of 2013".

Sec. 6122. Section 3 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.02), is amended by adding a new subsection (g) to read as follows:

"(g)(1) The Director may enter into agreements with jurisdictions in the Washington metropolitan area ("regional jurisdictions") to plan, fund, design, construct, and otherwise carry out transportation projects.

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"(2) DDOT may receive funds from and disperse funds to regional jurisdictions for the purposes of planning, funding, designing, constructing, and otherwise carrying out the transportation projects.

"(3) DDOT may take other appropriate actions to plan, fund, design, construct, and otherwise carry out the transportation projects, including performing work, including construction work, in regional jurisdictions."

Sec. 6123. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE N. REPRESENTATION TAGS**

Sec. 6131. Short title.

This subtitle may be cited as the "Representation Tags Emergency Amendment Act of 2013".

Sec. 6132. Section 423 of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 423) is amended by adding a new subsection 423.3a to read as follows:

"423.3a. Members of the Council may choose to be issued a standard motor vehicle identification tag or a tag designating the member's ward of representation or at-large status. If the member opts for a standard tag, the member shall also be issued a placard to be placed on the dashboard of a vehicle indicating that the vehicle is being used by the member for official business."

Sec. 6133. Section 6(c)(2) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code 50-2201.03(c)(2)), is amended to read as follows:

"(2) The vehicle is displaying a Congressional or Council registration tag or parking placard issued for the current session or by the District."

**TITLE VII. FINANCE AND REVENUE****SUBTITLE A. SUBJECT TO APPROPRIATIONS REPEALERS**

Sec. 7001. Short title.

This subtitle may be cited as the "Subject to Appropriations Repealers Emergency Amendment Act of 2013".

Sec. 7002. Section 3 of the Land Acquisition for Housing Development Opportunities Program Act of 2010, effective December 3, 2010 (D.C. Law 18-260; 57 DCR 9632), is repealed.

Sec. 7003. Section 5 of the UNCF Tax Abatement and Relocation to the District Assistance Act of 2010, effective August 6, 2010 (D.C. Law 18-211; 57 DCR 4949), is repealed.

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Sec. 7004. Section 3 of the Carver 2000 Low-Income and Senior Housing Project Amendment Act of 2012, effective July 13, 2012 (D.C. Law 19-151; 59 DCR 5134), is repealed.

Sec. 7005. Section 4 of the Elizabeth Ministry, Inc. Affordable Housing Initiative Real Property Tax Relief Act of 2012, effective April 20, 2013 (D.C. Law 19-253; 60 DCR 982), is repealed.

Sec. 7006. Section 3 of the King Towers Residential Housing Real Property Tax Exemption Clarification Act of 2012, effective July 13, 2012 (D.C. Law 19-153; 59 DCR 5138), is repealed.

Sec. 7007. Section 7 of the Taxicab Service Improvement Amendment Act of 2012, effective October 22, 2012 (D.C. Law 19-184; 59 DCR 9431), is repealed.

Sec. 7008. The 8th Street Plaza Condominium Association, Inc. Clarification Act of 2012, effective October 22, 2012 (D.C. Law 19-178; 59 DCR 9416), is amended as follows:

(a) Section 2(b)(2) is amended to read as follows:

“(2) The exemptions granted by paragraph (1) of this subsection shall expire on October 1, 2014.”.

(b) Section 3 is repealed.

Sec. 7009. Section 3 of the Parkside Parcel E and J Mixed-Income Apartments Tax Abatement Act of 2012, effective April 20, 2013 (D.C. Law 19-255; 60 DCR 987), is repealed.

Sec. 7010. Section 3 of the Israel Senior Residences Tax Exemption Act of 2012, effective April 27, 2013 (D.C. Law 19-285; 60 DCR 2316), is repealed.

Sec. 7011. Section 3 of the Families Together Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-228; 57 DCR 6926), is repealed.

Sec. 7012. Section 701 of the Adoption Reform Amendment Act of 2010, effective September 24, 2010 (D.C. Law 18-230; 57 DCR 6951), is repealed.

Sec. 7013. Section 5 of the District of Columbia Flood Assistance Fund Act of 2012, effective April 27, 2013 (D.C. Law 19-293; 60 DCR 2613), is repealed.

Sec. 7014. Section 47-1086 of the District of Columbia Official Code is amended by adding a new subsection (c) to read as follows:

“(c) This section shall apply as of March 1, 2011.”.

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Sec. 7015. Section 1203 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-362.03), is repealed.

Sec. 7016. Section 5 of the State Board of Education Personnel Authority Amendment Act of 2012, effective April 27, 2013 (D.C. Law 19-284; 60 DCR 2312), is repealed.

Sec. 7017. Section 5 of the Public Vehicle-for-Hire Innovation Amendment Act of 2012, effective April 23, 2013 (D.C. Law 19-270; 60 DCR 1717), is repealed.

Sec. 7018. (a) Section 3 of the Howard Town Center Real Property Tax Abatement Act of 2012, effective April 20, 2013 (D.C. Law 19-257; 60 DCR 992), is repealed.

(b) Section 47-4656(b) of the District of Columbia Official Code is amended as follows:

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

"(1) Commence with the tax year in which the final certificate of occupancy is issued to the last property developed on the site, but in no case before October 1, 2015."

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

"(2) Be in the amount of \$800,000 per year, not to exceed \$8 million in the aggregate over 10 years."

Sec. 7019. Section 4 of the Workplace Fraud Amendment Act of 2012, effective April 28, 2013 (D.C. Law 19-300; 60 DCR 2679), is repealed.

Sec. 7020. Section 3 of the Schedule H Property Tax Relief Act of 2012, effective April 27, 2013 (D.C. Law 19-283; 60 DCR 2307), is amended to read as follows:

"Sec. 3. Applicability.

"This act shall apply as of January 1, 2014."

Sec. 7021. Applicability.

Section 7008 shall apply as of the effective date of this act.

#### **SUBTITLE B. TAX INCREMENT REVENUE BONDS DC USA PROJECT EXTENSION**

Sec. 7021. Short title.

This subtitle may be cited as the "Tax Increment Revenue Bonds DC USA Project Extension Emergency Act of 2013".

Sec. 7022. Definitions.

For the purposes of this subtitle, the term:

(1) "Available Real Property Tax Revenues" means the revenues resulting from the imposition of the tax provided for in Chapter 8 of Title 47 and the tax imposed by D.C. Official Code § 47-1005.01, including any penalties and interest charges, exclusive of the special



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tax provided for in section 481 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 807; D.C. Official Code § 1-204.81), pledged to the payment of general obligation indebtedness of the District.

(2) "Available Sales Tax Revenues" means the revenues resulting from the imposition of the tax imposed pursuant to Chapter 20 of Title 47, including any penalties and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Fund established pursuant to section 208 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.08).

(3) "Available Tax Increment" means the sum of the Available Sales Tax Revenues and Available Real Property Tax Revenues generated by the DC-USA Project TIF Area minus the sum of Available Sales Tax Revenues and Available Real Property Tax Revenues generated in the respective base year, as certified by the Chief Financial Officer.

(4) "Bonds" means the \$46.9 million National Capital Revitalization Variable Rate Revenue Bonds (DC USA Parking Garage Project) Series 2006.

(5) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia.

(6) "DC USA Project TIF Area" means the following parcels and lots and squares: Square 2674, Lot 0866; Square 2674, Lot 0720; Square 2674, Lot 0863; Square 2674, Lot 0832; Square 2674, Lot 0812; Square 2674, Lot 0869; Square 2674, Lot 0719; Square 2674, Lot 0872; Square 2674, Lot 0870; Square 2674, Lot 0871.

**Sec. 7023. Allocation of Available Tax Increment.**

There is allocated to the repayment of the Bonds 100% of the Available Tax Increment until such time as the Bonds are paid in full. The Available Real Property Tax Revenues shall be calculated based upon the assessed value of the real property comprising the DC-USA Project TIF Area as of January 1, 2004, for the base year of tax year 2005 as certified by the Chief Financial Officer. The Available Sales Tax Revenues shall be calculated based upon the sales tax revenue for base year 2003 as certified by the Chief Financial Officer.

**Sec. 7024. Applicability.**

This subtitle shall apply as of the effective date of this act.

**SUBTITLE C. DELINQUENT DEBT RECOVERY**

**Sec. 7031. Short title.**

This subtitle may be cited as the "Delinquent Debt Recovery Emergency Amendment Act of 2013".

**Sec. 7032.** The Delinquent Debt Recovery Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-350.01 *et seq.*), is amended as follows:

(a) Section 1043 (D.C. Official Code § 1-350.02) is amended as follows:

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(1) Subsection (a) is amended by striking the word "Notwithstanding" and inserting the phrase "Except as provided in subsections (a-1) and (a-2) of this section, notwithstanding" in its place.

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

"(a-1) The University of the District of Columbia shall transfer and refer unpaid student tuition, student fees, and student loans to the Central Collection Unit within one year after the end of the semester in which the student tuition, student fees, and student loans were incurred.

"(a-2) Beginning in fiscal year 2014 and for each fiscal year thereafter, funds collected and recovered by the Central Collection Unit arising out of delinquent debts transferred and referred to the Central Collection Unit by the Not-For-Profit Hospital Corporation for collection, net of costs and fees, shall be deposited into the Not-For-Profit Hospital Corporation Fund by the Central Collection Unit within 60 days following the then current fiscal year."

(b) A new section 1043a is added to read as follows:

"Sec. 1043a. Collection on behalf of the University of the District of Columbia.

"Funds collected and recovered by the Central Collection Unit, beginning in fiscal year 2014 and continuing in the following fiscal years, arising out of delinquent debts transferred and referred to the Central Collection Unit by the University of the District of Columbia for collection, net of cost and fees, shall be deposited into the University of the District of Columbia Debt Collection Fund established pursuant to section 7033 of the Delinquent Debt Recovery Amendment Act of 2013, passed on 2<sup>nd</sup> reading on June 18, 2013 (Enrolled version of Bill 20-199), by the Central Collection Unit within 60 days following the then current fiscal year."

(c) Section 1045 (D.C. Official Code § 1-350.04) is amended by striking the phrase "all delinquent debts collected by the Central Collection Unit" and inserting the phrase "all delinquent debts collected by the Central Collection Unit, except those amounts collected by the Central Collection Unit described in section 1043(a-1) and (a-2)" in its place.

Sec. 7033. University of the District of Columbia Debt Collection Fund.

(a) There is established as a special fund the University of the District of Columbia Debt Collection Fund ("Fund"), which shall be administered by the University of the District of Columbia in accordance with subsection (c) of this section.

(b) The fund shall consist of the revenue from the collection of unpaid student tuition, student fees, and student loans by the Central Collection Unit in accordance with the Delinquent Debt Recovery Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1 350.01 *et seq.*).

(c) The Fund shall be used for expenses associated with the operations of the University of the District of Columbia.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

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**SUBTITLE D. BANK FEES SPECIAL FUND**

Sec. 7041. Short title.

This subtitle may be cited as the "Bank Fees Special Fund Emergency Act of 2013".

Sec. 7042. Bank Fees Special Fund.

(a) There is established as a special fund the Bank Fees Special Fund ("Fund"), which shall be administered by the Chief Financial Officer in accordance with subsection (c) of this section.

(b) Beginning October 1, 2013, the following sources shall be deposited into the Fund:

(1) All interest earned on public funds under the custody of the Chief Financial Officer in a general fund account that is not otherwise restricted; and

(2) Such amounts from the unassigned General Fund of the District of Columbia balance as may be required to pay bank fees and charges, as they come due, in excess of the interest earned on public funds as described in paragraph (1) of this subsection.

(c) The Fund shall be used to pay bank fees and charges.

**SUBTITLE E. AFFORDABLE HOUSING REAL PROPERTY TAX RELIEF**

Sec. 7051. Short title.

This subtitle may be cited as the "Affordable Housing Real Property Tax Relief Emergency Act of 2013".

Sec. 7052. Section 47-1002(20)(A)(ii) of the District of Columbia Official Code is amended by striking the semicolon at the end and inserting the phrase "or payments made under any renewal of a contract originally made under the new construction, substantial rehabilitation, or moderate rehabilitation under section 8 that entitled the property to the exemption and for which an exemption was granted;" in its place.

Sec. 7053. Applicability.

This subtitle shall apply with respect to renewal contracts entered into before, on, or after the effective date of this subtitle.

**SUBTITLE F. BEULAH BAPTIST CHURCH REAL PROPERTY EQUITABLE TAX RELIEF**

Sec. 7061. Short title.

This subtitle may be cited as the "Beulah Baptist Church Real Property Equitable Tax Relief Emergency Act of 2013".

Sec. 7062. Section 47-4654(d) of the District of Columbia Official Code is amended by striking the phrase "September 30, 2010" and inserting the phrase "September 30, 2020, and any real property taxes, interest, penalties, fees, or other related charges assessed, as of the effective date of the Beulah Baptist Church Real Property Equitable Tax Relief Temporary Act of 2013,

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effective April 27, 2013 (D.C. Law 19-27; 60 DCR 2629), against this real property with respect to this period are forgiven and any payment already made shall be refunded" in its place.

**SUBTITLE G. GALA HISPANIC THEATRE REAL PROPERTY TAX  
ABATEMENT**

Sec. 7071. Short title.

This subtitle may be cited as the "GALA Hispanic Theatre Real Property Tax Abatement Emergency Act of 2013".

Sec. 7072. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

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

"47-4660. GALA Hispanic Theatre; Lot 79, Square 2837."

(b) A new section 47-4660 is added to read as follows:

"§ 47-4660. GALA Hispanic Theatre; Lot 79, Square 2837.

"(a) Real property taxes assessed against Lot 79, Square 2837 in excess of the amount of taxes levied for tax year 2005 shall be abated to the extent that the excess is allocable to the portion of the property leased to the Grupo de Artistas Latinoamericanos, G.A.L.A., Inc., also known as the GALA Hispanic Theatre ("GALA"), under the terms of its lease, so long as such portion is leased to GALA and is used for the purpose of producing and staging live theatre performances; provided, that the benefit of this abatement shall be passed on to GALA in the form of reduced rent equal to the amount of the abatement.

"(b) Both GALA and its landlord shall provide to the Office of Tax and Revenue ("OTR"), at the time and in the manner directed by OTR, the information as OTR may consider necessary to determine the amount of the abatement allowable for a taxable year and to verify eligibility for the abatement.

"(c) The abatement provided under this section shall apply beginning with tax year 2011. If the property becomes ineligible for the abatement, the abatement shall end at the beginning of the month following the month that the property becomes ineligible."

**SUBTITLE H. OUT-OF-STATE MUNICIPAL BOND TAX REPEAL**

Sec. 7081. Short title.

This subtitle may be cited as the "Out-of-State Municipal Bond Tax Repeal Emergency Act of 2013".

Sec. 7082. Section 47-1803.02(a)(1)(B) of the District of Columbia Official Code is amended to read as follows:

"(B) Individuals, estates, and trusts shall not, and shall not have been required to, include interest on the obligations of the District of Columbia, a state, a territory of

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the United States, or any political subdivision thereof, in the computation of District gross income."

**SUBTITLE I. [RESERVED]****SUBTITLE J. COMBINED REPORTING CLARIFICATION**

Sec. 7101. Short title.

This subtitle may be cited as the "Combined Reporting Clarification Emergency Act of 2013".

Sec. 7102. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the designation "§ 47-1810.06. Designation of surety" and inserting the designation "§ 47-1810.06. Designation of agent" in its place.

(b) Section 47-1801.04 is amended to read as follows:

"§ 47-1801.04. General definitions.

"For the purposes of this chapter, unless otherwise required by the context, the term:

"(1) "Affiliated group" means an affiliated group as defined in section 1504 of the Internal Revenue Code of 1986; provided, that the affiliated group shall not include any corporation that does not have gross income derived from sources within the District.

"(2) "Aggregated effective tax rate" means the sum of the effective rates of tax imposed by the District of Columbia, states, or possessions of the United States, and foreign nations that have entered into comprehensive tax treaties with the United States government, where a related member receiving a payment of interest expense or intangible expense is subject to tax and where the measure of the tax is imposed included the payment.

"(3) "Apportioned net operating loss" means the net operating loss generated in the year of the loss multiplied by the District of Columbia's apportionment formula for the loss year.

"(4) "Blind" means a taxpayer whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(5) "Business income" means all income that is apportionable under the Constitution of the United States.

"(6)(A) "Capital asset" means property defined or treated as a capital asset under the Internal Revenue Code of 1986.

"(B) For the purpose of computing, for any taxable year, the tax imposed under this chapter with respect to sales or other dispositions of property referred to in subparagraph (A) of this paragraph, the provisions of the Internal Revenue Code of 1986 relating

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to the treatment of gains and losses (other than the alternative tax imposed by section 1201 of the Internal Revenue Code of 1986) shall apply.

"(7) "Combined group" means the group of all persons whose income and apportionment factors are required to be taken into account pursuant to § 47-1805.02a(a) and (b) and the pertinent regulations in determining the taxpayer's share of the net business income or loss apportionable to the District.

"(8) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

"(9) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to an employee for personal services.

"(10) "Corporation" means:

"(A) Any corporation as defined by the laws of the District or organization of any kind treated as a corporation for tax purposes under the laws of the District, wherever located, which, were it doing business in the District, would be subject to the tax imposed by this chapter;

"(B) A joint-stock company, trust, association and S corporation as defined in section 1361(a) of the Internal Revenue Code of 1986, or other organization that is taxable as a corporation under federal income tax law.

"(11)(A) "Cost-of-living adjustment" means an amount, for any calendar year, equal to the dollar amount set forth in paragraph (44)(A) and (B) of this section or § 47-1806.02(f)(1)(A) and (i) multiplied by the percentage that the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the calendar year beginning January 1, 2007.

"(B) For the purposes of this paragraph, the Consumer Price Index for any calendar year is the average of the Consumer Price Index for the Washington-Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of Labor, or any successor index, as of the close of the 12-month period ending on July 31 of such calendar year.

"(12) "Deficiency" with respect to any tax imposed by this chapter means:

"(A) The amount or amounts by which the tax imposed by this chapter, as determined by the Chief Financial Officer, exceeds the amount shown as the tax by the taxpayer upon his return; or

"(B) The amount assessed as a tax by the Chief Financial Officer if no return is filed by the taxpayer.

"(13) "Dependent" means a dependent as defined in section 152 of the Internal Revenue Code of 1986.

"(14) "Dividend" means any distribution made by a corporation or financial institution (domestic or foreign) to its stockholders or members, out of its earnings, profits, or surplus, other than paid-in surplus, whenever earned by the corporation or financial institution and whether made in cash or in any other property (other than stock of the same class in the corporation or financial institution, if the recipient of the stock dividend has neither received nor

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exercised an option to receive the dividend in cash or in property other than stock instead of stock) and whether distributed before, during, upon, or after liquidation or dissolution of the corporation or financial institution; except, that in the case of any such distribution, any part of which for purposes of the income tax imposed under the Internal Revenue Code of 1986 is deemed to constitute a capital gain, such part shall be deemed to constitute a capital gain for purposes of the tax imposed by this chapter; provided, that in the case of any dividend that is distributed other than in cash or stock in the same class in the corporation or financial institution and not exempted from tax under this chapter, the basis of tax to the recipient shall be the market value of the property at the time of the distribution; provided further, that a dividend shall not include any dividend paid by a mutual life insurance company to its shareholders.

"(15) "Doing business" means any activity of a partnership, corporation or financial institution that enjoys the benefits and protection of the government and laws of the District.

"(16) "Domestic partners" means persons who have registered their relationship with the District pursuant to section 3 of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (9-114; D.C. Official Code § 32-702).

"(17) "Employee" means an individual having a place of abode or residing or domiciled within the District at the time the tax is required to be withheld in respect to the individual's employment by another, and to every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether domiciled in the District or not, including an officer of a corporation, but excluding any elective officer of the government of the United States or any officer or employee in the legislative branch of the government of the United States whose compensation is paid by the Secretary of the Senate or Clerk of the House of Representatives, any officer of the executive branch of the government of the United States whose appointment was made by the President of the United States, subject to confirmation by the Senate of the United States, and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless the officer, employee, or justice is domiciled within the District of Columbia at any time during the taxable year.

"(18) "Employer" means an employer as defined in section 3401(d) of the Internal Revenue Code of 1986.

"(19) "Fiduciary" means a guardian, trustee, executor, committee, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any person.

"(20) "Financial institution" means any bank or trust company incorporated or required to be incorporated and doing business under the laws of the United States, the District of Columbia, or any state, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency and which is subject by law to supervision and examination by the District or by any state, territorial, or federal authority having supervision over the financial institution, including:

"(A) Any savings and loan associations; and

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"(B) Any company, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, which is organized or created under the laws of a foreign country and which maintains an office or branch in the District.

"(21) "Fiscal year" means an accounting period of 12 months ending on any day other than the last day of December and on the basis of which the taxpayer is required to report for federal income tax purposes.

"(22) "Head of household" shall have the same meaning as defined in section 2(b) of the Internal Revenue Code of 1986.

"(23) "Individual" means all natural persons (other than fiduciaries), whether married, domestic partners, or unmarried.

"(24) "Intangible expense" means:

"(A) An expense, loss, or cost for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property, to the extent the expense, loss, or cost is allowed as a deduction or cost in determining taxable income for the taxable year under the Internal Revenue Code of 1986;

"(B) A loss related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

"(C) A royalty, patent, technical, or copyright and licensing fee; or

"(D) Any other similar expense or cost.

"(25) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, and similar types of intangible assets.

"(26) "Interest expense" means an amount directly or indirectly allowed as a deduction under section 163 of the Internal Revenue Code of 1986 for purposes of determining taxable income under the Internal Revenue Code of 1986.

"(27) "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, approved April 6, 1954 (68A Stat. 3; 26 U.S.C. § 1 *et seq.*), as amended through May 24, 1985.

"(28) "Internal Revenue Code of 1986" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*); which provisions shall apply on the same dates that they are effective for federal tax purposes.

"(29) "International banking facility" or "IBF" shall have the same meaning as provided in section 204.8(a)(1) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(1)).

"(30) "International banking facility extension of credit" or "IBF loan" shall have the same meaning as provided in section 204.8(a)(3) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(3)).



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"(31) "International Banking Facility time deposit" or "IBF time deposit" shall have the same meaning as provided in section 204.8(a)(2) of Regulation D of the Board of Governors of the Federal Reserve System, effective December 3, 1981 (12 CFR § 204.8(a)(2)).

"(32) "Net operating loss" shall have the same meaning as provided in section 172(c) of the Internal Revenue Code of 1986, subject to limitations and modifications provided in this section.

"(33) "Net operating loss deduction" means the aggregate of the apportioned net operating loss carryovers to the taxable year.

"(34) "Nonbusiness income" means all income other than business income.

"(35) "Nonresident" means every individual other than a resident.

"(36) "Ownership" in determining the ownership of stock, assets, or net profits of any person, means the constructive ownership of section 318(a) of the Internal Revenue Code of 1986 as modified by section 856(d)(5) of the Internal Revenue Code of 1986.

"(37) "Partnership" means a general or limited partnership or organization of any kind that is treated as a partnership for tax purposes under the laws of the District of Columbia.

"(38) "Payroll period" means a payroll period as defined in section 3401(b) of the Internal Revenue Code of 1986.

"(39) "Person" means any individual, firm, partnership, general partner of a partnership, limited liability company, registered limited liability partnership, foreign limited liability partnership, association, corporation (whether or not the corporation is, or would be if doing business in the District, subject to this chapter), unincorporated business, company, syndicate, estate, trust, business trust, trustee, trustee in bankruptcy, receiver, executor, administrator, assignee, fiduciary, or organization of any kind. For purposes of combined reporting, "Person" shall not include a Qualified High Technology Company as defined in § 47-1817.01(5)(A).

"(40) "Related entity" means a person that under the attribution rules of section 318 of the Internal Revenue Code of 1986 is:

"(A) A stockholder who is an individual, or a member of the stockholder's family as enumerated in section 318 of the Internal Revenue Code of 1986, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock;

"(B) A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock; or

"(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code of 1986 ("party related to the corporation"), if the corporation or party related to the corporation owns,

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directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

"(41) "Related member" means:

"(A) A person that, with respect to the taxpayer is, at any time during the year, a related entity;

"(B) A component member as defined in section 1563(b) of the Internal Revenue Code of 1986;

"(C) A controlled group of which the taxpayer is also a component; or

"(D) A person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code of 1986.

"(42) "Resident" means an individual domiciled in the District at any time during the taxable year, and every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether or not the individual is domiciled in the District, excluding any elective officer of the government of the United States or any employee on the staff of an elected official in the legislative branch of the government of the United States if the employee is a bona fide resident of the state of residence of the elected officer, or any officer of the executive branch of the government whose appointment was made by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States, unless the officer, employee, or justice is domiciled within the District at any time during the taxable year. In determining whether an individual is a resident, an individual's absence from the District for temporary or transitory purposes shall not be regarded as changing his domicile or place of abode.

"(43) "Sales" means all gross receipts of the taxpayer that are business income, as that term is defined in this section.

"(44) "Standard deduction" means:

"(A) The amount of \$4,000, increased annually, beginning January 1, 2013, by the cost-of-living adjustment (if the adjustment does not result in a multiple of \$50, rounded to the next lowest multiple of \$50), in the case of a return filed by a single individual, by a head of household, by a surviving spouse, or jointly by husband and wife (or domestic partner);

"(B) " The amount of \$2,000; provided that, for tax years beginning after December 31, 2012, the amount shall be one-half of the amount determined in subparagraph (A) of this paragraph, in the case of a married person filing separately; or

"(C) In the case of an individual who is a resident, as defined in paragraph (42) of this section, for less than a full 12-month taxable year, the amounts specified in subparagraphs (A) and (B) of this paragraph prorated by the number of months that the individual was a resident.

"(45) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory, or possession of the United States and any foreign country or political subdivision thereof.

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"(46) "Subpart F income" shall have the same meaning as provided in section 952 of the Internal Revenue Code of 1986.

"(47) "Surviving spouse" shall have the same meaning as provided in section 2(a) of the Internal Revenue Code of 1986; except, that in applying section 2(a) of the Internal Revenue Code of 1986, the term spouse shall be deemed to include a domestic partner.

"(48) "Tax" or "tax liability" includes the liability for all amounts owing by a taxpayer to the District under this chapter.

"(49) "Tax haven" means a jurisdiction that:

"(A) For a particular tax year in question has no, or nominal, effective tax on the relevant income and has laws or practices that prevent effective exchange of information for tax purposes with other governments regarding taxpayers benefitting from the tax regime;

"(B) Lacks transparency, which, for the purposes of this definition, means that the details of legislative, legal, or administrative provisions are not open to public scrutiny and apparent or are not consistently applied among similarly situated taxpayers;

"(C) Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;

"(D) Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; or

"(E)(i) Has created a tax regime that is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

"(ii) For the purposes of this definition, the term "tax regime" means a set or system of rules, laws, regulations, or practices by which taxes are imposed on any person, corporation, or entity, or on any income, property, incident, indicia, or activity pursuant to governmental authority.

"(50) "Taxable income" means as required by the context set forth in § 47-1807.01(2) or § 47-1808.02(1).

"(51) "Taxable year" means the calendar year or the fiscal year, whichever is the basis upon which the net income of the taxpayer is computed under this section; if no fiscal year has been established by the taxpayer, it means the calendar year. The term "taxable year" includes, in the case of a return made for a fractional part of a calendar or fiscal year under the provisions of this section or under regulations prescribed by the Chief Financial Officer, the period for which the return is made; provided, that no taxpayer shall change from a calendar year to a fiscal year or from a fiscal year to a calendar year within any taxable year without the written authorization of the Chief Financial Officer.

"(52) "Taxpayer" means any person subject to the tax imposed by this chapter.

"(53) "Trade or business" means the engaging in or carrying on of any trade, business, profession, vocation, or calling, or commercial activity in the District of Columbia, including activities in the District that benefit a related entity of the taxpayer, the performance of

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functions of a public office, and the leasing of real or personal property in the District of Columbia by any person whether or not the property is leased directly by the person or through an agent, officer, or a representative, and whether or not the person, agent, officer, or representative performs any services in connection with the property.

"(54) "United States" means the United States of America and includes all of the states of the United States, the District of Columbia, and United States' territories and possessions.

"(55) "Unitary business" means a single economic enterprise that is made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts.

"(56) "Wages" means wages as defined in section 3401(a) of the Internal Revenue Code of 1986.

"(57) "Water's-edge combined group" is comprised of all entities includible in the combined report, as determined pursuant to § 47-1810.07.

"(58) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity."

(c) Section 47-1805.02a is amended to read as follows:

"§ 47-1805.02a. Combined reporting required.

"(a) For tax years beginning after December 31, 2010, a taxpayer engaged in a unitary business with one or more other persons that are part of a water's-edge combined group reporting pursuant to § 47-1810.07 shall file a combined report, which includes the income, determined under § 47-1810.04 and § 47-1810.05 and the allocation and apportionment factors determined under § 47-1810.02 and the pertinent regulations of all such persons that are members of the unitary business, and other information as required by the Chief Financial Officer. If a worldwide combined reporting election has been made, the taxpayer shall file a combined report that includes such income and factors of all the persons that are members of the unitary business, and any other information as required by the Chief Financial Officer.

"(b) The Chief Financial Officer may, by regulation, require a combined report to include the income and associated apportionment factors of any persons that are not included pursuant to subsection (a) of this section but that are members of a unitary business to reflect proper apportionment of income of the entire unitary business.

"(c) If the Chief Financial Officer determines that the reported income or loss of a taxpayer engaged in a unitary business with any person not included represents an avoidance or evasion of tax by the taxpayer, the Chief Financial Officer may, on a case-by-case basis, require that all or any part of the income and associated apportionment factors be included in the taxpayer's combined report.

"(d) With respect to inclusion of associated apportionment factors pursuant to this section, the Chief Financial Officer may require the exclusion of any one or more of the factors,

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the inclusion of one or more additional factors, that will fairly represent the taxpayer's business activity in the District, or the employment of any other method to effectuate a proper reflection of the total amount of income subject to apportionment and an equitable allocation and apportionment of the taxpayer's income.

"(e) The Chief Financial Officer shall adopt regulations as necessary to implement combined reporting and to ensure that the tax liability or net income of any taxpayer whose income derived from or is attributable to sources within the District that is required to be determined by a combined report pursuant to § 47-1810.02 or § 47-1810.07 and of each entity included in the combined report, both during and after the period of inclusion in the combined report, is properly reported, determined, computed, assessed, collected, or adjusted.

"(f) The Chief Financial Officer shall adopt regulations as necessary prescribing the form and manner of all returns and reports required under § 47-1805.02a, including the time, place, and extension of such returns and reports.

"(g) Any taxpayer election made under § 47-1805.02(5)(C) and the pertinent regulations to file a consolidated return is revoked for tax years beginning after December 31, 2010."

(d) Sections 47-1810.04, 47-1810.05, 47-1810.06, 47-1810.07, and 47-1810.08 are amended to read as follows:

"§ 47-1810.04. Determination of taxable income or loss using combined report; components of income subject to tax in the District, application of tax credits and post-apportionment deductions; determination of taxpayer's share of the business income of a combine group apportionable to the District.

"(a) The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to the District, which shall include, in addition to other types of income, the taxpayer member's apportioned share of business income of the combined group, where business income of the combined group is calculated as a summation of the individual net business incomes of all members of the combined group. A member's net business income is determined by removing all but business income, expense, and loss from that member's total income, as provided in this section and § 47-1810.05.

"(b)(1) Each taxpayer member is responsible for tax based on its taxable income or loss apportioned or allocated to the District, which shall include its:

"(A) Share of any business income apportionable to the District of each of the combined groups of which it is a member, as determined under subsection (c) of this section;

"(B) Share of any business income apportionable to the District of a distinct business activity conducted within and without the District wholly by the taxpayer member, as determined under the provisions for apportionment of business income set forth in this chapter;

"(C) Income from a business conducted wholly by the taxpayer member entirely within the District;

"(D) Income sourced to the District from the sale or exchange of capital or assets, and from involuntary conversions, as determined under § 47-1810.05(b)(8);

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"(E) Nonbusiness income or loss allocable to the District as determined under the provisions for allocation of nonbusiness income set forth in this chapter;

"(F) Income or loss allocated or apportioned in an earlier year required to be taken into account as District source income during the income year, other than a net operating loss; and

"(G) Net operating loss carryover.

"(2) If the taxable income computed pursuant to this section and § 47-1810.05 results in a loss for a taxpayer member of the combined group, that taxpayer member has a District net operating loss, subject to the net operating loss limitations and carryover provisions of this chapter. The District net operating loss shall be applied as a deduction in the subsequent year only if that taxpayer has District source positive net income, whether or not the taxpayer is a member of a combined reporting group in the subsequent year.

"(3) Except where otherwise provided, no tax credit or post-apportionment deduction earned by one member of the group, but not fully used by or allowed to that member, may be used, in whole or in part, by another member of the group or applied, in whole or in part, against the total income of the combined group. A post-apportionment deduction carried over into a subsequent year as to the member that incurred it, and available as a deduction to that member in a subsequent year, will be considered in the computation of the income of that member in the subsequent year regardless of the composition of that income as apportioned, allocated, or wholly within the District.

"(c) The taxpayer's share of the business income apportionable to the District of each combined group of which it is a member shall be the product of the:

"(1) Business income of the combined group, determined under § 47-1810.05; and

"(2) Taxpayer member's apportionment percentage, determined in accordance with this chapter, including in the property, payroll, and sales factor numerators of the taxpayer's property, payroll, and sales, respectively, associated with the combined group's unitary business in the District and including in the denominator the property, payroll, and sales of all members of the combined group, including the taxpayer, which property, payroll, and sales are associated with the combined group's unitary business wherever located.

"§ 47-1810.05. Determination of the business income of the combined group.

"(a) The business income of a combined group is determined as follows:

"(1) From the total income of the combined group as determined under paragraph (2) of this subsection and subsection (b) of this section, subtract any income and add any expense or loss, other than the business income, expense, or loss of the combined group.

"(2) Except as otherwise provided, the total income of the combined group is the sum of the income of each member of the combined group determined under federal income tax laws, as adjusted for District purposes, as if the member were not consolidated for federal purposes.

"(3) In the case of any person entitled to the distributive share of a trade or business net income, the Chief Financial Officer shall adopt regulations as necessary to determine the methodology of including the distributive share but provide an exclusion for the

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portion of the distributive share that is reported by and taxed against any person under the provisions of this chapter to prevent double taxation or double deduction.

"(b) The income of each member of the combined group shall be determined as follows:

"(1) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group shall be the taxable income for the corporation after making appropriate adjustments under this chapter.

"(2) For any member not included in paragraph (1) of this subsection, the income to be included in the total income of the combined group shall be determined as follows:

"(A) A profit and loss statement shall be prepared for each foreign branch or corporation in the currency in which the books of account of the branch or corporation are regularly maintained.

"(B) Adjustments shall be made to the profit and loss statement to conform it to the accounting principles generally accepted in the United States for the preparation of such statements, except as modified by regulation.

"(C) Adjustments shall be made to the profit and loss statement to conform it to the tax accounting standards required by this chapter.

"(D) Except as otherwise provided by regulation, the profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, shall be translated into the currency in which the parent company maintains its books and records.

"(E) Income apportioned to the District shall be expressed in United States dollars.

"(3)(A) In lieu of the procedures set forth in paragraph (2) of this subsection, and subject to the determination of the Chief Financial Officer that it reasonably approximates income as determined under this chapter, any member not subject to paragraph (1) of this subsection may determine its income on the basis of the consolidated profit and loss statement that includes the member and that is prepared for filing with the Securities and Exchange Commission by related corporations.

"(B) If the member is not required to file with the Securities and Exchange Commission, the Chief Financial Officer may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor.

"(C) If the statements described in subparagraphs (A) or (B) of this paragraph do not reasonably approximate income as determined under this chapter, the Chief Financial Officer may accept those statements with appropriate adjustments to approximate that income.

"(4)(A) All dividends paid by one to another of the members of the combined group shall, to the extent those dividends are paid out of the earnings and profits of the unitary business included in the combined report, in the current or an earlier year, be eliminated from the income of the recipient.

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"(B) Except as otherwise provided, this paragraph shall not apply to dividends received from members of the unitary business that are not a part of the combined group. Except when specifically required by the Chief Financial Officer to be included, all dividends paid by an insurance company directly or indirectly to a corporation that is part of a unitary business with the insurance company shall be deducted or eliminated from the income of the recipient of the dividend.

"(5)(A) Except as otherwise provided by regulation, business income from an inter-company transaction between members of the same combined group shall be deferred in a manner similar to 26 CFR § 1.1502-13.

"(B) Upon the occurrence of any of the following events, deferred business income resulting from an inter-company transaction between members of a combined group shall be restored to the income of the seller and shall be apportioned as business income earned immediately before the event:

"(i) The object of a deferred inter-company transaction is:

"(I) Resold by the buyer to an entity that is not a member of the combined group;

"(II) Resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged; or

"(III) Converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or

"(ii) The buyer and seller are no longer members of the same combined group, regardless of whether the members remain unitary.

"(6)(A) A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction pursuant to section 170 of the Internal Revenue Code of 1986, be subtracted first from the business income of the combined group, subject to the income limitations of that section applied to the entire business income of the group, and any remaining amount shall then be treated as a nonbusiness expense allocable to the member that incurred the expense, subject to the income limitations of that section applied to the nonbusiness income of that specific member.

"(B) Any charitable deduction disallowed under subparagraph (A) of this paragraph, but allowed as a carryover deduction in a subsequent year, shall be treated as originally incurred in the subsequent year by the same member, and the rules set forth in this section shall apply in the subsequent year in determining the allowable deduction in that year.

"(7) Gain or loss from the sale or exchange of capital assets, property described by section 1231(a)(3) of the Internal Revenue Code of 1986, and property subject to an involuntary conversion shall be removed from the total separate net income of each member of a combined group and shall be apportioned and allocated as follows:

"(A) For each class of gain or loss (short-term capital, long-term capital, section 1231 of the Internal Revenue Code of 1986, and involuntary conversions) all members' business gain and loss for the class shall be combined without netting between classes and each



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class of net business gain or loss separately apportioned to each member using the member's apportionment percentage determined under § 47-1810.04.

"(B) Each taxpayer member shall then net its apportioned business gain or loss for all classes, including any such apportioned business gain and loss from other combined groups, against the taxpayer member's nonbusiness gain and loss for all classes allocated to the District, using the rules of sections 1222 and 1231 of the Internal Revenue Code of 1986, without regard to any of the taxpayer member's gains or losses from the sale or exchange of capital assets, section 1231 of the Internal Revenue Code of 1986 property, and involuntary conversions that are nonbusiness items allocated to another state.

"(C) Any resulting District source income or loss, if the loss is not subject to the limitations of section 1211 of the Internal Revenue Code of 1986, of a taxpayer member produced by the application of the preceding subparagraphs shall then be applied to all other District source income or loss of that member.

"(D) Any resulting District source loss of a member that is subject to the limitations of section 1211 of the Internal Revenue Code of 1986 shall be carried over by that member and shall be treated as District source short-term capital loss incurred by that member for the year for which the carryover applies.

"(8) Any expense of one member of the unitary group that is directly or indirectly attributable to the nonbusiness or exempt income of another member of the unitary group shall be allocated to that other member as a corresponding nonbusiness or exempt expense, as appropriate.

"§ 47-1810.06. Designation of agent.

"As a filing convenience, and without changing the respective liability of group members, members of a combined reporting group shall designate one taxpayer member of the combined group to file a single return, in the form and manner prescribed by the Chief Financial Officer, in lieu of filing their own respective returns; provided, that the taxpayer designated to file the single return consents to act as surety with respect to the tax liability of all other taxpayers properly included in the combined report and agrees to act as agent on behalf of those taxpayers for tax matters relating to the combined report. If for any reason the agent is unwilling or unable to perform its responsibilities, tax liability may be assessed against the taxpayer members.

"§ 47-1810.07. Water's-edge reporting; initiation and withdrawal election.

"(a)(1) Absent an election under subsection (b) of this section to report based upon a worldwide unitary combined reporting basis, taxpayer members of a unitary group shall determine each of their apportioned shares of the net business income or loss of the combined group on a water's-edge unitary combined reporting basis.

"(2) In determining tax under this chapter on a water's-edge unitary combined reporting basis, taxpayer members shall take into account all or a portion of the income and apportionment factors of only the following members otherwise included in the combined group pursuant to § 47-1805.02a:

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"(A) The entire income and apportionment factors of any member incorporated in the United States or formed under the laws of any state, the District, or any territory or possession of the United States;

"(B) The entire income and apportionment factors of any member, regardless of the place incorporated or formed, if the average of its property, payroll, and sales factors within the United States is 20% or more;

"(C) The entire income and apportionment factors of any member that is a domestic international sales corporation, as described in sections 991 through 994 of the Internal Revenue Code of 1986, inclusive, a foreign sales corporation, as described in sections 921 through 927 of the Internal Revenue Code of 1986, inclusive, or any member that is an export trade corporation, as described in sections 970 through 971 of the Internal Revenue Code of 1986, inclusive;

"(D) Any member not described in subparagraphs (A), (B), or (C) of this paragraph shall include its business income that is effectively connected, or treated as effectively connected under the provisions of the Internal Revenue Code of 1986 with the conduct of a trade or business within the United States and, for that reason, subject to federal income tax;

"(E) Any member that is a resident of a country that does not have a comprehensive income tax treaty with the United States and earns more than 20% of its income, directly or indirectly, from intangible property or service-related activities that are deductible against the business income of other members of the water's-edge group, to the extent of that income and the apportionment factors related thereto; and

"(F)(i) The entire income and apportionment factors of any member that is doing business in a tax haven defined as being engaged in activity sufficient for that tax haven jurisdiction to impose a tax under United States constitutional standards.

"(ii) If the member's business activity within a tax haven is entirely outside the scope of the laws, provisions, and practices that cause the jurisdiction to meet the criteria of a tax haven, as that term is defined in § 47-1801.04(49), the activity of the member shall be treated as not having been conducted in a tax haven.

"(b) An election to report District tax based on worldwide unitary combined reporting is effective only if made on a timely filed original return for a tax year by every member of the unitary business subject to tax under this chapter.

"(c) At the discretion of the Chief Financial Officer:

"(1) A worldwide unitary combined reporting election may be disregarded, in part or in whole, and the income and apportionment factors of any member of the taxpayer's unitary group may be included in or excluded from the combined report without regard to the provisions of this section, if any member of the unitary group fails to comply with any provision of this chapter; and

"(2) Worldwide unitary combined reporting may be mandated, in part or in whole, and the income and apportionment factors of any member of the taxpayer's unitary group may be included in or excluded from the combined report without regard to the provisions of this section, if any member of the unitary group fails to comply with any provision of this chapter, or

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if a person otherwise not included in the water's-edge combined group was availed of with a substantial objective of avoiding District income tax.

"(d)(1) A worldwide unitary combined reporting election is binding for and applicable to the tax year it is made and all tax years thereafter for a period of 10 years. It may be withdrawn or reinstated after withdrawal, before the expiration of the 10-year period, only upon written request for reasonable cause based on extraordinary hardship due to unforeseen changes in District tax statutes, law, or policy, and only with the written authorization of the Chief Financial Officer.

"(2) An election shall constitute consent to the reasonable production of documents and taking of depositions in accordance with District law.

"(3) If the Chief Financial Officer grants a withdrawal of election pursuant to paragraph (1) of this subsection, he or she shall impose reasonable conditions necessary to prevent the evasion of tax or to clearly reflect income for the election period before or after the withdrawal.

"(4) Upon the expiration of the 10-year period, a taxpayer may withdraw from the worldwide unitary combined reporting election. Withdrawal must be made in writing within one year of the expiration of the election and is binding for a period of 10 years, subject to the same conditions as applied to the original election.

"(e) The Chief Financial Officer shall develop rules governing the impact, if any, on the scope or application of a worldwide unitary combined reporting election, including termination or deemed election, resulting from a change in the composition of the unitary group, the combined group, the taxpayer members, and any other similar change.

"§ 47-1810.08. Accounting rules; future deductions.

"(a) If the enactment of combined reporting requirements for unitary businesses results in an increase to a combined group's net deferred tax liability, the combined group shall be entitled to a deduction to the extent determined under subsection (b) of this section. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with generally accepted accounting principles, as of September 14, 2011, shall be eligible for this deduction. To the extent the deduction would produce a net operating loss in any tax year, the unused deduction may be carried forward to each succeeding tax year by the combined group.

"(b) For the 7-year period beginning with the 5th year of the combined filing, a combined group shall be entitled to a deduction equal to 1/7th of the net increase in the taxable temporary differences that caused the increase in the net deferred tax liability, as computed at the time of enactment in accordance with generally accepted accounting principles, that would result from the imposition of the combined reporting requirements but for the deduction provided under this section. The amount of the deduction shall in no case exceed the amount necessary to offset any increase in net deferred tax liability, as computed in accordance with generally accepted accounting principles, that would result from the imposition of all of the provisions of combined reporting but for the deduction provided under this section.

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"(c) For the purposes of this section, the term "net deferred tax liability" shall mean the net increase, if any, in deferred tax liabilities minus the net increase, if any, in deferred tax assets of the combined group, as computed in accordance with generally accepted accounting principles."

Sec. 7103. Applicability.

This subtitle shall apply as of the effective date of this act and for taxable years beginning after December 31, 2010.

**SUBTITLE K. FIRST CONGREGATIONAL UNITED CHURCH OF CHRIST  
TAX RELIEF**

Sec. 7111. Short title.

This subtitle may be cited as the "First Congregational United Church of Christ Tax Relief Emergency Amendment Act 2013".

Sec. 7112. Section 7013 of the Fiscal Year 2011 Budget Support Act of 2010, effective September 24, 2010 (D.C. Law 18-223; 57 DCR 6242), is amended to read as follows:

Sec. 7113. Equitable real property tax relief.

"Of the deed transfer taxes imposed on the transfer by First Congregational United Church of Christ of Lots 834, 835, 837, 7003, 7006, 7007, 7008, 7009, 7010, 7011, 7014, 7015, Square 375, and any other lots created from Lots 823 and 831, Square 375, and all real property taxes, interest, penalties, fees and other related charges assessed against First Congregational United Church of Christ on real property located on Lots 823 and 831 (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future), Square 375, \$951,000 shall be forgiven by the District and refunded to First Congregational United Church of Christ."

Sec. 7114. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE L. TREGARON CONSERVANCY TAX EXEMPTION AND RELIEF**

Sec. 7121. Short title.

This subtitle may be cited as the "Tregaron Conservancy Tax Exemption and Relief Emergency Act of 2013".

Sec. 7122. (a) The Council orders the forgiveness for the period beginning March 1, 2007, through the end of the month that this subtitle becomes effective of:

(1) All real property taxes, interest, penalties, fees, and other related charges assessed against the real property described as Lots 842, 849, and 857, Square 2084;

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(2) Eighty-eight percent of the real property taxes, interest, penalties, fees, and other related charges assessed against the real property described as Lot 843, Square 2084; and

(3) All transfer and recordation taxes, interest, and penalties (but excluding recordation fees) imposed with respect to the conveyance of any of the properties described in this section to the Tregaron Conservancy, a District of Columbia nonprofit corporation.

(b) The Council further orders that, notwithstanding any law or rule of law limiting the time for claiming a refund of such taxes, any payments made for the period beginning March 1, 2007, through the end of the month that this subtitle becomes effective shall be refunded to the person who made the payment.

Sec. 7123. Applicability.

This subtitle shall apply upon a reprogramming of \$222,490 to the Office of the Chief Financial Officer in fiscal year 2013.

**SUBTITLE M. ADAMS MORGAN HOTEL REAL PROPERTY TAX  
ABATEMENT JOBS REQUIREMENT CLARIFICATION**

Sec. 7131. Short title.

This subtitle may be cited as the "Adams Morgan Hotel Real Property Tax Abatement Jobs Requirements Clarification Emergency Act of 2013".

Sec. 7132. Section 47-4652 of the District of Columbia Official Code is amended by striking the number "765" and inserting the number "342" in its place.

**SUBTITLE N. TAX REVISION COMMISSION EXTENSION AND  
PROCUREMENT STREAMLINING**

Sec. 7141. Short title.

This subtitle may be cited as the "Tax Revision Commission Extension and Procurement Streamlining Emergency Amendment Act of 2013".

Sec. 7142. Section 47-462(d) of the District of Columbia Official Code is amended by striking the phrase "9 months after the Commission's appointment" and inserting the phrase "December 31, 2013" in its place.

Sec. 7143. The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), is amended as follows:

(a) Section 201(b) (D.C. Official Code § 2-352.01(b)) is amended by adding a new paragraph (1A) to read as follows:

"(1A) The Tax Revision Commission, pursuant to section 407;"

(b) Section 407 (D.C. Official Code § 2-354.07) is amended as follows:

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

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"(a-1) The Tax Revision Commission may establish a streamlined noncompetitive process for entering into contracts for goods and services not exceeding \$40,000."

(2) Subsection (b) is amended by striking the phrase "this section" and inserting the phrase "this section or the \$40,000 limitation of subsection (a-1) of this section" in its place.

**SUBTITLE O. TAX CLARIFICATIONS**

Sec. 7151. Short title.

This subtitle may be cited as the "Tax Clarification Emergency Amendment Act of 2013".

Sec. 7152. Section 302(32) of the District of Columbia Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 11; D.C. Official Code § 42-1102(32)), is amended to read as follows:

"(32)(A) A deed to property to which there is a valid certification by the Mayor that both the property and transferee are eligible for exemption from real property taxation pursuant to § 47-1005.02; provided, that, unless waived by regulation, a copy of the certification shall accompany the deed at the time it is submitted for recordation.

"(B) For the purposes of this paragraph, the term "deed to property" includes a deed of trust encumbering the property."

Sec. 7153. Section 47-902 of the District of Columbia Official Code is amended by adding a new paragraph (25) to read as follows:

"(25) Transfers of property to which there is a valid certification by the Mayor that both the property and transferor are eligible for exemption from property taxation pursuant to § 47-1005.02; provided, that, unless waived by regulation, a copy of the certification shall accompany the deed at the time it is submitted for recordation."

Sec. 7154. Section 47-1005.02(a)(1) of the District of Columbia Official Code is amended to read as follows:

"(a)(1) Property eligible for the low-income housing tax credit provided by section 42 of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2189; 26 U.S.C. § 42), ("affordable housing") that is owned by an organization that is not organized or operated for private gain, or that is owned by an entity controlled, directly or indirectly, by such an organization, shall be exempt from the tax imposed by Chapter 8 of this title and from a payment in lieu of tax imposed under § 47-1002(20) during the time that the real property is being developed for or being used as affordable housing and is subject to restrictive covenants governing income during the federal low-income housing tax credit compliance period, including any extended use period."

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Sec. 7155. Section 47-2202(3A) of the District of Columbia Official Code is amended by striking the phrase "The rate of the tax shall be 9%" and inserting the phrase "Effective October 1, 2011, the rate of the tax shall be 10%" in its place.

Sec. 7156. Section 47-3802(b) of the District of Columbia Official Code is amended by striking the phrase "a qualified supermarket, qualified restaurant, or retail store" and inserting the phrase "a qualified restaurant or retail store" in its place.

Sec. 7157. Chapter 47 of Title 47 of the District of Columbia Official Code is amended as follows:

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

"47-4704. Applicability."

(b) Section 47-4702 is amended to read as follows:

"§ 47-4702. Annual certification of continuing eligibility for exemptions and abatements from real property tax.

"(a) To the extent allowable by law, on or before April 1 of each year, beginning in 2012, and every year thereafter, any nonprofit organization or business entity owning property receiving a real property tax exemption or abatement pursuant to Chapter 10 (other than property exempt under § 47-1002(1), (2), (3), or (21)) or Chapter 46 of this title, regardless of when the exemption or abatement was received, shall be required to file an annual report, under oath, with the Office of the Chief Financial Officer providing:

"(1) The lot and square, parcel, or reservation number of the real property and certifying that the real property has been used during the preceding real property tax year for the purpose for which the exemption or abatement was granted; and

"(2) A description of the community benefits provided pursuant to the provisions of the act granting the tax exemption or abatement, or an update on the progress of the community benefits identified in the act granting the tax exemption or abatement.

"(b) Failure to certify that the property was still eligible for the exemption or abatement based on the use of the property as required by subsection (a)(1) of this section shall result in a termination of the exemption or abatement as of the beginning of the tax year in which the report is required to be filed. If the report is not filed timely, the Office of the Chief Financial Officer shall assess a penalty of \$250. This section shall not apply to a property owner that is required to file an annual report pursuant to § 47-1007.

"(c) Upon written application by the property owner filed on or before April 1 of any year, the Office of the Chief Financial Officer may grant a reasonable extension of time for filing the report required under subsection (a) of this section. For reasonable cause, the Office of the Chief Financial Officer may abate the penalty provided under subsection (b) of this section as well as the tax, penalty, and interest resulting from the failure to file the report timely."

(c) A new section 47-4704 is added to read as follows:

"§ 47-4704. Applicability.

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"This chapter shall apply as of October 1, 2011."

Sec. 7158. Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2884.03 is amended by adding a new subsection (f) to read as follows:

"(f) No license shall be issued to any person unless:

"(1) At least 30 days before the issuance of a license, all affected Advisory Neighborhood Commissions have been provided notice that a pawnbroker license application has been submitted to the Mayor; provided, that this paragraph shall not apply to applications for a renewal of a pawnbroker license; and

"(2) The opinions of all affected Advisory Neighborhood Commissions have been accorded great weight during deliberations to approve or deny the license application."

(b) Section 47-2884.05 (b) is amended by striking the phrase "immediately give written notice thereof to the Mayor. Upon receipt of such notice the Mayor shall attach to the license a statement of the change of location and the date thereof, which shall be authority for the operation of such business under such license at the new location" and inserting the phrase "file an application for a new license in accordance with the provisions of § 47-2884.03" in its place.

(c) Section 47-2884.09 is amended as follows:

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

"(a) Beginning January 1, 2011, the maximum rate of interest which a pawnbroker may contract for, and receive, including fees, shall not exceed 5% per month, or fraction of the month, for the first 6 months of a loan, and 3% per month, or fraction of the month, thereafter; provided, that a pawnbroker may contract for, and receive, a minimum charge of \$2 per month, or fraction of the month, in lieu of interest."

(2) New subsections (c) and (d) are added to read as follows:

"(c) Once during each calendar year, a borrower shall have the right to rescind any pawn loan by the end of the same business day of the transaction. A \$2 fee may be assessed by the licensee to offset the administrative cost of the rescission.

"(d) The Mayor shall, no more frequently than once every 3 years, investigate from time to time the economic conditions and other factors relating to and affecting the business of making pawnbroker loans under this part and shall ascertain and report to the Council all pertinent facts necessary to determine what maximum rate of interest should be permitted."

(d) Section 47-2884.11(d) is amended by striking the phrase "on forms to be prescribed by the Mayor of the District of Columbia" and inserting the phrase "on forms or via electronic means in a format prescribed by the Mayor" in its place.

(e) The text of section 47-2884.17 is amended to read as follows:

"The Mayor, pursuant to Chapter 2 of Title 5, may issue rules to implement the provisions of this act."



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Sec. 7159. Section 106(a) of the Fiscal Year 2013 Budget Support Technical Clarification Temporary Amendment Act of 2012, effective March 13, 2013 (D.C. Law 19-226; 59 DCR 13553), is repealed.

Sec. 7160. Applicability.

Section 7158 shall apply as of the effective date of this act.

**SUBTITLE P. TAX ABATEMENT FINANCIAL ANALYSIS REQUIREMENTS**

Sec. 7161. Short title.

This subtitle may be cited as the "Tax Abatement Financial Analysis Requirements Emergency Act of 2013".

Sec. 7162. Chapter 47 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-4701 is amended to read as follows:

"§ 47-4701. TAFA requirements.

"(a) A bill introduced in the Council that grants an exemption or abatement of a tax imposed by this title or by § 42-1103, unless the exemption or abatement is one of general applicability, shall not receive a Council hearing until a completed tax abatement financial analysis ("TAFA") has been provided to the Council and made available to the public.

"(b)(1) The TAFA shall include:

"(A) The terms of the exemption or abatement;

"(B) The estimated annual value of the exemption or abatement;

"(C) The purpose for which the grantee seeks the exemption or abatement;

"(D) A summary of the proposed community benefits to be provided by the grantee of the exemption or abatement, including, if applicable, the number of jobs that may be created, delineated in accordance with paragraph (2)(A)(iv), (v) and (vi) of this subsection;

"(E) If, in the opinion of the Chief Financial Officer, it is unlikely that the grantee's stated purpose could be accomplished without the proposed exemption or abatement:

"(i) An estimate of the amount of exemption or abatement necessary to accomplish the purpose;

"(ii) Efforts by the grantee to obtain alternate financing; and

"(iii) Any factors that limit the ability of the grantee to obtain adequate financing; and

"(F) A financial analysis prepared by the Office of the Chief Financial Officer, which shall consist of:

"(i) For existing buildings, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the recipient could be reasonably expected to meet its fiscal needs without the proposed exemption or abatement;

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"(ii) For new developments, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and of the financing proposal submitted by the recipient and an advisory opinion stating whether or not it is likely that the project could be financed without the proposed exemption or abatement;

"(iii) For exemptions or abatements related to a specific individual or entity, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the recipient could be reasonably expected to meet its fiscal needs without the proposed exemption or abatement; and

"(iv) For exemptions or abatements related to a category or group of property owners or taxpayers, a review and analysis of the public policy goal intended to be addressed, if applicable, by the exemption or abatement, including whether the exemption or abatement is appropriately targeted and likely to achieve the intended goal.

"(2)(A) In addition to the requirements described in paragraph (1) of this subsection, for a bill that grants an exemption or abatement to a housing development, the TAFA shall include in the summary of the proposed community benefits:

"(i) The number of affordable housing units to be developed;

"(ii) For what level of Area Median Income, as defined by § 47-858.01(1)(A)(i), the units will be affordable;

"(iii) The assessed financial value of the subsidy, which shall be measured as the difference between the market rate of a comparable unit within the same neighborhood and the rate that is being charged as affordable housing;

"(iv) The number of jobs that will be created, delineated by status as to whether a job is:

"(I) Permanent;

"(II) Temporary;

"(III) Full-time; or

"(IV) Part-time;

"(v) The estimated wages and benefits for each job created;

"(vi) Any commitment made to hiring District residents; and

"(vii) A description of any other public policy goal that the exemption or abatement is meant to address, including expected results.

"(B) The summary shall state which community benefits are already required by law, such as inclusionary zoning, the community amenities that have already been negotiated as part of a planned-unit-development approval, and the requirements or incentives already included in law or regulation, such as environmental standards."

(b) Section 47-4703 is amended by striking the citation "§ 47-4701(b)(4)" and inserting the citation "§ 47-4701(b)(1)(F)" in its place.

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**SUBTITLE Q. CLARIFICATION OF PERSONAL PROPERTY TAX REVENUE REPORTING**

Sec. 7171. Short title.

This subtitle may be cited as the "Clarification of Personal Property Tax Revenue Reporting Emergency Act of 2013".

Sec. 7172. Section 47-501 of the District of Columbia Official Code is amended by adding the following sentence at the end:

"Beginning September 30, 2011, personal property tax shall be reported in the fiscal year in which it is collected."

**SUBTITLE R. INCOME TAX WITHHOLDING STATEMENTS ELECTRONIC SUBMISSION**

Sec. 7181. Short title.

This subtitle may be cited as the "Income Tax Withholding Statements Electronic Submission Emergency Act of 2013".

Sec. 7182. Section 47-1812.08 of the District of Columbia Official Code is amended as follows:

(a) Subsection (g)(1)(B) is amended by striking the last sentence.

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

"(n)(1) Beginning for statements due after December 31, 2011, each employer or payor required under this section to withhold income tax for an employee or a person who receives a payment subject to withholding ("payee") shall prepare a statement for each employee or payee that shows for the previous calendar year any information that the Chief Financial Officer requires by regulation or guidance.

"(2)(A) An employer or payor required to submit the statements pursuant to paragraph (1) of this subsection shall submit one copy of the statement for each employee or payee to the Chief Financial Officer by January 31 of each year.

"(B) Except as provided by subparagraph (C) of this paragraph, if the number of statements that an employer or payor is required to submit is 25 or more, the employer or payor shall submit the statements in an electronic format, as prescribed by the Chief Financial Officer.

"(C) The Chief Financial Officer may waive the requirement that an employer or payor submit statements in electronic format if the Chief Financial Officer determines that the requirement will result in undue hardship to the employer or payor."

**SUBTITLE S. CLEAN HANDS**

Sec. 7191. Short title.

This subtitle may be cited as the "Clean Hands Emergency Act of 2013".

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Sec. 7192. Subsection 47-2862(a) of the District of Columbia Official Code is amended as follows:

- (a) Paragraph (6) is amended by striking the word "or".
- (b) Paragraph (7) is amended by striking the period and inserting the phrase "; or" in its place.
- (c) A new paragraph (8) is added to read as follows:  
"(8) Has failed to file required District tax returns."

**SUBTITLE T. [RESERVED]****SUBTITLE U. DESTINATION DC CLARIFICATION**

Sec. 7211. Short title.

This subtitle may be cited as the "Destination DC Technical Clarification Emergency Amendment Act of 2013".

Sec. 7212. The Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1201.01 *et seq.*), is amended as follows:

- (a) Section 205(f) (D.C. Official Code § 10-1202.05(f)) is repealed.
- (b) Section 208a(h) (D.C. Official Code § 10-1202.08a(h)) is amended by striking the phrase "transfer \$3 million from" and inserting the phrase "transfer \$3 million, as adjusted for inflation beginning in fiscal year 2015, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor, from" in its place.
- (c) Section 218(b)(10) (D.C. Official Code § 10-1202.18(b)(10)) is amended by striking the phrase "ANC2C" and inserting the phrase "ANC 6E" in its place.

**SUBTITLE V. TIBETAN COMMUNITY REAL PROPERTY TAX EXEMPTION AND RELIEF**

Sec. 7221. Short title.

This subtitle may be cited as the "Tibetan Community Real Property Tax Exemption and Relief Emergency Act of 2013".

Sec. 7222. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

- (a) The table of contents is amended by adding a new section designation to read as follows:  
"47-4661. Tibetan community property; lot 30, square 139."
- (b) A new section 47-4661 is added to read as follows:  
"§ 47-4661. Tibetan community property; lot 30, square 139."

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"The real property described as Lot 30, Square 139 shall be exempt from real property taxation so long as the real property is owned and used by the International Campaign for Tibet, an organization approved under section 501(c)(3) of the Internal Revenue Code, and used solely to further its tax-exempt purposes, including continuing to offer programs that are open and free to the general public, such as lectures, films, art exhibits, a library of Tibetan materials, and meeting space for the Tibetan and Buddhist communities of the District."

**SUBTITLE W. CONTINGENCY CASH RESERVE NOTIFICATION**

Sec. 7231. Short title.

This subtitle may be cited as the "Contingency Cash Reserve Notification Emergency Act of 2013".

Sec. 7232. Within 3 business days after an allocation from or use of the contingency cash reserve fund established by section 450A of the District of Columbia Home Rule Act, approved November 22, 2000 (114 Stat. 2440; D.C. Official Code § 1-204.50a), the Chief Financial Officer shall transmit to the Budget Director of the Council a report of the:

- (1) Amount of the allocation or use; and
- (2) Purpose of the allocation or use.

Sec. 7233. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE X. DEDICATED FUNDING FOR THE COMMISSION ON ARTS AND HUMANITIES COMMISSION**

Sec. 7241. Short title.

This subtitle may be cited as the "Dedicated Funding for the Commission on Arts and Humanities Emergency Amendment Act of 2013".

Sec. 7242. Section 6a of the Commission on the Arts and Humanities Act, effective January 29, 1998 (D.C. Law 12-42; D.C. Official Code § 39-205.01), is amended as follows:

(a) Subsection (a-1) is amended to read as follows:

"(a-1) There shall be deposited into the Fund:

"(1) Dedicated taxes as provided by subsection (a-2) of this section;

"(2) Interest earned on money deposited into the Fund.

"(3) Private donations, gifts, and grants; and

"(4) Proceeds of the sale or loan of works of arts, prints, and promotional items."

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

"(a-2)(1)(A) Notwithstanding § 47-392.02, from fiscal year 2014 through fiscal year 2017, of the amount of revenue by which taxes imposed by § 47-2002 ("sales-tax revenue") reported in the fiscal year's Comprehensive Annual Financial Report ("CAFR") exceed the annual sales-tax revenue estimate from February 22, 2013, quarterly revenue estimate provided

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by the Chief Financial Officer ("February 2013 revenue estimate"), up to \$22 million of the sales-tax revenue shall be deposited into the Fund for use in the following fiscal year.

"(B) The amount to be deposited in the Fund under this paragraph shall be adjusted for inflation, as measured by the percentage increase, if any, from fiscal year 2014 in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

"(C) The amount to be deposited in the Fund under this paragraph shall not exceed the difference between the total amount of revenue reported in the fiscal year's CAFR above the February 2013 revenue estimate.

"(2) Notwithstanding § 47-392.02, beginning in fiscal year 2018 and for each fiscal year thereafter, except as provided by paragraph (4) of this subsection, 1/23<sup>rd</sup> of the sales-tax revenue reported in the prior fiscal year Comprehensive Annual Financial Report shall be deposited in the Fund.

"(3) Any revenue deposited in the Fund pursuant to paragraph (2) of this subsection shall, dollar-for-dollar, be used to offset other local funds available to the Commission.

"(4) For each fiscal year, any unexpended funds in the Fund attributable to dedicated taxes from the previous fiscal year shall be deducted from the amount to be deposited in that fiscal year."

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

"(f) Beginning in fiscal year 2018, the Commission shall be funded entirely from moneys deposited into the Fund."

Sec. 7243. Section 47-2002 of the District of Columbia Official Code is amended by adding a new subsection (c) to read as follows:

"(c) Of the revenue received pursuant to this section, a portion shall be allocated to the Arts and Humanities Enterprise Fund in accordance with section 6a(a-2) of the Commission on the Arts and Humanities Act, effective January 29, 1998 (D.C. Law 12-42; D.C. Official Code § 39-205.01(a-2))."

#### **SUBTITLE Y. BRYANT MEWS HOMEOWNER'S ASSOCIATION EQUITABLE REAL PROPERTY TAX RELIEF**

Sec. 7251. Short title.

This subtitle may be cited as the "Bryant Mews Homeowner's Association Equitable Real Property Tax Relief Emergency Act of 2013".

Sec. 7252. The Council orders that all real property taxes, interest, penalties fees, and other related charges assessed against Lots 0858 and 0859 in Square 4112, currently owned by the Bryant Mews Homeowners Association, for tax years 1989 through 2007, inclusive, shall be forgiven. The Council further orders that all tax sales of lots 0858 and 0859 in Square 4112

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conducted under Chapter 13A of Title 47 of the District of Columbia Official Code shall be cancelled pursuant to section 47-1366 of the District of Columbia Official Code.

**SUBTITLE Z. BASILICA OF THE NATIONAL SHRINE OF THE  
IMMACULATE CONCEPTION REAL PROPERTY TAX EXEMPTION**

Sec. 7261. Short title.

This subtitle may be cited as the "Basilica of the National Shrine of the Immaculate Conception Real Property Tax Exemption and Equitable Real Property Tax Relief Emergency Act of 2013".

Sec. 7262. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

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

"47-1091. Basilica of the National Shrine of the Immaculate Conception Property; Lot 6, Square 3663".

(b) A new section 47-1091 is added to read as follows:

"§ 47-1091. Basilica of the National Shrine of the Immaculate Conception Property; Lot 6, Square 3663.

"(a) The Basilica of the National Shrine of the Immaculate Conception Property, Lot 6, Square 3663, located in the Northeast quadrant of the District of Columbia and comprising approximately 5 acres of land, generally bounded by the Basilica's parking lot, Harewood Road, and the Catholic University of America, together with the improvements thereon and owned by the Basilica of the National Shrine of the Immaculate Conception ("Property") shall be exempt from all taxation so long as it is owned and planned for use by, or actually used by, the Basilica of the National Shrine of the Immaculate Conception for its purposes and activities and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.

"(b) If the owner applies for and is granted a real property tax exemption under § 47-1002, the exemption provided under subsection (a) of this section shall terminate on the day before the effective date of the exemption granted under § 47-1002.

"(c) Real property taxes, interest, penalties, fees, and other related charges assessed against the Property for the period of July 1, 2012, through the end of the month following the effective date of this subtitle, as well as transfer and recordation taxes, interest, and penalties incurred as a result of the conveyance of Lot 6 in Square 3663 to the Basilica of the National Shrine of the Immaculate Conception Property, shall be forgiven, and any payments made for the period or on account of the conveyance shall be refunded."

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**SUBTITLE AA. JUBILEE HOUSING RESIDENTIAL RENTAL PROJECT  
PROPERTY TAX EXEMPTION**

Sec. 7271. Short title.

This subtitle may be cited as the "Jubilee Housing Residential Rental Project Property Tax Exemption and Equitable Real Property Tax Relief Emergency Act of 2013".

Sec. 7272. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

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

"47-1089. Jubilee Housing Limited Partnership Residential Rental Project; Lots 62, 63, and 809, Square 2576, and Lot 818, Square 2566."

(b) A new section 47-1089 is added to read as follows:

"§47-1089. Jubilee Housing Limited Partnership Residential Rental Project; Lots 62, 63, and 809, Square 2576, and Lot 818, Square 2566.

"Beginning October 1, 2013, the real properties described as Lots 62, 63, and 809, Square 2576, and Lot 818, Square 2566, owned by Jubilee Housing, Inc., or by Jubilee Housing Limited Partnership, shall be exempt from real property taxation so long as the real properties continue to be owned by Jubilee Housing, Inc., or Jubilee Housing Limited Partnership, and continue to be under applicable use restrictions during a federal low-income housing tax credit compliance period, and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009."

Sec. 7273. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE BB. MARRIAGE EQUALITY ESTATE TAX CLARIFICATION**

Sec. 7281. Short title.

This subtitle may be cited as the "Marriage Equality Estate Tax Clarification Emergency Act of 2013".

Sec. 7282. The Chief Financial Officer is directed to make the clarifying changes to all estate tax forms, filing instructions, and regulations necessary to make it clear that all married couples are eligible for estate tax deductions and exclusions, including the spousal exclusion of bequests, whether direct or through trusts, to a surviving spouse, regardless of whether such marriage is recognized under federal law.

**SUBTITLE CC. MOTOR VEHICLE FUEL TAX**

Sec. 7291. Short title.

This subtitle may be cited as the "Motor Vehicle Fuel Tax Emergency Act of 2013".



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Sec. 7292. Section 47-2301(a) of the District of Columbia Official Code is amended to read as follows:

"(a)(1) The District shall levy and collect a tax on motor vehicle fuels equal to 8.0% of the average wholesale price of a gallon of regular unleaded gasoline for the applicable base period, excluding federal and state taxes, sold or otherwise disposed of by an importer or by a user, or used for commercial purposes. In no case shall the average wholesale price computed for purposes of this section be less than \$2.94.

"(2) The average wholesale price shall be calculated for adjustment of the motor vehicle fuel tax effective April 1 and October 1 of each year. When computing the average wholesale price of a gallon of motor vehicle fuel, the District shall use the monthly Central Atlantic (PADD 1B) Regular Gasoline Wholesale/Resale Price by Refiners data compiled by the US Energy Information Administration, or equivalent wholesale price data. Monthly price data for the period from July 1 through December 31, rounded to the nearest one half-cent, shall be used to determine the tax for the immediately following period beginning April 1. Monthly price data for the period from January 1 through June 30, rounded to the nearest one half-cent, shall be used to determine the tax for the immediately following period beginning October 1.

"(3) In no case shall an average wholesale price computed for purposes of this section vary by more than 10% from the average wholesale price for the prior period."

**SUBTITLE DD. TITLE-HOLDING ENTITY REAL PROPERTY TAX  
EXEMPTION**

Sec. 7301. Short title.

This subtitle may be cited as the "Title-Holding Entity Real Property Tax Exemption Emergency Act of 2013".

Sec. 7302. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1002 is amended as follows:

(1) Paragraph (29) is amended by striking the word "and" at the end.

(2) Paragraph (30) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new paragraph (31) is added to read as follows:

"(31)(A) Property owned by a title-holding entity that is not organized or operated for private gain, as to which all of the ownership, membership, or beneficial interest is vested in one or more organizations, each of which is entitled to an exemption under paragraphs (6) through (20) of this section, and that is used by one or more organizations, each of which is entitled to an exemption under paragraphs (6) through (20) of this section, for the activities and purposes entitling each such organization to the exemption.

"(B) A title-holding entity shall notify the Office of Tax and Revenue within 30 days of any change in any of its owners, members, or beneficial interest holders.

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"(C) For the purposes of this paragraph, the term "title-holding entity" means an entity whose activities are limited to holding record title to a property, providing the property (with or without consideration) for the use of the one or more organizations, each of which is entitled to an exemption under paragraphs (6) through (20) of this section, for the activities and purposes entitling each such organization to the exemption, encumbering the property with indebtedness, and repaying indebtedness secured by the property."

(b) Section 47-1005.01(a) is amended by striking the phrase "through (20)" and inserting the phrase "through (20) and § 47-1002(31)" in its place.

Sec. 7303. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

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

"47-1090. Washington Latin Public Charter School property; Lot 0800, Square 3327."

(b) A new section 47-1090 is added to read as follows:

"§ 47-1090. Washington Latin Public Charter School property; Lot 0800, Square 3327.

"(a) The real property located at 5210 2<sup>nd</sup> Street, N.W., and described as Lot 0800, Square 3327, shall be exempt from real property taxation and possessory interest taxation so long as the real property continues to be owned or occupied under a ground lease by Washington Latin Public Charter School or Latin Rudolph QALICB, LLC.

"(b) Any transfer, assignment, or other disposition of all or any portion of the real property described in subsection (a) of this section, including as assignment of leasehold interest in the real property or a sublease of the real property between Washington Latin Public Charter School and Latin Rudolph QALICB, LLC, or a deed of trust with respect to the real property granted by Washington Public Charter School or Latin Rudolph QALICB, LLC, to a third party lender, shall be exempt from the tax imposed under § 42-1103 and § 47-903.

"(c) The exemptions set forth in this section shall apply:

"(1) To successor corporations or entities organized or incorporated by Washington Latin Public Charter School for the purposes of receiving New Market Tax Credits administered by the U.S. Treasury Department; and

"(2) As of April 12, 2013."

Sec. 7304. Applicability.

Section 7303 shall apply as of the effective date of this act.

**SUBTITLE EE. INTERNET SALES TAX, HOMELESSNESS PREVENTION,  
AND WMATA MOMENTUM FUND ESTABLISHMENT**

Sec. 7311. Short title.

This subtitle may be cited as the "Internet Sales Tax, Homelessness Prevention, and WMATA Momentum Fund Establishment Emergency Act of 2013".

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Sec. 7312. Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new chapter designation

"39A. Internet Tax." after the chapter designation "39. Toll Telecommunication Service Tax."

(b) A new Chapter 39A is added to read as follows:

"Chapter 39A. Internet Tax

"Sec.

"47-3931. Definitions.

"47-3932. Imposition of tax.

"47-3933. Scope.

"47-3934. Deposit into General Fund.

"§ 47-3931. Definitions.

"For the purposes of this chapter, the term:

"(1) "Exempted vendor" means a remote-vendor that in accordance with local law has a specified level of cumulative gross receipts from Internet sales to purchasers in the District that exempt it from the requirement to collect remote sales taxes pursuant to this chapter.

"(2) "Person" means an individual, trust, estate, fiduciary, partnership, corporation, limited liability company, or any other legal entity.

"(3) "Remote-vendor" means a seller, whether or not it has a physical presence or other nexus within the District of Columbia selling, via the Internet, property or rendering a service to a purchaser in the District.

"(4) "Remote sales taxes" means District sales and use taxes when applied to a property or service sold by a vendor via the Internet to a purchaser in the District.

"(5) "Vendor" means a person or retailer, including a remote-vendor, selling property or rendering a service to a purchaser in the District of Columbia, the receipts from which a sales and use tax may be imposed pursuant to District law or this chapter.

"§ 47-3932. Imposition of tax.

"(a) Within 120 days of the effective date of this chapter, the District government shall require every remote-vendor not qualifying as an exempted vendor to collect and remit to the District remote sales taxes on sales made via the Internet to a purchaser in the District of Columbia; provided, that the District government has established pursuant to local law:

"(1) A registry, with privacy and confidentiality controls so that it cannot be used for any purpose other than the administration of remote sales taxes, where each remote-vendor, not qualifying as an exempted vendor, shall be required to register;

"(2) Appropriate protections for consumer privacy;

"(3) A means for a remote-vendor to determine the current District sales and use tax rate and taxability;

"(4)(A) A formula and procedure that permits a remote-vendor to deduct reasonable compensation for expenses incurred in the administration, collection, and remittance of remote sales taxes, other than remote sales taxes paid by the remote-vendor for goods or services purchased for its own consumption.

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"(B) The compensation authorized by subparagraph (A) of this paragraph may be claimed by a third-party service provider that the remote-vendor has contracted with to perform the responsibilities related to the administration, collection, and remittance of remote sales taxes;

"(5) The date that the collection of remote sales taxes shall commence;

"(6) A small-vendor exemption, including a process for an exempted vendor to apply for a certificate of exemption;

"(7) Subject to § 47-3933, the products and types of products that shall be exempt from the remote sales taxes; and

"(8) Rules:

"(A) For accounting for bad debts and rounding;

"(B) That address refunds and credits for remote sales taxes relating to:

"(i) Customer returns;

"(ii) Restocking fees;

"(iii) Discounts; and

"(iv) Coupons;

"(C) For allocating shipping and handling and discounts that apply to multiple items;

"(D) Regarding notice and procedural requirements for registry enrollment by remote-vendors; and

"(E) That the Mayor determines are necessary or appropriate to further the purposes of this chapter; and

"(9) A plan to substantially reduce the administrative burdens associated with sales and use taxes, including remote sales taxes.

"(b) Every remote-vendor that does not qualify as an exempted vendor shall register with the District pursuant to subsection (a)(1) of this section, in accordance with local law or rules issued pursuant to this chapter or other local law.

"§ 47-3933. Scope.

"(a) Nothing in this chapter shall require the District to exempt or to impose a tax on any product or to adopt any particular type of tax, or to impose the same rate of tax as any other taxing jurisdiction that collects remote sales taxes.

"(b) Nothing in this chapter permits or prohibits the District from:

"(1) Licensing or regulating a person;

"(2) Requiring a person to qualify to transact remote selling;

"(3) Subjecting a person to District taxes not related to the sale of goods or services;

"(4) Exercising authority over matters of interstate commerce.

"§ 47-3934. Deposit into General Fund.

"The proceeds of the taxes imposed under this chapter, and any money collected from fees or fines charged pursuant to this chapter, if any, shall be deposited in the General Fund of

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the District of Columbia established under § 47-131 and shall, dollar-for-dollar, be used to offset revenue collected from the automated traffic enforcement."

Sec. 7313. Funding for homelessness prevention.

Fifty percent of the revenue from automated traffic enforcement, to the extent that the revenue is offset by revenue from a tax imposed by section 7312 on sales made via the Internet and the interest earned on that revenue and not to exceed \$50 million in a fiscal year, shall be dedicated to the End Homelessness Fund established in section 5192.

Sec. 7314. WMATA Momentum Fund.

(a) There is established as a special fund the WMATA Momentum Fund ("Fund"), which shall be administered by the Chief Financial Officer in accordance with subsection (c) of this section.

(b) The Fund shall consist of 50% of the revenue from the automated traffic enforcement program to the extent that the revenue is offset by revenue from a tax imposed by section 7312 on sales made via the Internet and the interest earned on that revenue, and to the extent that the revenue exceeds \$100 million in a fiscal year, 100% of the revenue in excess of \$100 million shall be deposited in the Fund.

(c) Upon execution of an inter-jurisdiction funding agreement for implementation of the Washington Metropolitan Area Transit Authority Momentum Strategic Plan, any monies in the Fund shall be made available to finance the District's share of the implementation costs.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

Sec. 7315. Applicability.

This subtitle shall apply as of the effective date of the Marketplace Fairness Act of 2013, passed by the Senate on May 6, 2013 (S. 743).

**SUBTITLE FF. AGE-IN-PLACE AND EQUITABLE SENIOR-CITIZEN REAL PROPERTY AND RELIEF PAYMENT PLAN**

Sec. 7321. Short title.

This subtitle may be cited as the "Age-in-Place and Equitable Senior-Citizen Real Property and Relief Payment Plan Emergency Amendment Act of 2013".

Sec. 7322. Section 3 of the Age-in-Place and Equitable Senior Citizen Real Property Act of 2012, effective July 13, 2012 (D.C. Law 19-165; 59 DCR 6188), is repealed.

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Sec. 7323. Section 47-863 of the District of Columbia Official Code is amended as follows:

(a) Subsection (a)(1A)(A) is amended by striking the figure "\$125,000" wherever it appears and inserting the phrase "\$125,000; adjusted for inflation beginning on January 1, 2015, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, Washington-Baltimore Area, published by the Bureau of Labor Statistics of the Department of Labor" in its place.

(b) Subsection (g)(3) is amended by striking the phrase "late payment of real property tax" and inserting the phrase "late payment of real property tax; provided, that the Chief Financial Officer may establish a payment plan to collect the delinquent taxes" in its place.

**SUBTITLE GG. SMOKING CESSATION DEDICATED FUNDING ACT**

Sec. 7331. Short title.

This subtitle may be cited as the "Smoking Cessation Dedicated Funding Emergency Act of 2013".

Sec. 7332. Section 47-2402 of the District of Columbia Official Code is amended by adding a new subsection (1) to read as follows:

"(1)(1) There is established as a special fund the Smoking Cessation Fund ("Fund"), which shall be administered by the Department of Behavioral Health in accordance with paragraph (3) of this subsection.

"(2) There shall be deposited into the Fund:

"(A) Dedicated taxes as provided by paragraph (4) of this subsection; and

"(B) Interest earned on money deposited into the Fund.

"(3) The Fund shall be used for smoking-cessation efforts.

"(4)(A) Notwithstanding § 47-392.02, from fiscal year 2014 through fiscal year 2017, the amount of revenue by which taxes imposed by § 47-2402 ("cigarette-tax revenue") reported in the fiscal year's Comprehensive Annual Financial Report exceed the annual cigarette-tax revenue estimate from February 22, 2013, quarterly revenue estimate provided by the Chief Financial Officer ("estimated revenue"), the excess of cigarette-tax revenue shall be deposited into the Fund for use in the following fiscal year; provided, that no more than 10% of the estimated revenue shall be deposited into the fund.

"(B) Beginning with fiscal year 2018, 10% of the cigarette-tax revenue shall be deposited into the Fund.

"(5)(A) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

"(B) Subject to authorization by Congress, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation."

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**SUBTITLE HH. MULTISTATE TAX COMPACT ENACTMENT AND CLARIFICATION**

Sec. 7341. Short title.

This subtitle may be cited as the “Multistate Tax Compact Enactment and Clarification Emergency Act of 2013”.

Sec. 7342. Chapter 4 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-441 is repealed.

(b) Section 47-441 is re-enacted and reads as follows:

The Multistate Tax Compact is adopted and entered into with all jurisdictions legally joining therein, in the form substantially set forth as follows:

**Article I. Purposes.**

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

**Article II. Definitions.**

1. “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
2. “Subdivision” means any governmental unit or special district of a state.
3. “Taxpayer” means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.
4. “Income tax” means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.
5. “Capital stock tax” means a tax measured in any way by the capital of a corporation considered in its entirety.
6. “Gross receipts tax” means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.
7. “Sales tax” means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price, by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed

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exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession, or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV, and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

Article III. Elements of Income Tax Laws.

Repealed

Article IV. Division of Income.

Repealed.

Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates.

Vendors May Rely.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission.

Organization and Management.

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency, the state shall provide by law for the selection of the Commission member from the heads of the relevant agencies. State law may provide that a member of the Commission be represented by an alternate but only if there is on file with the Commission written notification of the designation and identity of the alternate. The Attorney General of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the Commission, but shall not vote. Such Attorneys General, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.



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(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the Commission member from that state.

(c) Each member shall be entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The Commission shall adopt an official seal to be used as it may provide.

(e) The Commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its Executive Committee may determine. The Commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular, and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The Commission shall elect annually, from among its members, a Chairman, a Vice Chairman and a Treasurer. The Commission shall appoint an Executive Director who shall serve at its pleasure, and it shall fix his duties and compensation. The Executive Director shall be Secretary of the Commission. The Commission shall make provisions for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the Executive Director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix their duties and compensation. The Commission bylaws shall provide for personnel policies and programs.

(h) The Commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The Commission may accept for any of its purposes and functions, any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental entity and may utilize and dispose of the same.

(j) The Commission may establish one or more offices for the transacting of its business.

(k) The Commission shall adopt bylaws for the conduct of its business. The Commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The Commission annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the Commission or services borrowed shall be reported in the annual report of the Commission, and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The Commission may make additional reports as it may deem desirable.

#### Committees.

2. (a) To assist in the conduct of its business when the full Commission is not meeting, the Commission shall have an Executive Committee of seven members, including the Chairman, Vice Chairman, Treasurer, and four other members elected annually by the Commission. The Executive Committee, subject to the provisions of this compact and consistent with the policies of the Commission, shall function as provided in the bylaws of the Commission.

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(b) The Commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the Commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The Commission may establish such additional committees as its bylaws may provide.

## Powers.

3. In addition to powers conferred elsewhere in this compact, the Commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

## Finance.

4. (a) The Commission shall submit to the Governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the Commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article; provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under paragraph 1(i), the Commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the

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Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

(f) Nothing contained in this article shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the Commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The Commission may also act with respect to the provisions of Article IV of this compact.

2. Prior to the adoption of any regulation, the Commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the Commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the Commission.

3. The Commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII. Interstate Audits.

1. This article shall be in force only in those party states that specifically provide therefor by statute.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents, may request the Commission to perform the audit on its behalf. In responding to the request, the Commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The Commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The Commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The Commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, documents, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the Commission within the state of which he is a resident; provided, that such state has adopted this article.

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4. The Commission may apply through the Mayor of the District of Columbia, to any court in the District of Columbia having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article, if the party or subject matter on account of which the Commission seeks an order is within the jurisdiction of the courts of the District of Columbia. The Commission may apply for such order to the courts of the state or subdivision thereof, other than the District of Columbia, on behalf of which the audit is being made, or in which the party or subject matter being sought is situated, to the extent that the Commission is authorized to do so by the laws of such other state. Failure of any person to obey any such order shall be punishable as contempt of the issuing court.

5. The Commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the Commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the Commission.

6. Information obtained by an audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions, or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the Commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

8. In no event shall the Commission make any charge against a taxpayer for an audit.

9. As used in this article, "tax", in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

#### Article IX. Entry into Force and Withdrawal.

1. This compact shall enter into force when enacted by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The Commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

#### Article X. Effect on Other Laws and Jurisdiction.

Nothing in this compact shall be construed to:

- (a) Affect the power of any state or subdivision thereof to fix rates of taxation.
- (b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII 9.

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may apply for the purposes of that article and the Commission's powers of study and recommendation pursuant to Article VI 3. may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation, or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Article XI. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby if this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

(c) Section 47-443 is amended by striking the phrase “for which there are no corresponding provisions in the Uniform Division of Income provisions contained in Article IV of the Multistate Compact in § 47-441.”.

(d) Section 47-445 is amended by striking the word “Mayor” and inserting the phrase “Chief Financial Officer” in its place.

Sec. 7343. Applicability.

This subtitle shall apply as of the effective date of this act and for tax years beginning after December 31, 2012

**SUBTITLE II. PROCESSING SALES TAX CLARIFICATION**

Sec. 7361. Short title.

This subtitle may be cited as the “Sales Tax on Restaurant Utilities Clarification Emergency Act of 2013”.

Sec. 7362. Section 47-2005(11A) of the District of Columbia Official Code is amended to read as follows:

“(11A)(A) Restaurant use. Sales of natural or artificial gas, oil, electricity, solid fuel, or steam, directly used in a restaurant.

“(B) For the purposes of this paragraph, the term “restaurant” means a retail establishment that is licensed by the District of Columbia, a separately metered or sub-metered facility, and in the principal business of preparing and serving food to the public. The term “restaurant” shall include a pizzeria, delicatessen, ice cream parlor, cafeteria, take-out

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counter, and caterer, and banquet and food-processing areas in hotels. The term "restaurant" does not include beverage counters, including coffee shops and juice bars."

Sec. 7363. Applicability.

This subtitle shall apply as of August 1, 2013.

**TITLE VIII. CAPITAL BUDGET****SUBTITLE A. WATERFRONT PARK BOND**

Sec. 8001. Short title.

This subtitle may be cited as the "Waterfront Park Bond Emergency Amendment Act of 2013".

Sec. 8002. Section 2(1)(A) of the DOT PILOT Revision Emergency Approval Resolution of 2010, effective February 2, 2010 (Res. 18-389; 57 DCR 1534), is amended as follows:

(a) Sub-subparagraph (viii) is amended by striking the word "and".

(b) Sub-subparagraph (ix) is amended by striking the period and inserting the phrase "; and" in its place.

(c) A new sub-subparagraph (x) is added to read as follows:

"(x) Waterfront Park."

**SUBTITLE B. CAPITAL CAPACITY EXPANSION**

Sec. 8011. Short title.

This subtitle may be cited as the "Capital Capacity Expansion Emergency Act of 2013".

Sec. 8012. Section 47-2763 of the District of Columbia Official Code is amended to read as follows:

"§ 47-2763. Enforcement.

"Any feepayer who fails to file a return or pay the ballpark fee due, as required by § 47-2762, shall be subject to all collection, enforcement, and administrative provisions applicable to unpaid taxes or fees, as provided in Chapter 18, Chapter 41, Chapter 42 (except §§ 47-4211(b)(1)(B), 47-4214, and 47-4215), Chapter 43, and Chapter 44 of this title."

**SUBTITLE C. PAY-AS-YOU-GO CAPITAL ACCOUNT AND STREETCAR FUNDING DEDICATION**

Sec. 8021. Short title.

This subtitle may be cited as the "Pay-as-you-go Capital Account and Streetcar Funding Dedication Emergency Act of 2013".

Sec. 8022. Section 47-392.02(f) of the District of Columbia Official Code is amended as follows:

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(a) Paragraph (5)(A) is amended by striking the phrase "All funds" and inserting the phrase "Beginning in the fiscal year following the completion of the capital construction of the Streetcar Project, all funds" in its place.

(b) A new paragraph (6) is added to read as follows:

"(6) All funds in the Pay-as-you-go Capital Account shall be budgeted for the Streetcar Project until the construction of the streetcar system is complete."

**SUBTITLE D. GREAT STREETS NEIGHBORHOOD RETAIL PRIORITY AREA**

Sec. 8031. Short title.

This subtitle may be cited as the "Great Streets Neighborhood Retail Priority Area Emergency Amendment Act of 2013".

Sec. 8032. The Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2-1217.71 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 2-1217.72) is amended by adding a new subsection (c) to read as follows:

"(c) The maximum principal amount of bonds that may be issued with respect to the Downtown Retail Priority Area is limited to the amount of bonds issued before March 1, 2013."

(b) Section 4 (D.C. Official Code § 2-1217.73) is amended by adding new subsections (f), (g), (h), (i), and (j) to read as follows:

"(f) There is established the Rhode Island Avenue, N.E., Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of Fourth Street, N.E., and Franklin Street, N.E.; thence east on Franklin Street NE to 15th Street, N.E.; thence north on 15th Street, N.E., to Girard Street, N.E.; thence east on Girard Street, N.E., to 17th Street, N.E.; thence north on 17th Street, N.E., to Brentwood Road, N.E.; thence northeast on Brentwood Road N.E., to 18th Street, N.E.; thence north on 18th Street, N.E., to Irving Street, N.E.; thence east on Irving Street, N.E., to Rhode Island Avenue, N.E.; thence north along the western boundary of the property at the northeast corner of 20th Street, N.E., and Rhode Island Avenue, N.E., to its northwest corner; thence northeast along the rear boundaries of all properties with frontage along the north side of Rhode Island Avenue, N.E., to the northeast corner of the property at the northwest corner of Rhode Island Avenue, N.E., and Eastern Avenue, N.E.; thence southeast along the eastern boundary of property at the corner of Rhode Island Avenue, N.E., and Eastern Avenue, N.E., to its southeast corner; thence continuing southeast to the southeast corner of the property at the southwest corner of Rhode Island Avenue, N.E., and Eastern Avenue, N.E.; thence southwest along the rear boundaries of all properties with frontage along the south side of Rhode Island Avenue, N.E., to Montana Avenue, N.E.; thence southeast along Montana Avenue, N.E., to Downing Street, N.E.; thence southwest along Downing Street, N.E., to Bryant Street, N.E.; thence west along Bryant Street, N.E., to 13th Street, N.E.; thence southeast along 13th Street, N.E., to its end at W Street, N.E.; thence west along a line extending W Street, N.E., west to the continuation of W Street, N.E., and continuing

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west along W Street, N.E., to Brentwood Road, N.E.; thence southwest along Brentwood Road, N.E., to its end at T Street, N.E.; thence southwest to the intersection of a line extending Fourth Street, N.E., south and a line extending R Street, N.E., east; thence north along line extending Fourth Street, N.E., to Fourth Street, N.E., and continuing north along Fourth Street, N.E., to the point of beginning.

"(g) There is established the Bladensburg Road, N.E., Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of Holbrook Street, N.E., and Mount Olivet Road, N.E.; thence east on Mount Olivet Road, N.E., to Bladensburg Road, N.E.; thence south on Bladensburg Road, N.E., to 17th Street, N.E.; thence south on 17th Street, N.E., to H Street, N.E.; thence east on H Street, N.E., to 19th Street, N.E.; thence south on 19th Street, N.E., to Benning Road, N.E.; thence west on Benning Road, N.E., to H Street, N.E.; thence west on H Street, N.E., to Florida Avenue, N.E.; thence west on Florida Avenue, N.E., to Holbrook Street, N.E.; thence north on Holbrook Street, N.E., to the point of beginning.

"(h) There is established the North Capitol Street Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of New York Avenue, N.W., and First Street, N.W.; thence north along First Street, N.W., to Florida Avenue, N.W.; thence northwest along Florida Avenue, N.W., to Second Street, N.W.; thence north along Second Street, N.W., to Rhode Island Avenue, N.W.; thence northeast along Rhode Island Avenue, N.W., to First Street, N.W.; thence north along First Street, N.W., to Michigan Avenue, N.W.; thence in a westerly direction along Michigan Avenue, N.W., to Park Place, N.W.; thence north along Park Place, N.W., to Irving Street, N.W.; thence northeast along Irving Street, N.W., to Kenyon Street, N.W.; thence west along Kenyon Street, N.W., to Park Place, N.W.; thence north along Park Place, N.W., to Rock Creek Church Road, N.W.; thence northeast along Rock Creek Church Road, N.W., to Harewood Road, N.W.; thence southeast along Harewood Road, N.W., to North Capitol Street; thence south along North Capitol Street to Irving Street, N.E.; thence east along Irving Street, N.E., to Michigan Avenue, N.E.; thence southwest along Michigan Avenue, N.E., to North Capitol Street; thence south along North Capitol Street to Rhode Island Avenue, N.E.; thence northeast along Rhode Island Avenue, N.E., to Lincoln Road, N.E.; thence south along Lincoln Road, N.E., to R Street, N.E.; thence east along R Street, N.E., and continuing east along a line extending R Street, N.E., to the east to its intersection with the WMATA railroad tracks; thence southwest along the WMATA railroad tracks to New York Avenue, N.E.; thence southwest along New York Avenue, N.E., to New York Avenue, N.W., and continuing southwest along New York Avenue, N.W., to the point of beginning.

"(i) There is established the Connecticut Avenue Retail Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of Connecticut Avenue, N.W., and Macomb Street, N.W., thence north on Connecticut Avenue, N.W., to its intersection with Albemarle Street, N.W., including both the east and west sides of Connecticut Avenue, N.W.", to the point of beginning.



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“(j) There is established the Nannie Helen Burroughs Avenue Priority Area, which shall consist of the parcels, squares, and lots within the following area: Beginning at the intersection of the center line of Nannie Helen Burroughs Avenue, N.E., and Minnesota Avenue, N.E.; thence northeast along Minnesota Avenue, N.E., to Sheriff Road, N.E.; thence east along Sheriff Road, N.E., to 44th Street, N.E.; thence south along 44th Street, N.E., to Jay Street, N.E.; thence east along Jay Street, N.E., to 46th Street, N.E.; thence south along 46th Street, N.E., to Hayes Street, N.E.; thence east along Hayes Street, N.E., to 54th Place, N.E.; thence northeast along 54<sup>th</sup> Place, N.E., to 55th Street, N.E.; thence northeast along 55th Street, N.E., to Jay Street, N.E.; thence southeast along Jay Street, N.E., to Nannie Helen Burroughs Avenue, N.E.; thence east along Nannie Helen Burroughs Avenue, N.E., to Eastern Avenue, N.E.; thence southeast along Eastern Avenue, N.E., to Foote Street, N.E.; thence west along Foote Street, N.E., to 55th Street, N.E.; thence south along 55th Street, N.E., to Eads Street, N.E.; thence west along Eads Street, N.E., to the Marvin Gaye Park Trail, and continuing east along the Marvin Gaye Park Trail, to the point of the beginning.”

(c) A new section 4b is added to read as follows:

“Sec. 4b. Retail Priority Area corridor revitalization programs.

“(a) Notwithstanding any tax increment financing that may be available, all funds allocated for "Great Streets" within the budgets of the Deputy Mayor for Planning and Economic Development and the District Department of Transportation shall be used to support the following corridor revitalization programs in designated Retail Priority Areas:

"(1) Small business retention and attraction programs;

"(2) Neighborhood branding and marketing;

"(3) Blighted and vacant property mitigation;

"(4) Redevelopment of private property through financial incentives, technical assistance, temporary urbanism initiatives, and property acquisition and disposition, among other mechanisms identified by the Mayor;

"(5) Streetscape and roadway infrastructure improvements to enhance walkability, pedestrian safety, lighting, and transportation; and

"(6) Beautification and greening of the public realm, including public art, landscaping, storm water retention, and litter control.

"(b)(1) With respect to the small business retention and attraction program referenced in subsection (a)(1) of this section, the Mayor shall publish, no later than 30 days after October 1, 2013, and no less than annually after that date, a notice of funding availability to make grants or loans in certain Retail Priority Areas selected by the Mayor. All awards issued with Great Streets funds shall be made on a competitive basis, and the Mayor shall publish online the application criteria and evaluation rubric for Great Streets grants and loans.

"(2) Eligible retailers and service providers shall include:

"(A) Retail businesses engaged in the sale of home furnishings, apparel, books, art, groceries, and general merchandise goods to specialized customers;

"(B) Businesses providing goods or services geared toward the enrichment of children, families, and adults; and

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"(C) Sit-down restaurants, bakeries, coffee shops, and other specialty food retailers.

"(3) To be eligible for small business retention and attraction grants or loans referenced in subsection (a)(l) of this section, a project shall:

"(A) Be within a designated Retail Priority Area;

"(B) Maintain site control of the property either through fee simple ownership of the site or through an executed contract or lease with the property owner;

"(C) Execute a First Source Agreement with the Department of Employment Services; and

"(D) Adhere to all design, construction, and rehabilitation requirements defined by the Mayor, or his or her designee."

Sec. 8033. The Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-257; 54 DCR 7194), is amended as follows:

(a) Section 2(4) is amended to read as follows:

"(4) Georgia Avenue Priority Area, consisting of the parcels, squares, and lots within the area bounded by a line beginning at the intersection of the center line of Kenyon Street, N.W., and Sherman Avenue, N.W.; continuing north along the center line of Sherman Avenue, N.W., to the center line of New Hampshire Avenue, N.W.; continuing northeast along the center line of New Hampshire Avenue, N.W., to the center line of Rock Creek Church Road, N.W.; continuing north along the center line of Rock Creek Church Road, N.W., to the center line of Spring Road, N.W.; continuing northwest along the center line of Spring Road, N.W., to the center line of Kansas Avenue, N.W.; continuing northeast along the center line of Kansas Avenue, N.W., to the western line of Georgia Avenue; continuing north along the western line of Georgia Avenue, N.W., to the center line of Eastern Avenue, N.W.; continuing south along the eastern line of Georgia Avenue, N.W., to the northern line of Kennedy Street, N.W.; continuing east along the northern line of Kennedy Street, N.W. to the center line of Kansas Avenue, N.W.; continuing southwest along the center line of Kansas Avenue, N.W., to the center line of Varnum Street, N.W.; continuing east along the center line of Varnum Street, N.W., to the center line of 7th Street, N.W.; continuing south along the center line of 7th Street, N.W., until the point where 7th Street, N.W., becomes Warder Street, N.W.; continuing further south along the center line of Warder Street, N.W., to the center line of Kenyon Street, N.W.; and continuing west along the center line of Kenyon Street, N.W., to Georgia Avenue, N.W.; continuing south along Georgia Avenue, N.W., to Barry Place, N.W.; continuing west along Barry Place, N.W., to Sherman Avenue N.W.; and continuing north along the center line of Sherman Avenue, N.W., to the beginning point;"

(b) Section 3 is amended by adding a new subsection (d) to read as follows:

"(d) The maximum principal amount of bonds that may be issued is limited to the amount of bonds issued before March 1, 2013."

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**SUBTITLE E .WATERFRONT PARK AT THE YARDS**

Sec. 8041. Short title.

This subtitle may be cited as the "Waterfront Park at the Yards Emergency Amendment Act of 2013".

Sec. 8042. The Waterfront Park at the Yards Act of 2009, effective March 3, 2010 (D.C. Law 18-105; D.C. Official Code 10-1801 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 10-1801) is amended by adding a new paragraph (2A) to read as follows:

"(2A)(A) "Cost-of-living adjustment" means an amount, for any calendar year, equal to the maximum dollar amount set forth in section 5(a)(1) multiplied by the difference between the CPI for the preceding calendar year and the CPI for the calendar year beginning January 1, 2011, divided by the CPI for the calendar year beginning January 1, 2011.

"(B) For the purposes of this paragraph, the CPI for any calendar year is the average of the CPI for the Washington-Baltimore Metropolitan Statistical Area for all-urban consumers published by the Department of Labor, or any successor index, as of the close of the 12-month period ending on July 31 of such calendar year."

(b) Section 4(a) (D.C. Official Code § 10-1803(a)) is amended to read as follows:

"(a) There is established as a special fund the Waterfront Park Maintenance Fund ("Fund"), which shall be used solely to pay the expenses of maintaining, operating, and improving the Waterfront Park and the expenses of events held in the Waterfront Park. The Chief Financial Officer shall deposit into the Fund the sales tax revenues attributable to the Waterfront Park Retail Area and revenue from the Waterfront Park Special Assessment. All monies in the Fund shall be paid by the Chief Financial Officer to the Capital Riverfront Business Improvement District pursuant to the terms set forth in the Maintenance Agreement. The payments from the Fund shall be an authorized expenditure by the District."

(c) Section 5 (D.C. Official Code § 10-1804) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) The newly designated subsection (a) is amended as follows:

(A) Paragraph (1) is amended by striking the figure "\$380,000" and inserting the phrase "\$380,000--or the amount of sales and use tax revenue attributable to the Waterfront Park Retail Area--if less than \$380,000" in its place.

(B) Paragraph (2) is amended by striking the phrase "by the increase in the CPI during the period from July 1, 2012, to the beginning of that 12-month period" and inserting the phrase "annually by the cost-of-living adjustment (if the adjustment does not result in a multiple of \$50, rounded to the next lowest multiple of \$50)--or the amount of sales and use tax revenue attributable to the Waterfront Park Retail Area--if less" in its place.

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

"(b) All sales and use tax revenue and revenue from the Waterfront Park Special Assessment received by the Chief Financial Officer by the 20th day of a month shall be

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deposited into the Fund by the Chief Financial Officer by the last business day of the following month."

(d) Section 6(b)(3) (D.C. Official Code § 10-1805(b)(3)) is amended to read as follows:

"(3) The District is authorized to transfer the income transferred to the District pursuant to paragraph (2) of this subsection to the Capitol Riverfront Business Improvement District, performing services under the Maintenance Agreement."

Sec. 8043. Section 47-895.23 of the District of Columbia Official Code is amended as follows:

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

"(a-1) The Deputy Mayor for Planning and Economic Development shall timely notify the Chief Financial Officer of every property that is subject to the levy of the special assessment; which notice shall include:

"(1) The applicable square and lot;

"(2) The date the property became subject to the special assessment;

"(3) Any days of proration;

"(4) The gross square foot area of the property; and

"(5) The corresponding amount of the special assessment."

(b) Subsection (h) is amended by striking the phrase "year of the contribution period" and inserting the phrase "tax year before such notice" in its place.

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

"(i) Special assessments shall accrue based on the tax year and shall be billed in arrears semi-annually in the same manner, under the same conditions and with the same due dates, and subject to the same interest and penalty provisions for the non-payment thereof as provided in § 47-811 for the billing of real property tax."

(d) Subsection (k) is amended by striking the phrase "this title" and inserting the phrase "this title, nor shall a lien be required to be filed therefore for sale in subsequent tax sales" in its place.

Sec. 8044. Applicability.

This subtitle shall apply as of the effective date of this act.

**SUBTITLE F. CAPITAL PROJECT RESCISSION.**

Sec. 8051. Short title.

This subtitle may be cited as the "Capital Project Rescission Emergency Act of 2013".

Sec. 8052. (a) The Chief Financial Officer shall rescind \$750,000 of PAYGO allotment and budget authority from capital project PL110C "MPD Building Renovations/Construction" under the Metropolitan Police Department, in fiscal year 2013.

(b) The Chief Financial Officer shall recognize the rescinded amount identified in subsection (a) of this section as fiscal year 2014 local funds revenue.

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Sec. 8053. The Chief Financial Officer shall rescind \$386,108.02 of fiscal year 2013 0300 (GO/IT Bond) allotment and budget authority from capital project AW707C "Boathouse Row" and allocate \$386,108.02 in fiscal year 2013 0300 (GO/IT Bond) allotment and budget authority to capital project EB008C "New Communities".

Sec. 8054. Applicability.

This subtitle shall apply as of the effective date of this act.

### TITLE IX. COUNCIL REPORTING REQUIREMENTS

Sec. 9011. Short title.

This subtitle may be cited as the "Council Reporting Requirements Emergency Act of 2013".

Sec. 9012. For the purposes of this subtitle, unless otherwise provided, reports made to the Council shall be made to the Secretary to the Council.

### PUBLIC EDUCATION

Sec. 9013. District of Columbia Public Schools reporting requirements.

(a) By October 1, 2013, the District of Columbia Public Schools ("DCPS") shall submit to the Council:

(1) A report on:

- (A) Recommendations for improving transparency of the DCPS budget, including an implementation plan for establishing a single budgeting system for the agency; and
- (B) Its work with the Department of General Services to analyze DCPS energy usage and develop a mechanism that allows the agency to re-invest its savings from consolidations and fixed costs into its operational needs;

(2) In collaboration with the Office of the State Superintendent of Education, a strategic plan to increase access to, participation in, and the funding of an intramural and interscholastic athletics program in the District of Columbia Public Schools by the 2014-2015 school year, which shall include, at a minimum:

(A) A list of all intramural, junior varsity, and varsity sports currently offered by DCPS along with the number of students that participate in each sport;

(B) A spending plan for the school year 2013-2014 for all DCPS intramural, junior varsity, and varsity sports; and

(C) An implementation plan, including a spending plan and timeline, for the expansion of intramural, junior varsity, and varsity sports within DCPS;

(3) A strategic plan to improve parental engagement efforts for the 2013-2014 school year, including:

(A) A plan for regular communication with parents regarding DCPS programs, services, initiatives, and student performance; and

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(B) A plan for use of the established parent resource centers to help in engaging parents; and

(4) A plan, based upon consultation and collaboration with the Office of Planning and the Department of General Services, for the construction of regulation-size athletic fields at Stuart-Hobson Middle School, which shall include, at a minimum:

(A) Alternative approaches on how to address the parking needs for the school, including identifying available parking at other locations, such as Logan Annex or other appropriate sites; and

(B) A spending plan that does not exceed the current capital allocation for Stuart-Hobson, as set forth in the Capital Improvement Program.

(b) By October 1, 2013, DCPS shall make publically available on its website, the final budgets for each school, along with a list of actual staff positions filled for 2013-2014 school year.

Sec. 9014. District of Columbia Public Library requirements.

By October 1, 2013, the District of Columbia Public Library shall report on the planning for the renovation of the Martin Luther King Jr. Central Library. The report shall include, at a minimum:

(1) A detailed update on design plans;

(2) A description of the project's financing including all public-private partnerships and the use of financing other than District capital funds;

(3) A detailed timeline on the steps that will be taken leading up to the start of construction in fiscal year 2017 and through completion in fiscal year 2018; and

(4) A description of the project's community and stakeholder engagement plan with an explanation of how the project will reflect the needs and perspectives of District residents.

Sec. 9015. Office of the State Superintendent of Education reporting requirements.

(a) By October 1, 2013, the Office of the State Superintendent of Education ("OSSE") shall submit to the Council a report on:

(1) Efforts to implement state-level standards addressing special education transportation services, and OSSE's efforts to ensure alignment of services with student needs and reduce unnecessary and duplicative costs, which shall include, at a minimum:

(A) A schedule and plan for training all District local education agencies ("LEAs") and relevant individualized education program ("IEP") team participants on the new standards;

(B) An update on OSSE's work to determine fidelity to the established standards, including criteria for eligibility; and

(C) Recommendations on how the District could enhance transportation services and reduce costs, including on contracting with outside vendors to provide

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transportation at a reduced cost for students attending non-public schools outside of the District, shared routes, and staggered school start times.

(2) The status of implementing the Partnership for Assessment of Readiness of College and Careers ("PARCC") assessment in public schools, which shall include, at a minimum:

(A) The barriers to implementation;  
(B) Program and technological enhancements needed to administer the new assessment; and  
(C) Changes in test security protocols to accommodate the PARCC assessment;

(3) The development of a uniform school report card for all public schools in the District, which shall include, at a minimum:

(A) A recommended system of uniform quality measurement that can be used to compare schools across public school sectors;  
(B) A timetable for implementation; and  
(C) A plan to educate and promote the universal report card to parents and students.

(4) Program enhancements that will increase the frequency of residency fraud detection, which shall include, at a minimum:

(A) The rationale for the recommendation, including the data and information used to support the decision; and  
(B) If advisable, a comprehensive plan, with a timetable, to implement residency fraud prevention program enhancements.

(5) The development of the Student Information System ("SIS"), which shall include, at a minimum:

(A) A detailed description of the SIS;  
(B) A timetable for development and the estimated launch date;  
(C) Feedback on the SIS from public LEAs and the Public Charter School Board;  
(D) A recommendation for a data governance policy; and  
(E) A detailed explanation on how the SIS will interact with existing student information systems;

(6) Recommendations to implement a single statewide enrollment methodology for purposes of determining student enrollment and budget projections for DCPS and public charter schools.

(b) In addition to the reporting requirements listed in subsection (a) of this section, OSSE shall provide to the Council:

(1) A biannual report issued no later than January 15, 2014, and July 1, 2014, on special education transportation expenditures during fiscal year 2014, along with a projected spending plan for the remainder of the fiscal year;

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(2) A biannual report, which shall be issued no later than January 15, 2014, and July 1, 2014, on non-public tuition expenditures during fiscal year 2014, including the name of each vendor receiving a payment, along with a projected spending plan for the remainder of the fiscal year.

(3) A biannual report issued no later than January 15, 2014, and July 1, 2014, on all students in non-public placements, which shall include on an aggregate level, at a minimum, the number of students delineated by the:

- (A) Level of need;
- (B) Reason for the initial referral and the placement determination;
- (C) Duration of time in the placement; and
- (D) LEA that was unable to meet the student's individual level of need;

(4) A biannual report issued no later than January 15, 2014, and July 1, 2014, on all non-public students who have returned to an LEA, which shall include on an aggregate level, at a minimum, the number of students returning delineated by the:

- (A) Student's level of need;
- (B) Duration of time in the non-public facility; and
- (C) Name and profile of the receiving LEA.

**Sec. 9016. State Board of Education reporting requirements.**

By December 1, 2013, the State Board of Education shall submit to the Council an implementation plan for the re-establishment of the Office of the Ombudsman, which shall detail how and ensure that the Office of the Ombudsman will be fully operational by January 1, 2014.

**Sec. 9017. Office of the Deputy Mayor for Education reporting requirements.**

(a) By October 1, 2013, the Office of the Deputy Mayor for Education shall submit to the Council a report on:

(1) Efforts to re-engage disconnected youth, including on the development, funding, and staffing needed during fiscal year 2014 for the planned Re-Engagement Center;

(2) The distribution and utilization of transit subsidies, including a fiscal year 2014 spending plan;

(3) The continued implementation of the South Capitol Street Memorial Act of 2012, effective June 7, 2012 (D.C. Law 9-211; 59 DCR 3083), including a fiscal year 2014 spending plan;

(4) The fiscal year 2014 implementation of the Attendance Accountability Amendment Act of 2013, signed by the Mayor on June 24, 2013 (D.C. Act 20-0094; 60 DCR \_\_\_);

(5) The implementation of the capital grant of \$6 million for construction of a language immersion public charter school serving students of middle-school age and high-school age, which shall include, at a minimum:

(A) The name of the grantee and a detailed description of the capital project to be supported by the grant;



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(B) The timeline for completion of the capital project; and  
 (C) An analysis of the need of capital funding for charter schools with recommendations on expanding such capital grant funding for charter schools; and  
 (D) The supplemental services and funding provided to DCPS outside of the uniform per student funding formula, including:

(i) The amount of funds for each service and expenditure; and  
 (ii) The criteria by which these services and related resources are allocated and a specific plan for how the District intends to allocate these resources to all public schools in order to achieve equity and equal access to resources pursuant to section 115 of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective September 24, 2010 (D.C. Law 18-223; D.C. Official Code § 38-2913).

(b) By January 1, 2014, the Office of the Deputy Mayor for Education shall submit to the Council a recommendation on expanding compulsory attendance requirements to students attending Pre-K 3 and Pre-K.

**ECONOMIC DEVELOPMENT AND REGULATION**

Sec. 9018. New Communities Initiative reporting.

Section 203 of the Housing Production Trust Fund Act of 1988, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 42-2812.03), is amended by adding a new subsection (e) to read as follows:

"(e) On an annual basis, the Office of the Deputy Mayor Office for Planning and Economic Development and the District of Columbia Housing Authority shall submit a written report to the Chairperson of the Committee on Economic Development for the District of Columbia, which shall address the following:

"(1) An overall summary of the progress of the New Communities Initiative, including:

- "(A) Overall spending to date;
- "(B) Projected future costs;
- "(C) Completion status;
- "(D) Total number of units built and income mix by Area Median Income;

and

"(E) Estimated completion date.

"(2) A report on each New Communities Initiative site building, including:

- "(A) Spending on the site to date;
- "(B) Projected future costs;
- "(C) Financing sources;
- "(D) Updates on plans for new buildings, if any;
- "(E) Income mix by Area Median Income;
- "(F) Number of units in each building;
- "(G) Completion status of each building; and
- "(H) Estimated completion date of construction.

## ENROLLED ORIGINAL

- "(3) A report on each existing New Communities Initiative site, including:
- "(A) Plans;
  - "(B) Completion status;
  - "(C) Spending on building to date;
  - "(D) Projected future costs;
  - "(E) Financing sources;
  - "(F) Estimated date of construction completion;
  - "(G) Number of residents that have been relocated;
  - "(H) Number of residents that have returned to site;
  - "(I) Number of units on original site; and
  - "(J) Income mix by Area Median Income.
- "(4) A report on amenities, including:
- "(A) Plans for amenities;
  - "(B) Spending on amenities to date;
  - "(C) Projected future costs; and
  - "(D) Financing sources.
- "(5) A report on human capital, including:
- "(A) Number of residents served;
  - "(B) Services offered;
  - "(C) Spending on human capital to date; and
  - "(D) Projected future costs."

Sec. 9019. D.C. Water and Sewer Authority report.

(a) With respect to the proposed relocation and development of the District-owned property at 125 O Street S.E., Washington, D.C. 20003 ("DC WASA Site"), the Mayor shall, by December 31, 2013, submit to the Council a report to include progress related to the following activities:

- (1) Identification of a relocation site;
- (2) Outreach to communities adjacent to a proposed relocation site;
- (3) Environmental remediation of the DC WASA Site and the relocation site;
- (4) Estimated costs for environmental remediation;
- (5) Entitlements, permits, and approvals necessary to prepare the DC WASA Site and the relocation site; and

(6) Surplus designation and land disposition agreements;

(b) The report required by subsection (a) of this section shall also include a narrative description of the need for additional funding, if any, during fiscal year 2014.

**HEALTH AND HUMAN SERVICES**

Sec. 9020. Report on financing options for United Medical Center.

By October 1, 2013, the Mayor shall prepare a report for public review, in consultation with the Office of the Chief Financial Officer and Huron Healthcare that analyzes public and

## ENROLLED ORIGINAL

private financing options that will generate a minimum of an additional \$60 million for the construction of a new hospital on the grounds of United Medical Center. All financing packages shall be in addition to the \$20 million of existing, proposed District capital funds for planning and site development for the new hospital.

Sec. 9021. Department of Behavioral Health reporting requirements.

By October 1, 2013, the Department of Behavioral Health ("DBH") shall submit to the Council:

- (1) A report on:
  - (A) The efforts made to ensure that children receive behavioral health screenings from pediatricians at well-child and other pediatric visits;
  - (B) The percentage of children receiving such screens;
  - (C) The screening tools currently being utilized; and
  - (D) How pediatricians are reimbursed for these screens;
- (2) If screening rates are not satisfactory, a plan for how to increase them during the remainder of fiscal year 2014.

Sec. 9022. Department of Health Care Finance reporting requirements.

(a) By October 1, 2013, the Department of Health Care Finance ("DHCF") shall submit to the Council a report on:

- (1) Strategies for auditing the DC HealthCare Alliance ("Alliance") recertification process with the Department of Human Services ("DHS"), and updated projected enrollment for fiscal year 2014;
- (2) Potential solutions to the long delays in the Alliance eligibility process that discourage eligible beneficiaries from recertifying and enrolling;
- (3) The status of the new Day Health program, including all of the following:
  - (i) Status of the State Plan Amendment approval;
  - (ii) The number of and name of providers that have been certified to receive reimbursement under the new Day Health program;
  - (iii) The number and name of providers or beneficiaries transitioned to or offering services under another provider type and no longer participating in the Day Health program;
  - (iv) Explanation of the DHCF's reimbursement methodology.
- (4) The feasibility of a Medicaid Buy-In program for people with disabilities;
- (5) The feasibility of reimbursing nursing home providers for mental health services;
- (6) The feasibility of increasing reimbursement rates for home health aides;
- (7) The distribution of cost settlements in fiscal year 2013 and the status of transitioning hospitals from cost-based reporting to prospective reporting;
- (8) An accounting of the Nursing Home Quality of Care Fund, to date, and any plans for future expenditures in fiscal year 2014; and

## ENROLLED ORIGINAL

(9) The status of the Elderly and Persons with Disabilities ("EPD") Waiver waitlist, including all of the following:

- (i) The number of people currently enrolled in the EPD waiver;
- (ii) The number of people currently on the waitlist;
- (iii) The number of people who were offered a slot in fiscal year 2013;
- (iv) The number of people who lost the benefit because they did not timely

recertify; and

- (v) A strategy to address the loss of benefits for institutionalized persons.

(10) The details of how the \$20 million of existing, proposed District capital funds for planning and site development for the Not-For-Profit Hospital Corporation will be spent before the release of those funds.

(b) Starting on October 1, 2013, and ending on September 31, 2014, DHCF shall submit to the Council a quarterly report:

(1) Assessing the performance of the Long Term Care Contractor including data on its reduction of fraud and abuse of the Personal Care Aid ("PCA") benefit;

(2) Reflecting PCA benefit utilization and enrollment; and

(3) Assessing the performance of each Managed Care Organization ("MCO"), which shall include, at a minimum, the following information:

(A) A listing of the provider network for each MCO identifying each provider by name;

(B) The stratification of MCO membership, to date, that shall reflect the number of members initially auto-assigned to each MCO by July 1, 2013, and the number of newly eligible beneficiaries auto-assigned to each MCO that quarter, along with the total number of members enrolled in each MCO;

(C) An assessment of each MCO's compliance with each contractual network adequacy requirement and performance objective, including a description of any threatened or assessed corrective action plans or penalties; and

(D) Early and Periodic Screening, Diagnostic, and Treatment ("EPSDT") data for each MCO, including the following:

(i) Number of EPSDT providers in each MCO network;

(ii) Number of screens and percentage of children screened per quarter;

(iii) Number of mental health screens and percentage of children receiving mental health screens per quarter; and

(iv) Plans to address unsatisfactory screening rates in the next quarter.

Sec. 9023. Department of Health reporting requirements.

By October 1, 2013, the Department of Health shall submit to the Council:

(1) A report, providing an update on the Medical Marijuana Program, including:

(A) The number of people enrolled and the wards in which they live;

## ENROLLED ORIGINAL

- (B) A breakdown of the enrollees illnesses;
- (C) The adequacy of the number of cultivation centers and dispensaries;
- (D) Whether the number of cultivation centers or the ceiling of plants allowed to be grown is adequate or needs to be lifted;
- (E) Whether the number of dispensaries need to be increased;
- (F) Whether clients of the program have encountered problems with law enforcement officers;
- (G) Whether any adverse impacts or problems have arisen in neighborhoods where the cultivation centers or dispensaries are located; and
- (H) Whether any adjustment in the budget is required for the program.
- (2) A report on the Housing Opportunities for People with AIDS ("HOPWA") program, including:
- (A) The number of people enrolled and the wards in which they live;
- (B) The length of time each individual has lived in HOPWA housing;
- (C) The number of residents who are employed and their salaries;
- (D) The number of residents who are viral suppressed; and
- (E) A detailed explanation and description of the recertification process.
- (3) A report on the Senior HIV/AIDS Program, including:
- (A) The total number of peer educators trained;
- (B) The number of presentations that have occurred since the program's inception;
- (C) The locations of presentations identified, by ward;
- (D) The number of attendees at each training;
- (E) A review of presentation evaluations;
- (F) The number of the corps of trainers;
- (G) Whether any trainers have been replaced and reasons, if any, for replacement;
- (H) The amount of stipends, if any, provided to trainers;
- (I) The number of people currently being trained to be peer educators; and
- (J) An itinerary of upcoming trainings.
- (4) A report on the HIV/AIDS education requirement for physician or nurse licensure recertification, including:
- (A) A detailed plan of the commencement of the program; and
- (B) Whether physicians, nurses, physician assistants, nurse assistants are required to attend trainings in person or via the Internet.
- (5) A report on the hiring of new food inspectors, including:
- (A) The foreign-language speaking proficiency of each new inspector;
- (B) Copies of the position announcements;
- (C) A list of the languages spoken by each new hire; and
- (D) Whether the Health Professionals Loan Repayment Program will pay for current or new staff to learn foreign languages.

## ENROLLED ORIGINAL

## Sec. 9024. Not-For-Profit Hospital Corporation reporting requirements.

By October 1, 2013, the Not-For-Profit Hospital Corporation ("NFPHC") shall submit to the Council a bi-monthly report on the progress made by Huron Healthcare at the NFPHC, including, but not limited to:

- (1) Milestones completed;
- (2) A progress report on scheduled work and the expected completion date of such work;
- (3) Unexpected issues that have arose and plans to address those issues;
- (4) An update on issues that were scheduled to be completed before the due date of the next report, but were not, and the plan to complete them; and
- (5) Answers to any documented questions sent over by the Council to the NFPHC Board of Directors.

## Sec. 9025. Deputy Mayor for Health and Human Services reporting requirements.

By October 1, 2013, the Office of the Deputy Mayor for Health and Human Services ("DMHHS") shall submit to the Council a report providing a detailed plan on the expenditure of the \$1,000,000 of truancy prevention funds, including:

- (1) The agencies or organizations ("provider") identified to provide the services;
- (2) The criteria used to select the provider;
- (3) The specific services to be provided by the provider;
- (4) The benchmarks to be achieved for services;
- (5) The timelines for completion of these services;
- (6) The evaluation plans to be employed for each provider to measure the effectiveness of their work;
- (7) The corrective action plans, should the work not meet satisfactory standards;
- (8) The geographic location of each provider by ward;
- (9) The demographic served by the respective provider; and
- (10) The submission of quarterly reports thereafter on the Truancy Prevention program.

## Sec. 9026. Cost per DYRS-Involved Youth Act of 2013.

(a) The Department of Youth Rehabilitation Services ("DYRS") shall conduct an analysis of the per-youth cost for DYRS-involved youth during the 2012 calendar year.

- (b) DYRS shall identify 20 random DYRS-involved youth to analyze, as follows:
- (1) Eight youth shall have Structure for Decision Making ("SDM") scores of High to Medium High.
  - (2) Seven youth shall have SDM scores of Medium.
  - (3) Five youth shall have SDM scores of Low.

(c) For each of the youth identified in subsection (b) of this section, DYRS shall analyze the costs of serving the youth in calendar year 2012, including the following:

## ENROLLED ORIGINAL

- (1) Number of days in secure placement during the year and cost per day of secure placement;
  - (2) Number of days in non-secure placement during the year and cost per day of non-secure placement;
  - (3) Number of days linked to D.C. YouthLink service providers and the cost per service;
  - (4) Services received through other District agencies or contracts with other District agencies and the cost per service;
  - (5) Number of days in abscondence and cost per day related to abscondence; and
  - (6) Number of days in custody in adult facilities in the District or another jurisdiction and cost per day related to adult custody.
- (d) The analysis shall include an individual narrative report of services provided to each identified youth during the 2012 calendar year, identifying each youth by a unique identifier, SDM score, month and year of commitment, month and year of expected end of commitment, and annualized costs for the youth.
- (e) DYRS shall submit the analysis to the Committee on Human Services no later than December 1, 2013.

**TRANSPORTATION, PUBLIC WORKS, AND THE ENVIRONMENT**

Sec. 9027. Circulator expansion planning reporting.

On or before January 31, 2014, the District Department of Transportation and DC Surface Transit, Inc. shall transmit a report to the Secretary of the Council on expanding the Circulator. The report shall include:

- (1) A route and plan to begin operating a new Circulator line along the National Mall in fiscal year 2015;
- (2) A set of routes and plans to extend the following existing Circulator routes in fiscal year 2015:
  - (A) Rosslyn / Georgetown / Dupont line to Adams Morgan, U Street, and Shaw;
  - (B) Union Station / Georgetown line to the National Cathedral; and
  - (C) Union Station / Navy Yard line to the Southwest Waterfront.
- (3) A set of routes and plans to extend the Skyland route to Camp Simms and other extensions in Wards 4, 5, 7, and 8;
- (4) An analysis of other ways to fund Circulator extension;
- (5) If fares are to be increased, the appropriate effective date for doing so;
- (6) Recommendations for improving Circulator operations, including improving route efficiency, passenger satisfaction, and the speed of fare collection; and
- (7) A plan for marketing the Circulator expansion and any fare changes.

## ENROLLED ORIGINAL

## Sec. 9028. Waste and recycling reporting.

(a) On or before December 31, 2013, the Department of Public Works ("DPW") and the Department of General Services shall transmit a report to the Secretary of the Council on recycling by District government agencies. The report shall include:

(1) A list of each District agency, including independent agencies and instrumentalities, an indication of whether the agency complies with section 8 of the District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988, effective March 16, 1989 (D.C. Law 7-226; D.C. Code § 8-1007) ("Act"), by separating and recycling each item required by the Act at its offices and facilities; and

(2) For agencies that are not recycling the items required by the Act, a detailed plan and timeline for complying with the Act and recycling each required item at their sites.

(b) On or before September 30, 2014, DPW shall transmit a report to the Secretary of the Council regarding the District residences from which it collects waste and recycling twice weekly. The report shall include:

(1) A list of neighborhoods currently receiving twice weekly collections;

(2) The annual cost of providing twice weekly collections to an average residence;

(3) The annual cost of providing once weekly collections to an average residence;

(4) An analysis of whether the size of streets, alleys, yards, and containers, and other relevant factors could allow some residences currently receiving twice weekly collections to receive once weekly collections; and

(5) The potential cost savings that would result if residences identified in paragraph (4) of this section currently receiving twice weekly collections were to receive collection once a week.

## Sec. 9029. Speedcamera safety nexus reporting.

(a) By February 1, 2014, the District Department of Transportation ("DDOT") and the Metropolitan Police Department ("MPD") shall transmit a joint report to the Secretary to the Council on speed cameras located in the District or proposed to be located in the District. The report shall include:

(1) A list of each speed camera in the District;

(2) An analysis of the speed camera's nexus with safety; and

(3) If no nexus with safety can be identified, a justification by MPD regarding the speed camera's location.

(b) By February 1, 2014, DDOT shall publish all justifications contained in the joint report pursuant to subsection (a)(3) of this section on its website.

## Sec. 9030. Applicability.

This title shall apply as of the effective date of this act.



## ENROLLED ORIGINAL

**TITLE X. REVISED REVENUE ESTIMATE ADJUSTMENT ALLOCATION**

Sec.10001. Short title.

This subtitle may be cited as the "Revised Revenue Estimate Adjustment Allocation Emergency Act of 2013".

Sec. 10002. Pursuant to the Fiscal Year 2014 Budget Request Act of 2013, passed on 1st and final reading on May 22, 2013 (Enrolled version of Bill 20-198), and notwithstanding any other provision of law, local revenues certified in the June 2013 revenue estimate that exceed the annual revenue estimate incorporated in the approved budget and financial plan for fiscal year 2014 shall be allocated as follows:

- (1) Office of the State Superintendent of Education - \$11,000,000 to increase early childhood program infant and toddler slots by 200 and to increase the quality of existing infant and toddler slots by increasing the child care subsidy rate by 10%;
- (2) Office on Aging - \$2,000,000 to increase subsidies and transfers for Senior Service Network grantees;
- (3) Department of Behavioral Health - \$1,985,000 to expand the school-based mental health program;
- (4) District Department of Transportation - \$3,107,000 to increase from 50% to 100% the Metrobus subsidy for students;
- (5) District Department of Transportation - \$797,000 to expand the Metrobus and Metrorail subsidy for students to include 18- to 21-year-olds still attending high school;
- (6) Office of the State Superintendent of Education - \$4,000,000 to be deposited in the Schools Technology Fund, established pursuant to section 10004 of the Fiscal Year 2014 Budget Support Act of 2013, passed on 2nd reading on June 26, 2013 (Enrolled version of Bill 20-199), for District of Columbia Public Schools and District of Columbia Public Charter Schools, to be distributed to the local education agencies on a per-pupil basis based on the Fall 2012 audited enrollment;
- (7) Pay-As-You-Go Capital funds - \$2,800,000 to fund the upgrade of the DCStars system at District of Columbia Public Schools;
- (8) Commission on Arts and Humanities - \$4,500,000 to increase grants for the arts;
- (9) Office of the State Superintended for Education - \$4,000,000 to expand adult literacy and career and technology education programs;
- (10) Non-departmental - \$1,000,000 to provide matching funds for University of District of Columbia accreditation activities;
- (11) Office of Motion Pictures and Television Development - \$4,000,000 to be deposited in the Film DC Economic Incentive Fund established pursuant to section 2 of the Film DC Economic Incentive Act of 2006, effective March 14, 2007 (D.C. Law 16-290; D.C. Official Code § 39-501);

## ENROLLED ORIGINAL

(12) Pay-As-You-Go Capital funds - \$1,560,532 to fund a new field and fence at Dwight Mosley/Taft Recreation Center;

(13) Pay-As-You-Go Capital funds - \$1,000,000 to improve the Shaed Elementary School field;

(14) District of Columbia Housing Authority - \$3,000,000 to enhance the Local Rent Supplement Program; provided, that of this amount, 50% shall be used for tenant-based assistance, and 50% shall be used for project- or sponsor-based assistance;

(15) District Department of Transportation - \$421,000 for agency operations that would otherwise have been funded by a fare increase for the DC Circulator;

(16) Pay-As-You-Go Capital funds - \$4,300,000 for the renovation of the University of the District of Columbia's Bertie Backus facility;

(17) District Department of Transportation - \$480,000 to fund the automated traffic enforcement safety nexus requirements set forth in section 9029.

Sec. 10003. Student transit amendments.

Section 2 of the School Transit Subsidy Act of 1978, effective March 6, 1979 (D.C. Law 2-152; D.C. Official Code § 35-233), is amended as follows:

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

"(a)(1) On regular school days for regular route transportation during peak and off-peak hours on the Metrobus Transit System within the District, no student shall be charged a bus fare.

"(2) The fare to be paid by students on regular school days for regular route transportation during peak and off-peak hours on the Metrorail Transit System within the District shall be 1/2 of the base boarding peak rail fare charged to passengers other than students and senior citizens for Metrorail travel within the District.

"(3) In a case where the reduced student fare as determined in paragraph (2) of this subsection results in an amount that is not a multiple of \$.05, the fare shall be rounded downward to the nearest amount that is a multiple of \$.05.

"(4) Transfers for students between rail and bus shall be made in the same manner as are transfers of other passengers, but without any additional charge for the transfer."

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

"(c) Reduced fares for students under this section on the Metrobus and Metrorail Transit Systems shall be available only to persons who are under 22 years of age and are:

"(1)(A) Residents of the District; and

"(B) Currently enrolled in a regular course of instruction at an elementary or secondary public, parochial, or private school located in the District; or

"(2) Youth in the District's foster care system until they reach 21 years of age."

Sec. 10004. DC Circulator fares.

Section 11d of the District Department of Transportation Establishment Act of 2002, effective March 6, 2007 (D.C. Law 16-225; D.C. Official Code § 50-921.34), is amended by adding a new subsection (c) to read as follows:

## ENROLLED ORIGINAL

"(c) Beginning August 26, 2013, the Department shall not charge a DC Circulator fare to students on regular school days."

Sec. 10005. Schools Technology Fund.

(a) There is established as a special fund the Schools Technology Fund ("Fund"), which shall be administered by the Office of the State Superintendent of Education in accordance with subsection (c) of this section.

(b) The Fund shall consist of appropriated amounts.

(c)(1) The Fund shall be used to improve technology at District of Columbia Public Schools and District of Columbia Public Charter Schools.

(2) For fiscal year 2014, the Office of the State Superintendent of Education shall distribute the amounts in the fund to local education agencies ("LEAs") on a per-pupil basis, based on the Fall 2012 audited enrollment.

(3) In fiscal year 2015 and each fiscal year thereafter, the Office of the State Superintendent of Education shall distribute any amounts in the fund to LEAs on a per-pupil basis, based on the audited enrollment for the preceding school year.

Sec. 10006. Sales tax relief.

Section 47-2002(a) of the District of Columbia Official Code is amended by striking the phrase "The rate of such tax shall be 6%" and inserting the phrase "Beginning on October 1, 2013, the rate of such tax shall be 5.75%" in its place.

Sec. 10007. Reservation of local fund revenues.

Of the fiscal year 2014 local funds revenues certified by the Chief Financial Officer in the June 2013 revenue estimate, \$18 million shall be reserved within the General Fund of the District of Columbia for the purpose of offsetting potential tax expenditures or revenue reductions pursuant to legislation that may be recommended by the Tax Revision Commission.

**TITLE XI. APPLICABILITY, FISCAL IMPACT, AND EFFECTIVE DATE**

Sec. 11001. Applicability.

Except as otherwise provided, this act shall apply as of October 1, 2013.

Sec. 11002. Fiscal impact statement.


The Council adopts the 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)).

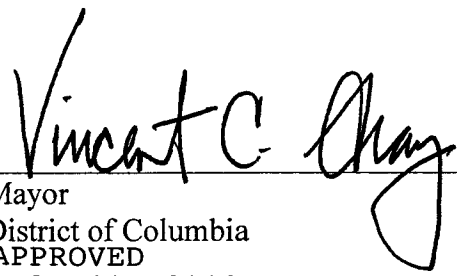
Sec. 11003. Effective date.

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  
July 30, 2013

ENROLLED ORIGINAL

AN ACT  
D.C. ACT 20-131

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 30, 2013

To approve, on an emergency basis, Modification Nos. 1 through 3A to Contract No. DCPL-2009-C-0015C with Hess Construction Company to provide general construction services at the Francis Gregory Neighborhood Library and to authorize payment for services received and to be received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract DCPL-2009-C-0015C Modification Approval and Payment Authorization Emergency Act of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and notwithstanding the requirements of section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves Modification Nos. 1 through 3A to Contract No. DCPL-2009-C-0015C with Hess Construction Company and authorizes payment not to exceed \$14,004,148.97 for general construction services received and to be received under the contract for the period of January 16, 2012, to December 31, 2013.

Sec. 3. Fiscal impact statement.

The Council adopts the 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.

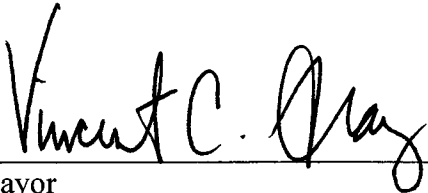
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

ENROLLED ORIGINAL

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  
July 30, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-132

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 30, 2013

To amend, on an emergency basis, due to Congressional review, the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012 to require the Deputy Mayor for Planning and Economic Development to issue a loan in the amount of \$800,000 to support an affordable housing project in Ward 7.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Congressional Review Emergency Act of 2013”.

Sec. 2. Section 2032 of the Deputy Mayor for Planning and Economic Development Limited Grant-Making Authority Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 1-328.04), is amended as follows:

(a) Subsection (b)(F) is repealed.

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

“(d) Pursuant to subsection (c) of this section, the Deputy Mayor shall issue a loan for fiscal year 2013 in the amount of \$800,000 for the purpose of providing assistance to a mixed-use development located in Ward 7, including 100% affordable housing units supporting former Lincoln Heights residents.”.

Sec. 3. Applicability.

This act shall apply as of July 11, 2013.

Sec. 4. Fiscal impact statement.

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

Sec. 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

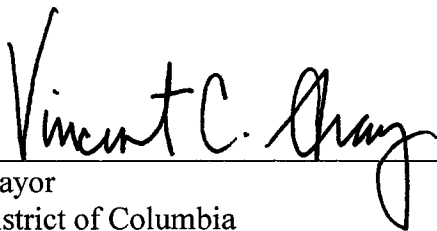
ENROLLED ORIGINAL

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)).



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Chairman  
Council of the District of Columbia



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Mayor  
District of Columbia  
APPROVED  
July 30, 2013



ENROLLED ORIGINAL

AN ACT  
D.C. ACT 20-133

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 30, 2013

To amend, on an emergency basis, An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes to establish truancy procedures with inter-agency coordination, and to require the Office of the Attorney General to submit an annual truancy status report; to amend the State Education Office Establishment Act of 2000 to require that a truancy prevention resource guide be available by August 1, 2013; to require the Office of the State Superintendent of Education to submit to the Mayor and the Secretary to the Council recommendations for eliminating out-of-school suspensions and expulsions; and to amend the Safe Children and Safe Neighborhoods Educational Neglect Mandatory Reporting Amendment Act of 2010, An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children , and An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes to make technical and conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Attendance Accountability Emergency Amendment Act of 2013".

TITLE I. ENHANCING SCHOOL ATTENDANCE

Sec. 101. An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.*), is amended as follows:

(a) Section 1 of Article I (D.C. Official Code § 38-201) is amended as follows:

(1) Paragraph (1) is repealed.

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

"(2A) "Educational institution" means a school in the District of Columbia Public Schools system, a public charter school, an independent school, a private school, a parochial school, or a private instructor."

(3) Paragraph (3A) is redesignated as paragraph (3B).

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

"(3A) "Parent" means a parent, guardian, or other person who resides in the District and who has custody or control of a minor 5 years of age or older."

(b) Article II is amended as follows:

(1) Section 6 (D.C. Official Code § 38-251) is amended by adding a new

## ENROLLED ORIGINAL

subsection (c) to read as follows:

“(c) Within 2 business days of a minor student’s 10<sup>th</sup> unexcused absence during a school year, the educational institution shall, under the signature of the Chief of the Metropolitan Police Department, send the minor student’s parent a letter notifying the parent that he or she may be in violation of the school attendance requirements under this act and may be subject to prosecution.”.

(2) New sections 7 and 8 are added to read as follows:

“Sec. 7. Truancy procedures; inter-agency coordination.

“(a) If a minor student accumulates 10 unexcused absences during a school year, the educational institution shall notify the Metropolitan Police Department within 2 business days after the 10<sup>th</sup> unexcused absence.

“(b) Within 2 business days of the 10<sup>th</sup> unexcused absence, the educational institution shall notify the Office of the State Superintendent of Education which shall provide the parent with the truancy prevention resource guide created pursuant to section 3(b)(19) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602 (b)(19)); provided, that the parent has not received the truancy prevention resource guide before the 10<sup>th</sup> unexcused absence.

“(c) In addition to the requirements set forth in subsections (a) and (b) of this section:

“(1)(A) The educational institution shall refer a minor student 5 years of age through 13 years of age to the Child and Family Services Agency pursuant to section 2(a-1) of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02(a-1)), no later than 2 business days after the accrual of 10 unexcused absences within a school year.

“(B) Beginning in the 2013-2014 school year, the educational institution shall refer a minor student 14 years of age through 17 years of age to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of the Attorney General Juvenile Section no later than 2 business days after the accrual of 15 unexcused absences within a school year.

“(2) Within 3 business days of the Office of the Attorney General, Juvenile Section receiving written notification pursuant to paragraph (1)(B) of this subsection, the Office of the Attorney General shall send the minor student’s parent a letter notifying the parent that he or she may be subject to prosecution for violation of the school attendance requirements under this act.

“Sec. 8. Reporting requirements.

“By July 15 of each year, beginning in 2014, the Office of the Attorney General shall submit to the Mayor and the Secretary to the Council a truancy status report on the preceding school year, which shall include the number of:

“(1) Referrals it received from each educational institution;

“(2) Cases it filed pursuant to this act, and the outcome of each;

“(3) Child-in-need of supervision cases filed pursuant to this act, and the outcome of each; and

## ENROLLED ORIGINAL

“(4) Students who were enrolled in a court diversion program, or other diversion program pursuant to this act.”.

Sec. 102. Section 3(b)(19) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)(19)), is amended by striking the phrase “October 1, 2013” and inserting the phrase “August 1, 2013” in its place.

## TITLE II. SUSPENSION AND EXPULSION REPORT

Sec. 201. Within 180 calendar days of the effective date of the Attendance Accountability Amendment Act of 2013, signed by the Mayor on June 24, 2013 (D.C. Act 20-94; 60 DCR 9839), the Office of the State Superintendent of Education shall submit to the Mayor and the Secretary to the Council a report with findings and recommendations to aid each educational institution to eliminate out-of-school suspensions and expulsions, except for those students who pose a reasonable threat of death or serious bodily harm to themselves or others or violate the Expulsion of Students Who Bring Weapons Into Public Schools Act of 1996, effective April 9, 1997 (D.C. Law 11-174; D.C. Official Code § 38-231 *et seq.*).

## TITLE III. TECHNICAL AND CONFORMING AMENDMENTS

Sec. 301. Section 4 of the Safe Children and Safe Neighborhoods Educational Neglect Mandatory Reporting Amendment Act of 2010, effective October 26, 2010 (D.C. Law 18-242; 57 DCR 7555), is repealed.

Sec. 302. Section 2(a-2)(3) of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02(a-2)(3)), is amended to read as follows:

“(3) This subsection shall expire upon the effective date of the Attendance Accountability Emergency Amendment Act of 2013, passed on emergency basis on July 10, 2013 (Enrolled version of Bill 20-397).”.

Sec. 303. Article II of An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.*), is amended as follows

(a) Section 1(a) (D.C. Official Code § 38-202(a)) is amended by striking the phrase “a public, independent, private, or parochial school, or in private instruction” and inserting the phrase “an educational institution” in its place.

(b) Section 2 (D.C. Official Code § 38-203) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “public, independent, private, or parochial school and by every teacher who gives instruction privately” and inserting the phrase “educational institution” in its place.

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

ENROLLED ORIGINAL

(A) Strike the phrase "head teacher," and insert the phrase "head teacher, teacher who gives private instruction," in its place.

(B) Strike the phrase "public, independent, private, or parochial school, and each teacher who gives private instruction" and insert the phrase "educational institution" in its place.

(c) Section 4 (D.C. Official Code § 38-205) is amended by striking the phrase "principal, or head teacher of each public, independent, private, or parochial school, and each teacher who gives private instruction," and inserting the phrase "principal, head teacher, or teacher who gives private instruction of each educational institution" in its place.


TITLE IV. GENERAL PROVISIONS

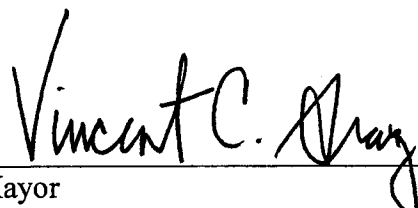
Sec. 401. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report the Attendance Accountability Amendment Act of 2013, signed by the Mayor on June 24, 2013 (D.C. Act 20-94; 60 DCR \_\_), 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. 402. 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  
July 30, 2013

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-134

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 30, 2013

To amend the District of Columbia Election Code of 1955 to abolish the voter registration and residency requirements for circulators of petitions for the purposes of placing initiative and referendum measures on the ballot, nominating candidates for elected office, and recalling elected officials, and to establish in their place a requirement that circulators of petitions for these purposes be at least 18 years of age and either residents of the District of Columbia or registered as petition circulators with the Board of Elections, such registration to include the person's consent to being subject to the subpoena power of the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Board of Elections Petition Circulation Requirements Amendment Act of 2013".

Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-1001.02) is amended by adding a new paragraph (26) to read as follows:

“(26) “Qualified petition circulator” means an individual who is 18 years of age or older and either:

“(A) A District resident; or

“(B) A resident of another jurisdiction who has registered with the Board as a petition circulator and consented to being subject to the subpoena power of the Board and the jurisdiction of the Superior Court of the District of Columbia for the enforcement of subpoenas without respect to the individual's place of residence.”.

(b) Section 8(b)(2) (D.C. Official Code § 1-1001.08(b)(2)) is amended to read as follows:

“(2) Only qualified petition circulators may circulate nominating petitions in support of candidates for elected office pursuant to this act. The Board shall consider invalid the signatures on any petition sheet that was circulated by a person who, at the time of circulation, was not a qualified petition circulator.”.

(c) Section 16 (D.C. Official Code § 1-1001.16) is amended as follows:

(1) Subsection (h)(5) is amended to read as follows:

“(5) That the circulator of the initiative or referendum petition sheet was a qualified petition circulator at the time of circulation.”.

(2) Subsection (k)(1)(E) is amended to read as follows:

“(E) The petition was circulated by persons who were not qualified petition circulators at the time of circulation.”.

(d) Section 17 (D.C. Official Code § 1-1001.17) is amended as follows:

(1) Subsection (f)(5) is amended to read as follows:

“(5) That the circulator of the recall petition was a qualified petition circulator at the time of circulation; and”.

(2) Subsection (i)(6) is amended to read as follows:

“(6) The petition was circulated by persons who were not qualified petition circulators at the time of circulation.”.

Sec. 3. Fiscal impact statement.

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

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman  
Council of the District of Columbia

Mayor  
District of Columbia  
APPROVED  
July 30, 2013

ENROLLED ORIGINAL

A RESOLUTION

20-178

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 18, 2013

To approve, on an emergency basis, the negotiated compensation collective bargaining agreement between the District of Columbia Department of Mental Health and the American Federation of State, County and Municipal Employees (“AFSCME”), Local 2095 and the American Federation of Government Employees (“AFGE”), Local 383.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Compensation Agreement between the District of Columbia Department of Mental Health and AFSCME, Local 2095 and AFGE, Local 383 Emergency Approval Resolution of 2013”.

Sec. 2. (a) Pursuant to section 1717(j) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-617.17(j)), the Council approves the compensation agreement between the District of Columbia Department of Mental Health and AFSCME, Local 2095 and AFGE, Local 383, which was transmitted to the Council by the Mayor on May 2, 2013.

(b) This resolution applies to bargaining unit employees represented by AFSCME, Local 2095 or AFGE, Local 383 and employed by the District of Columbia Department of Mental Health.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to AFSCME, Local 2095 and AFGE, Local 383, and to the Mayor.

Sec. 4. Fiscal impact statement.

The Council adopts the 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. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-179

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the sense of the Council that the Board of Directors of the Washington Metropolitan Area Transit Authority ("WMATA") should adopt a policy to promote the development of affordable housing on property owned by WMATA.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council Regarding the Need for an Affordable Housing Policy at the Washington Metropolitan Area Transit Authority Resolution of 2013".

Sec. 2. The Council finds that:

(1) The District of Columbia and the Washington region as a whole have an increasing demand for affordable housing. According to the DC Fiscal Policy Institute, median rents have increased by 50% in the District and median home prices have doubled over the past decade, causing the availability of low-cost rental units and low-value homes to decrease by 50% and 72%, respectively. In that same time, incomes for most District residents have been stagnant or have not kept pace with increased housing costs. As a result, 20% of all households and two-thirds of low-income households in the District have a "severe housing burden," meaning that residents pay more than half of their monthly income for housing expenses.

(2) The Washington Metropolitan Area Transit Authority ("WMATA") owns a considerable amount of undeveloped land in and around its 86 Metrorail stations and pursues development of this land with private and public partners. Although units for low and moderate-income households are sometimes created as a result of these joint development projects, they are not done in a comprehensive and strategic manner.

(3) Comparable public transit systems, such as Atlanta's MARTA, have adopted affordable housing policies, the results of which have created more affordable housing options, boosted transit ridership, and generally allowed for more effective smart growth policies.

(4) WMATA's current "Joint Development Policies and Guidelines" includes affordable housing as a goal. It also recommends that the Board of Directors of WMATA adopt a separate affordable housing policy to provide additional detail and direction, but this step has not yet been taken.

(5) WMATA should adopt an affordable housing strategy that outlines overall policy goals, strategies and tools for implementation, and a system of performance measurement.



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(6) The affordable housing strategy should also include:

(A) Clear targets for the number of affordable units produced on WMATA property at a range of income levels not to exceed 120% of the area median income, but that are predominately at the 30%, 50% and 80% levels;

(B) Preferences and other incentives for developers who exceed affordability requirements in the solicitation process;

(C) Strategies for WMATA to coordinate its affordable housing efforts with jurisdictions that are signatories to the WMATA Compact and non-profit organizations that specialize in the field of affordable housing; and

(D) Strategies to utilize all possible affordable housing funding sources, including government programs and special financing structures.

(7) Creation of an affordable housing strategy at WMATA will help ensure that the metropolitan Washington area remains an affordable, diverse, and thriving region.

Sec. 3. It is the sense of the Council that WMATA's Board of Directors should adopt an affordable housing policy as part of its "Joint Development Policies and Guidelines" to be implemented by the General Manager and staff of WMATA.

Sec. 4. The Secretary of the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the WMATA Board of Directors and its General Manager and CEO, Mr. Richard Sarles.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

## A RESOLUTION

20-180

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To approve proposed rules of the Alcoholic Beverage Control Board that would create a new section 720 of Title 23 of the District of Columbia Regulations to clarify what information an on-premises licensee must include in its safety plan.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Safety Plan Rulemaking Approval Resolution of 2013".

Sec. 2. Pursuant to D.C. Official Code § 25-211(b)(2), the Mayor, on May 2, 2013, transmitted the proposed rules of the Alcoholic Beverage Control Board clarifying what information an on-premise licensee must include in its safety plan to operate during extended holiday hours. The Council approves the proposed rules, published as emergency rules at 60 DCR 5202 (April 15, 2013), to amend Chapter 7 of Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and the Chairperson of the Alcoholic Beverage Control Board.

Sec. 4. Fiscal impact statement.

The Council adopts the 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. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

20-181

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To approve the proposed rules of the Alcoholic Beverage Control Board that would replace the existing Alcoholic Beverage Regulation Administration civil penalty schedule.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Revised ABRA Civil Penalty Schedule Approval Resolution of 2013”.

Sec. 2. Pursuant to D.C. Official Code § 25-211(b)(2), on May 28, 2013, the Mayor transmitted to the Council proposed rules of the Alcoholic Beverage Control Board (“Board”) to replace the Board’s existing civil penalty schedule. The Council approves the proposed rules, published at 60 DCR 1524, to amend section 800 of Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and the Chairperson of the Alcoholic Beverage Control Board.

Sec. 4. Fiscal impact statement.

The Council adopts the 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. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

20-182

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To approve the proposed rules of the Alcoholic Beverage Control Board that would amend section 705 of Title 23 of the District of Columbia Municipal Regulations to make clear that the sale of beer in growlers by brew pub permit holders, and the sale of wine by wine pub permit holders, for off-premises consumption, is limited to the hours between 7:00 A.M. and midnight 7 days a week.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Brew Pub and Wine Pub Hours Rules Approval Resolution of 2013”.

Sec. 2. Pursuant to D.C. Official Code § 25-211(b)(2), on April 18, 2013, the Mayor transmitted to the Council proposed rules of the Alcoholic Beverage Control Board. The proposed rules will make clear that the sale of beer in growlers by brew pub permit holders, and the sale of wine by wine pub permit holders, for off-premises consumption, is limited to the hours between 7:00 a.m. and midnight 7 days a week. The Council approves the proposed rules, published at 60 DCR 1589, to amend section 705 of Title 23 of the District of Columbia Municipal Regulations.

Sec. 3. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor and the Chairperson of the Alcoholic Beverage Control Board.

Sec. 4. Fiscal impact statement.

The Council adopts the 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. 5. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

20-183

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare that the District-owned real property located at 903 Franklin Street, N.E., in Washington, D.C., known for tax and assessment purposes as Lot 0829, Square 3841, is no longer required for public purposes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “903 Franklin Street, N.E., Surplus Property Declaration Resolution of 2013”.

Sec. 2. Findings.

(a) The District is the owner of the real property located at 903 Franklin Street, N.E., in Washington, D.C., known for tax and assessment purposes as Lot 0829, Square 3841 (“Property”). The Property consists of a 2-story building containing approximately 3,982 square feet.

(b) The Property is no longer required for public purposes because the Property is very small, lacks dedicated parking, and in its current condition, necessitates cost-prohibitive renovations to re-use the property for a District agency or other public use in a cost-effective manner on a long-term basis. Additionally, the cost of maintenance required to preserve the building in its current state is likely to continue to increase. Declaring that the Property is no longer required for public purposes and disposing of it by selling it to a third party is the most expedient and cost-effective solution to reactivate the Property by enabling a business owned by a District of Columbia resident to expand, provide new revenue to the District, and remove a blight from the community.

(c) The District has satisfied the public hearing requirements of section 1(a-1)(4) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code §10-801(a-1)(4)) (“Act”), by holding the required public hearings on October 15 and October 24, 2012.

Sec. 3. Pursuant to section 1(a-1) of the Act, the Council finds that the Property is no longer required for public purposes.

**ENROLLED ORIGINAL**

Sec. 4. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

20-184

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To approve the disposition of District-owned real property located at 903 Franklin Street, N.E., known for tax and assessment purposes as Lot 0829, Square 3841.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “903 Franklin Street, N.E. Property Disposition Approval Resolution of 2013”.

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) “CBE Agreement” means an agreement with the District governing certain obligations of the Purchaser or the developer of the Property under the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*) (“CBE Act”), including the equity and development participation requirements set forth in section 2349a of the CBE Act.

(2) “Certified business enterprise” means a business enterprise or joint venture certified pursuant to the CBE Act.

(3) “First Source Agreement” means an agreement with the District governing certain obligations of the Purchaser or any developer of the Property pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor’s Order 83-265, issued November 9, 1983, regarding job creation and employment generated as a result of the construction on the Property.

(4) “Purchaser” means Morgans, Inc., a District of Columbia corporation or its successor.

(5) “Property” means the real property located at 903 Franklin Street, N.E. in Washington, D.C., known for tax and assessment purposes as Lot 0829, Square 3841.

Sec. 3. Approval of disposition.

(a) Pursuant to subsections 1(b) and (b-1) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801(b) and (b-1)) (“Act”), the Mayor transmitted to the Council a request for the Council to authorize the sale of the Property to the Purchaser.

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(b) The proposed disposition would occur through a sale to Purchaser, whose primary address is 900 Rhode Island Avenue, N.E., Washington, D.C. 20018.

(c) The Purchaser was chosen as the successful respondent to a competitive solicitation issued by the District in June of 2012.

(d) The proposed disposition is expected to include the following terms and conditions, in addition to such other terms and conditions as the Mayor considers necessary or appropriate:

(1) The Purchaser shall acquire the Property in its "as is" condition for the sum of \$230,000.00.

(2) The Purchaser shall enter into a CBE Agreement with the District. The CBE Agreement shall require the Purchaser to contract with certified business enterprises for at least 35% of the contract dollar volume of the redevelopment of the Property, if any, and if possible, will require at least 20% equity and development participation of local, small, and disadvantaged business enterprises.

(3) The Purchaser shall enter into a First Source Agreement with the District.

(e) The Council finds that the Property is not required for public purposes.

(f) The Council finds that the Mayor's analysis of economic and other policy factors supporting the disposition of the Property justifies the sale proposed by the Mayor.

(g) All documents submitted with this resolution shall be consistent with the real property purchase agreement term sheet transmitted to the Council pursuant to section 1(b-1)(2) of the Act .

(h) The Council approves the disposition of the Property.

#### Sec. 4. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Office of the Mayor, the Department of General Services, and the Chief Financial Officer.

#### Sec. 5. Fiscal impact statement.

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

#### Sec. 6. Effective date.

This resolution shall take effect immediately.



ENROLLED ORIGINAL

A RESOLUTION

20-185

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare that the District-owned real property located at 1404 Jackson Street, N.E., also known as 3115 14<sup>th</sup> Street, N.E., commonly known as the Slowe School, and more specifically designated for tax and assessment purposes as Lot 0806, Square 3960, is no longer required for public purposes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Slowe School Surplus Property Declaration Resolution of 2013”.

Sec. 2. Findings.

(a) The District is the owner of the real property located at 1404 Jackson Street, N.E., also known as 3115 14<sup>th</sup> Street, N.E., commonly known as the Slowe School, and more specifically designated for tax and assessment purposes as Lot 0806, Square 3960 (“Property”). The Property consists of a building containing approximately 56,028 square feet situated on approximately 89,489 square feet of land.

(b) The Property is no longer required for public purposes because the Property, in its current condition, necessitates cost-prohibitive renovations to re-use for a District agency or other public use in a cost-effective manner on a long-term basis. The maintenance required to preserve the building in its current state will continue to increase and eventually overburden the District's facilities management and maintenance capacity. Declaring that the Property is no longer required for public purposes and disposing of it under a long-term ground lease or other method is the most expedient and cost-effective solution to reactivate the Property, provide public benefits such as a charter school, allow the District to retain long-term fee-simple ownership of the Property, and provide the citizens of the District of Columbia with outstanding educational services.

(c) The District has satisfied the public hearing requirements of section 1(a-1)(4) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code §10-801(a-1)(4)) (“Act”), by holding a public hearing on January 10, 2012.

Sec. 3. Pursuant to section 1(a-1) of the Act, the Council finds that the Property is no longer required for public purposes.

**ENROLLED ORIGINAL**

Sec. 4. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Office of the Mayor, the Department of General Services, and the Office of the Chief Financial Officer.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-186

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To approve the disposition of District-owned real property located at 1404 Jackson Street, N.E., also known as 3115 14<sup>th</sup> Street, N.E., commonly known as the Slowe School, and designated for tax and assessment purposes as Lot 0806, Square 3960.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Slowe School Property Disposition Approval Resolution of 2013”.

Sec. 2. Definitions.

For the purposes of this resolution, the term:

(1) “CBE Agreement” means an agreement with the District governing certain obligations of the Lessee or the developer of the Property under the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.*) (“CBE Act”), including the equity and development participation requirements set forth in section 2349a of the CBE Act.

(2) “Certified business enterprise” means a business enterprise or joint venture certified pursuant to the CBE Act.

(3) “First Source Agreement” means an agreement with the District governing certain obligations of the Lessee or any developer of the Property pursuant to section 4 of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor’s Order 83-265, issued November 9, 1983, regarding job creation and employment generated as a result of the construction on the Property.

(4) “Lessee” means Mary McLeod Bethune Public Charter School, a District of Columbia nonprofit corporation or its successor.

(5) “Property” means the real property located at 1404 Jackson Street, N.E., also known as 3115 14<sup>th</sup> Street, N.E., commonly known as the Slowe School, and designated for tax and assessment purposes as Lot 0806, Square 3960.

Sec. 3. Approval of disposition.

(a) Pursuant to section 1(b) and (b-1) of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code §10-801(b) and (b-1)) (“Act”), the Mayor transmitted to the

ENROLLED ORIGINAL

Council a request for the Council to authorize a lease of the Property to the Lessee.

(b) The proposed disposition would occur through a negotiated ground lease of longer than 20 years to the Lessee, whose primary address is 1404 Jackson Street, N.E., Washington, D.C. 20017.

(c) The Lessee was chosen as the successful respondent to a competitive solicitation issued by the District on September 25, 2008.

(d) The proposed disposition is expected to include the following terms and conditions, in addition to such other terms and conditions as the Mayor considers necessary or appropriate:

(1) The Lessee shall redevelop the Property in accordance with plans approved by the District and shall use the Property primarily as a charter school and educational facility.

(2) The Lessee shall enter into a CBE Agreement with the District. The CBE Agreement shall require the Lessee to contract with certified business enterprises for at least 35% of the contract dollar volume of the redevelopment of the Property, if any, and if possible, shall require at least 20% equity and development participation of certified business enterprises.

(3) The Lessee shall enter into a First Source Agreement with the District.

(e) The Council finds that the Property is not required for public purposes.

(f) The Council finds that the Mayor’s analysis of economic and other policy factors supporting the disposition of the Property justifies the lease proposed by the Mayor.

(g) All documents submitted with this resolution shall be consistent with the executed term sheet transmitted to the Council pursuant to section 1(b-1)(2) of the Act.

(h) The Council approves the disposition of the Property.

Sec. 4. Transmittal.

The Secretary to the Council shall transmit a copy of this resolution, upon its adoption, to the Office of the Mayor, the Department of General Services, and the Office of the Chief Financial Officer.

Sec. 5. Fiscal impact statement.

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

Sec. 6. Effective date.

This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-187

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the sense of the Council that the Council supports “Momentum,” the Washington Metropolitan Area Transit Authority’s strategic plan for 2013-2025, which calls for a \$26 billion capital expansion to the system.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Sense of the Council in Supporting Implementation of the Washington Metropolitan Area Transit Authority Momentum Strategic Plan Resolution of 2013”.

Sec. 2. The Council finds that:

- (1) The Metro transit system has served the metropolitan Washington area well since its establishment in 1976 through the provision of bus, rail, and paratransit services that help to transport our residents and workers while reducing the number of cars on the road..
- (2) The original Metro transit system was paid for by allocating half the costs to the federal government, with the other half paid by Virginia, Maryland, and the District in equal shares.
- (3) The Washington Metropolitan Area Transit Authority (“WMATA”) is charting a new course to ensure that the transit system meets the needs of the region through a strategic planning effort, the first for WMATA in more than a decade.
- (4) Planning for the future and investing in WMATA is critical because the Metro transit system is the backbone of the region, with 2 million jobs located within a half mile of Metrorail or Metrobus routes.
- (5) WMATA and its riders relieve the jurisdictions’ need to construct at least 1,000 lane miles of roads and tens of thousands of parking spaces.
- (6) While WMATA continues rebuilding virtually the entire system to improve safety, reliability, and customer service, it must be able to serve the expected millions more future riders and support the region’s economic growth.
- (7) Demand is already outstripping capacity and more growth is expected, thus, additional investments are needed to prepare WMATA’s core central stations in the region, and ultimately, to ensure the continued prosperity of the region.

## ENROLLED ORIGINAL

(8) WMATA's plan, "Momentum: The Next Generation of Metro," benefits from more than a year of unprecedented outreach to nearly 12,000 customers and stakeholders, provides a road map to achieve the goals, and guides WMATA's annual business plan.

(9) Recognizing that the region's mobility depends on the continued operation of WMATA's core network, "Momentum" includes the following key priorities for completion by 2025: operation of all 8-car trains during rush hour; completion of the Metrobus Priority Corridor Network; a one-stop shop for all regional transit trip planning and payment; and a better, more efficient MetroAccess service.

(10) "Momentum" would provide a regional return by carrying 35,000 more passengers on trains per hour during rush hour, moving bus customers 50% faster using 12% less fuel while also removing an additional 100,000 trips from roadways each day, providing customers with one convenient hub to plan, pay for, and take a transit trip seamlessly and effortlessly, serving more customers with stations that are brighter, safer, and easier to navigate, offering customers information that is available at all times to keep them informed during trips, and increasing Blue Line service so that trains arrive every 6 minutes during rush hour.

(11) "Momentum" has been vetted by business leaders, advocacy groups, legislative decision makers, jurisdictional partners, and riders.

Sec. 3. It is the sense of the Council that the Council recognizes and supports "Momentum," the Washington Metropolitan Area Transit Authority's strategic plan for 2013-2025, which calls for a \$26 billion capital expansion to the system.

Sec. 4. The Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the District of Columbia Delegate to the U.S. House of Representatives, to the members of the U.S. House of Representatives Committee on Oversight and Government Reform, and to the Mayor.

Sec. 5. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

ENROLLED ORIGINAL

## A RESOLUTION

20-188

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To approve the award of multiyear Contract No. CFOPD-13-C-011 with MuniServices, LLC, to conduct secondary delinquent tax collections on behalf of the District of Columbia.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Contract No. CFOPD-13-C-011 Secondary Delinquent Tax Collection Approval Resolution of 2013".

Sec. 2. Pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), and section 202 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02), the Council approves the award of multiyear contract No. CFOPD-13-C-011 for secondary delinquent tax collections for the Office of the Chief Financial Officer, Office of Tax and Revenue, with the proposed based period of 3 years and the proposed contract cost not to exceed \$3 million for the option period.

Sec. 3. This resolution shall take effect immediately.

ENROLLED ORIGINAL

A RESOLUTION

20-189

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 26, 2013

To declare the existence of an emergency with respect to the need to approve measures that are necessary to support action taken on the District’s fiscal year 2014 proposed budget.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as “Fiscal Year 2014 Budget Support Emergency Declaration Resolution of 2013”.

Sec. 2. (a) The Fiscal Year 2014 Budget Support Act of 2013 contains measures necessary to support the Fiscal Year 2014 Budget and Financial Plan.

(b) There are several time-sensitive provisions contained in the Fiscal Year 2014 Budget Support Act of 2013 that need to be in place in advance of October 1, 2013.

(c) Certain provisions in the Fiscal Year 2014 Budget Support Act of 2013 will trigger the extended 60-day review period set forth under section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)). This extended review period could result in the Fiscal Year 2014 Budget Support Act of 2013 becoming effective after the October 1, 2013 applicability date, which would prevent proper implementation of the District’s Fiscal Year 2014 Budget and Financial Plan.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fiscal Year 2014 Budget Support Emergency Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF PUBLIC HEARINGS  
CALENDAR

WEDNESDAY, AUGUST 7, 2013  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S,  
WASHINGTON, D.C. 20009

Ruthanne Miller, Chairperson

Members:

Nick Alberti, Donald Brooks, Herman Jones, Mike Silverstein

**Protest Hearing (Status) 9:30 AM**

**Case # 13-PRO-00067**

RS of Washington DC, LLC, t/a Zengo

781 7th Street NW

License #73795, Retailer CR, ANC 2C

**Renewal Application**

**Protest Hearing (Status)**

**Case # 13-PRO-00086**

Seaton Motor Company, LLC, t/a Red Hen

1822 1st Street NW

License #90832, Retailer CR, ANC 5E

**Renewal Application**

**9:30 AM**

**Protest Hearing (Status)**

**Case # 13-PRO-00084**

Riot Act DC, LLC, t/a Penn Social

801 E Street NW

License #86808, Retailer CX, ANC 2C

**Renewal Application**

**9:30 AM**

**Show Cause Hearing (Status)**

**Case # 12-CMP-00680**

The Stadium Group, LLC, t/a Stadium

2127 Queens Chapel Road NE

License #82005, Retailer CN, ANC 5C

**Operating After Hours, Provided Back-up Drinks, Noise Violation,  
Provided False or Misleading Information, Failed to Follow Security Plan,  
Violation of Special Event Safety/Security Plan**

**9:30 AM**

Board's Calendar  
Page -2- August 7, 2013

**Show Cause Hearing (Status)**

**Case # 13-CMP-00172**

Bistro Francais, Ltd., t/a Bistro Francais  
3124 M Street NW  
License #1428, Retailer CR, ANC 2E

**9:30 AM**

**Operating After Hours**

**Show Cause Hearing (Status)**

**Case # 13-CMP-00165**

Axis Bar & Grill, LLC, t/a Bistro La Bonne  
1340 U Street NW  
License #75284, Retailer CR, ANC 1B

**9:30 AM**

**Operating After Hours**

**Show Cause Hearing (Status)**

**Case # 12-CMP-00562**

Clamenzah, LLC, t/a Food Corner Kabob  
2029 P Street NW  
License #80108, Retailer CR, ANC 2B

**9:30 AM**

**Failed to File Quarterly Statements (2nd Quarter 2012)**

**Show Cause Hearing (Status)**

**Case # 12-CMP-00698**

KHP Corporation, t/a Lee's Liquor  
2339 Pennsylvania Ave SE  
License #26650, Retailer A, ANC 7B

**9:30 AM**

**Sold Go-Cup, Violation of Settlement Agreement**

**Show Cause Hearing (Status)**

**Case # 13-CMP-00067**

Optimism, LLC, t/a Optimism  
3301 12th Street NE  
License #83552, Retailer CT, ANC 5B

**9:30 AM**

**Failed to Post ABC License, Failed to Post Pregnancy Sign**

**Show Cause Hearing (Status)**

**Case # 13-CMP-00163**

Avery's LLC, t/a Avery's Bar and Lounge  
1370 H Street NE  
License #90527, Retailer CT, ANC 6A

**9:30 AM**

**Operating After Board Approved Hours**

Board's Calendar  
Page -3- August 7, 2013

**Fact Finding Hearing**

David Sakai, t/a International House of Pong  
1010 Wisconsin Ave NW  
License #84905, Retailer CR, ANC 2E  
**New Application**

**9:30 AM**

**Fact Finding Hearing\***

Urban Taste, LLC, t/a Takeateasy  
1990 M Street NW  
License #89631, Retailer CR, ANC 2B  
**Request for a Change of Hours, Request for an Entertainment  
Endorsement**

**9:30 AM**

**Show Cause Hearing**

**Case # 12-CMP-00431**

Beg Investments, LLC, t/a Twelve Restaurant & Lounge  
1123 H Street NE  
License #76366, Retailer CT, ANC 6A

**10:00 AM**

**Violation of Settlement Agreement, Failed to Comply With the Terms of  
Board Order No. 2011-289**

**Show Cause Hearing**

**Case # 12-CMP-00603**

LMW, LLC, t/a Little Miss Whisky's Golden Dollar  
1104 H Street NE  
License #79090, Retailer CT, ANC 6A

**11:00 AM**

**Participated in a Pub Crawl Without Board Approval, Violation of  
Settlement Agreement**

*This hearing has been continued to a date to be determined.*

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA  
1:00 PM**

**Fact Finding Hearing\***

Pub Crawl

**1:30 PM**

Dates of Event: September 7, 2013 and September 21-22, 2013

Applicant: Daniel Kramer

Event Names: DC Mojito March and District Oktoberfest

Neighborhood: 810 7<sup>th</sup> Street NW

*The names of the establishments participating in the Pub Crawl are available  
upon request.*

Board's Calendar  
Page -2- August 7, 2013

**Protest Hearing** **2:00 PM**  
**Case # 13-PRO-00034**  
Tas, LLC, t/a Libertine  
2435 18th Street NW  
License #86298, Retailer CR, ANC 1C  
**Renewal Application**

**Protest Hearing\***  
**Case # 13-PRO-00032** **4:30 PM**  
Tropicalia Project, LLC, t/a Bossa Brazilian Bistro  
2463 18th Street NW  
License #84505, Retailer CR, ANC 1C  
**Renewal Application**

*This hearing has been continued to October 9, 2013 at 1:30 pm.*

*\*The public hearings listed above were not previously published in the D.C. Register.*

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**ON**

**8/9/2013**

Notice is hereby given that:

License Number: ABRA-071077

License Class/Type: D Restaurant

Applicant: Bon Appetit Management C

Trade Name: Bon Appetit Mgt. Co.

ANC: 3D

Has applied for the renewal of an alcoholic beverages license at the premises:

**4400 MASSACHUSETTS AVE NW, Washington, DC 20016**

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

**9/23/2013**

HEARING WILL BE HELD ON

**10/7/2013**

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

**ENDORSEMENTS:**

<b>Days</b>	<b>Hours of Operation</b>	<b>Hours of Sales/Service</b>	<b>Hours of Entertainment</b>
<b>Sunday:</b>	<b>10 am - 12 am</b>	<b>11 am -12 am</b>	<b>-</b>
<b>Monday:</b>	<b>7 am - 11 pm</b>	<b>3 pm - 11 pm</b>	<b>-</b>
<b>Tuesday:</b>	<b>7 am - 11 pm</b>	<b>3 pm - 11 pm</b>	<b>-</b>
<b>Wednesday:</b>	<b>7 am - 11 pm</b>	<b>3 pm - 11 pm</b>	<b>-</b>
<b>Thursday:</b>	<b>7 am - 11 pm</b>	<b>3 pm - 11 pm</b>	<b>-</b>
<b>Friday:</b>	<b>7 am - 11 pm</b>	<b>3 pm - 11 pm</b>	<b>-</b>
<b>Saturday:</b>	<b>10 am - 12 am</b>	<b>11 am - 12 am</b>	<b>-</b>

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
8/9/2013

Notice is hereby given that:

License Number: ABRA-072534

License Class/Type: C Hotel

Applicant: Capitol Hospitality, LLC

Trade Name: Capitol Skyline Hotel

ANC: 6D

Has applied for the renewal of an alcoholic beverages license at the premises:

10 I ST SW, Washington, DC 20024

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR BEFORE:

9/23/2013

HEARING WILL BE HELD ON

10/7/2013

AT 10:00 AM, 2000 14th Street, NW, 4th Floor, Washington, DC 20009

ENDORSEMENTS: Entertainment, Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	6 am - 2 am	12 pm - 2 am	6 pm - 1 am
Monday:	6 am - 2 am	12 pm - 2 am	6 pm - 1 am
Tuesday:	6 am - 2 am	12 pm - 2 am	6 pm - 1 am
Wednesday:	6 am - 2 am	12 pm - 2 am	6 pm - 1 am
Thursday:	6 am - 2 am	12 pm - 2 am	6 pm - 1 am
Friday:	6 am - 2 am	12 pm - 2 am	6 pm - 1 am
Saturday:	6 am - 2 am	12 pm - 2 am	6 pm - 1 am

Days	Hours of Summer Garden Operation	Hours of Sales Summer Garden
Sunday:	6 am - 2 am	12 pm - 2 am
Monday:	6 pm - 2 am	12 pm - 2 am
Tuesday:	6 pm - 2 am	12 pm - 2 am
Wednesday:	6 pm - 2 am	12 pm - 2 am
Thursday:	6 pm - 2 am	12 pm - 2 am
Friday:	6 pm - 2 am	12 pm - 2 am
Saturday:	6 pm - 2 am	12 pm - 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 9, 2013
Petition Date: September 23, 2013
Roll Call Hearing Date: October 7, 21013

License No.: ABRA-088360
Licensee: VSLs, LLC
Trade Name: Living Social
License Class: Retailer's Class "CX" Multipurpose
Address: 918 F Street, NW
Contact: Andrew Kline: 202-686-7600

WARD 2 ANC 2C SMD 2C01

Notice is hereby given that this licensee has applied for a substantial change to its License under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such change on the 1 hearing date at 10:00 am, 2000 14th Street, NW, 4th Floor, Washington, D.C. 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date.

LICENSEE REQUESTING TO AN EXPANSION TO THE CURRENT PREMISES TO INCLUDE AN ADDITIONAL 150 SEATS ON THE 6TH FLOOR TO THE EXISTING 261.

CURRENT APPROVED HOURS OF OPERATION

Sunday through Thursday: 8AM - 2AM, Friday and Saturday: 8am - 3am

CURRENT APPROVED HOURS OF ALCOHOL SALES/SEVICE/CONSUMPTION

Sunday through Tuesday: 8am - 11pm, Wednesday and Thursday: 8 am - 12am, Friday and Saturday: 8am - 1am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Posting Date: August 09, 2013  
Petition Date: September 23, 2013  
Hearing Date: October 07, 2013  
Protest Hearing Date: December 04, 2013

License No.: ABRA- 092903  
Licensee: Bloomingdale Partners, LLC  
Trade Name: Nurish Food & Drink  
License Class: Retailer's Class "D" Restaurant  
Address: 1231 Good Hope Road SE  
Contact: Kera Carpenter 202-352-3421

WARD 8      ANC 8A      SMD 8A06

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for December 4, 2013 at 1:30pm.

**NATURE OF OPERATION**

New – Restaurant serving coffee drinks, other non-alcoholic beverages, wine & beer. Café food menu of pastries, sandwiches, salads

**HOURS OF OPERATION**

7 am - 12 am Sunday through Saturday

**HOURS OF SALES/SERVICE/CONSUMPTION**

11 am – 11:30 pm Sunday through Saturday



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 9, 2013
Petition Date: September 23, 2013
Roll Call Hearing Date: October 7, 2013
Protest Hearing Date: December 4, 2013

License No.: ABRA-92242
Licensee: TD BURGER DC, LLC
Trade Name: TD BURGER DC, LLC
License Class: Retailer's Class "C" Tavern
Address: 250 K Street, NE
Contact: Timothy Dean: 301-440-1281

WARD 6 ANC 6C SMD 6C06

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such license on the Roll Call Hearing Date at 10:00 am, 2000 14th Street, N.W., 400 South, Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled on 12/4/2013 at 1:30 pm.

NATURE OF OPERATION

TD Burger will be a full service restaurant serving breakfast, lunch and diner. The menu will be based on burger and American food, entertainment will include recorded music, and or DJ, Band. Total Occupancy Load is #130, with Entertainment Endorsement/Cover Charge and a Summer Garden seating #50.

HOURS OF OPERATION

Sunday through Thursday: 7am - 1am, Friday and Saturday: 7am - 2:30am

HOURS OF ALCOHOLIC BEVERAGE SALES/SERVICE/CONSUMPTION

Sunday through Thursday: 8am - 1am, Friday and Saturday: 8am - 2:30am

SIDEWALK CAFE HOURS OF OPERATION

Sunday through Thursday: 7am - 12:30am, Friday and Saturday: 7am - 1am

SIDEWALK CAFE HOURS OF ALCOHOLIC BEVERAGE SALE/SERVICE/CONSUMPTION

Sunday through Thursday: 8am - 12:30am, Friday and Saturday: 8am - 1am

HOURS OF LIVE ENTERTAINMENT

Sunday through Thursday: 6pm - 1am, Friday and Saturday: 6pm - 2am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Posting Date: August 9, 2013
Petition Date: September 23, 2013
Hearing Date: October 7, 2013
Protest Hearing Date: December 4, 2013

License No.: ABRA- 092827
Licensee: TGI Friday's Inc
Trade Name: TGI Fridays
License Class: Retailer's Class "C" Restaurant
Address: 3334-3336 14th Street, NW
Contact: Michael Fonseca, 202-625-7700

WARD 1 ANC 1A SMD 1A05

Notice is hereby given that this applicant has applied for a license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the Roll Call Hearing Date at 10:00 am, 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the Board must be filed on or before the Petition Date. The Protest Hearing Date is scheduled for 1:30pm on December 4, 2013.

NATURE OF OPERATION

New casual American cuisine restaurant. Entertainment will consist of occasional DeeJay and/or Karaoke. Seating for 290 patrons, total load is 325. Sidewalk Café with seating for 16 patrons.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGES SALES/SERVICE AND CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFÉ

Sunday through Saturday 10am-2am

HOURS OF ENTERTAINMENT

Sunday through Saturday 10am-2am

## DEPARTMENT OF GENERAL SERVICES

NOTICE OF PUBLIC MEETINGS REGARDING  
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE 10-801

The District will conduct a public hearing to receive public comments on the proposed surplus of the following District properties. The date, time and location shall be as follows:

**Properties:** Parcel No: 01290057 – 1401 Brentwood Parkway, NE (“Hamilton School Building”)

**Date:** September 6, 2013

**Time:** 6:00 p.m.

**Location:** Trinidad Recreation Center  
1310 Childress Street, NE  
Washington, DC

**Contact:** Althea O. Holford, Real Estate Specialist  
Department of General Services  
202.478.2428 or [althea.holford@dc.gov](mailto:althea.holford@dc.gov)

## DEPARTMENT OF GENERAL SERVICES

NOTICE OF PUBLIC MEETINGS REGARDING  
SURPLUS RESOLUTIONS PURSUANT TO D.C. OFFICIAL CODE 10-801

The District will conduct a public hearing to receive public comments on the proposed surplus of the following District properties. The date, time and location shall be as follows:

**Properties:** Parcel No: 01600046 at 820 26th Street, NE (“Young School Building”)  
**Date:** September 5, 2013  
**Time:** 6:00 p.m.  
**Location:** Spingarn High School located at  
2500 Benning Road, NE  
Washington, DC 20002  
**Contact:** Althea O. Holford, Real Estate Specialist  
Department of General Services  
202.478.2428 or [althea.holford@dc.gov](mailto:althea.holford@dc.gov)

**BOARD OF ZONING ADJUSTMENT  
PUBLIC HEARING NOTICE  
TUESDAY, OCTOBER 22, 2013  
441 4<sup>TH</sup> STREET, N.W.  
JERRILY R. KRESS MEMORIAL HEARING ROOM, SUITE 220-SOUTH  
WASHINGTON, D.C. 20001**

**TO CONSIDER THE FOLLOWING:** The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

**9:30 A.M. MORNING HEARING SESSION**

**A.M.**

**WARD ONE**

18637  
ANC-1B      **Application of Daniel McKay and Caroline DeMariz**, pursuant to 11 DCMR § 3104.1, for a special exception to allow an addition to an existing one-family row dwelling under section 223, not meeting the lot occupancy (section 403) and court (section 406) requirements and a special exception from the roof structure provisions under subsection 411.11, in the R-4 District at premises 1315 T Street, N.W. (Square 237, Lot 8).

**WARD SIX**

18639  
ANC-6B      **Application of New Vision Properties LLC**, pursuant to 11 DCMR § 3104.1, for a special exception to allow an addition to an existing one-family row dwelling under section 223, not meeting the lot area (section 401), lot occupancy (section 403), court (section 406) and nonconforming structure (subsection 2001.3) requirements in the R-4 District at premises 229 12<sup>th</sup> Street, S.E. (Square 990, Lot 817).

**WARD FIVE**

18635  
ANC-7E      **Application of Gary McNaughton**, pursuant to 11 DCMR § 3103.2, for a variance from the floor area ratio requirements under section 771, to establish a restaurant, café and fitness center in the C-1 District at premises 4415 Bowen Road, S.E. and 4414 Southern Avenue, S.E. (Square 5365, Lots 176 and 177).

**WARD SIX**

BZA PUBLIC HEARING NOTICE  
OCTOBER 22, 2013  
PAGE NO. 2

18636            **Application of JBG/33 N Street LLC**, pursuant to 11 DCMR §§ 3104.1  
ANC-6C            and 3103.2, for a variance from the loading requirements under section  
2201, and a special exception from the from the roof structure  
requirements under sections 411 and 770.6, to permit the development of a  
residential building with ground floor retail in the C-3-C District at  
premises 33 N Street, N.E. (Square 672, Lot 254).

**WARD TWO**

18638            **Application of Rosebusch LLC and Gregg M. Busch**, pursuant to 11  
ANC-2F            DCMR §§ 3104.1 and 3103.2, for a special exceptions from the rear yard  
requirements under section 774, and the roof structure requirements of  
sections 411 and 1902.1(a), and variances from the lot occupancy  
requirements of section 2604.2, and the off-street parking requirements  
under section 2101.1, to allow the construction of a new residential  
building in the ARTS/C-3-A District at premises 1456-1460 Church  
Street, N.W. (Square 209, Lot 65,66 and 67).

**WARD ONE**

**THIS APPLICATION WAS POSTPONED FROM THE APRIL 30, 2013, AND  
JULY 16, 2013, PUBLIC HEARING SESSIONS:**

18539            **Appeal of 2101 Connecticut Avenue Cooperative Apartments, Inc.**,  
ANC-1C            pursuant to 11 DCMR §§ 3100 and 3101, from a December 5, 2012  
decision by the Department of Consumer and Regulatory Affairs to allow  
the conversion of an existing one-family dwelling into a 9 unit apartment  
building in the R-5-B District at 2014 Kalorama Road, N.W. (Square  
2537, Lot 301); and,

18540            **Appeal of 2101 Connecticut Avenue Cooperative Apartments, Inc.**,  
ANC-1C            pursuant to 11 DCMR §§ 3100 and 3101, from a December 5, 2012  
decision by the Department of Consumer and Regulatory Affairs to allow  
the conversion of an existing one-family dwelling into a 8 unit apartment  
building in the R-5-B District at 2012 Kalorama Road, N.W. (Square  
2537, Lot 150).

**PLEASE NOTE:**

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or

## BZA PUBLIC HEARING NOTICE

OCTOBER 22, 2013

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appeal, may subject the application or appeal to postponement, dismissal or denial. The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4, of the Regulations, the Board will impose time limits on the testimony of all individuals. Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. **Persons seeking party status shall file with the Board, not less than 14 days prior to the date set for the hearing, a Form 140 – Party Status Application Form.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: [www.dcoz.dc.gov](http://www.dcoz.dc.gov). All requests and comments should be submitted to the Board through the Director, Office of Zoning, 441 4<sup>th</sup> Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

**LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, VICE CHAIRPERSON, JEFFREY L. HINKLE AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF ZONING ADJUSTMENT, CLIFFORD W. MOY, SECRETARY TO THE BZA, SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FURTHER HEARING ON DESIGNATED ISSUES**

**TIME AND PLACE:**            **Thursday, September, 19, 2013, @ 6:00 P.M.**  
   **Jerrily R. Kress Memorial Hearing Room**  
   **441 4th Street, NW, Suite 220**  
   **Washington, D.C. 20001**

**CASE NO. 05-36G (CASCO, Inc. & K Street Developers, LLC - Modification of Previously-Approved PUD and Related Zoning Map Amendment @ Square 749)**

Pursuant to § 3025.1 and 3025.2 of the Zoning Commission’s Rules of Practice and Procedure (Title 11 of the DCMR) the Commission gives notice to the participants in this proceeding that at its public meeting of July 29, 2013, the Commission re-opened the record of this case to require a further hearing limited to the issues discussed in the Report to the Zoning Commission of Steven E. Sher. (Exhibit 31.)

The hearing will consist of the direct testimony of Mr. Sher, his cross examination by Union Place Phase I, LLC<sup>1</sup>, and redirect testimony. Mr. Sher’s direct testimony may not exceed 10 minutes in length.

No other evidence will be received at the hearing.

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 200-S, 441 4<sup>th</sup> Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

**ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.**

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<sup>1</sup> Although Advisory Neighborhood Commission 6C was automatically a party in this proceeding, it did not provide the information required by 11 DCMR § 3012.5 in order for it to participate in the hearing.





Z.C. NOTICE OF PUBLIC HEARING  
Z.C. CASE NO. 06-04C  
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approved PUD. In all respects other than height, the design of the building will be substantially consistent with the prior approval and the conditions set forth in Z.C. Order No. 06-04.

This public hearing will be conducted in accordance with the contested case provisions of the Zoning Regulations, 11 DCMR § 3022.

**How to participate as a witness.**

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

**How to participate as a party.**

Any person who desires to participate as a party in this case must so request and must comply with the provisions of 11 DCMR § 3022.3.

A party has the right to cross-examine witnesses, to submit proposed findings of fact and conclusions of law, to receive a copy of the written decision of the Zoning Commission, and to exercise the other rights of parties as specified in the Zoning Regulations.

Except for the affected ANC, any person who desires to participate as a party in this case must clearly demonstrate that the person's interests would likely be more significantly, distinctly, or uniquely affected by the proposed zoning action than other persons in the general public. Persons seeking party status **shall file with the Commission, not less than 14 days prior to the date set for the hearing, a Form 150 – Party Status Application.** This form may be obtained from the Office of Zoning at the address stated below or downloaded from the Office of Zoning's website at: [www.dcoz.dc.gov](http://www.dcoz.dc.gov).

To the extent that the information is not contained in the Applicant's prehearing submission as required by 11 DCMR § 3013.1, the Applicant shall also provide this information not less than 14 days prior to the date set for the hearing.

**If an affected Advisory Neighborhood Commission (ANC) intends to participate at the hearing, the ANC shall submit the written report described in § 3012.5 no later than seven (7) days before the date of the hearing. The report shall contain the information indicated in § 3012.5 (a) through (i).**

Z.C. NOTICE OF PUBLIC HEARING  
Z.C. CASE NO. 06-04C  
PAGE 3

**Time limits.**

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- |    |                                  |                         |
|----|----------------------------------|-------------------------|
| 1. | Applicant and parties in support | 60 minutes collectively |
| 2. | Parties in opposition            | 60 minutes collectively |
| 3. | Organizations                    | 5 minutes each          |
| 4. | Individuals                      | 3 minutes each          |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Information responsive to this notice should be forwarded to the Director, Office of Zoning, Suite 200/210-S, 441 4<sup>th</sup> Street, N.W., Washington, D.C. 20001. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

**ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.**

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF FINAL RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code §§ 25-211(b) and Mayor's Order 2001-96 (June 28, 2001) as revised by Mayor's Order 2001-102 (July 23, 2001), hereby gives notice of its intent to adopt the following final rules that would add a definition of a full-service grocery store to § 199 of Chapter 1 (General Provisions) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR), pursuant to the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (Act), effective May 1, 2013 (D.C. Law 19-310; 60 DCR 3410). These rules define what constitutes a full-service grocery store in order to effectuate the purpose of the full-service grocery store exception to the existing moratorium on the issuance of new off-premises Retailer's Class B Licenses. This rulemaking is also necessary to address a specific provision of the Act which requires the Board to undertake a rulemaking defining the term "full service grocery store" within forty-five (45) days of the effective date of the Act.

The Board initially adopted the rules on an emergency basis so that applications for the full-service grocery store exception could be reviewed and processed by the Board in a timely manner. Specifically, it is imperative that applicants, Advisory Neighborhood Commissions, and other members of the public know the criteria the Board is using to determine whether an applicant meets the full-service grocery store definition. In addition, a definition of a full-service grocery store is necessary on an emergency basis to enable the Board to timely adjudicate protests that challenge the designation of an establishment as a full-service grocery store.

The Board held a public hearing on the initial proposed rules on February 28, 2013. In addition, the Board left the record open until March 8, 2013, in order to give the public an opportunity to submit written comments. The Board received the following comments regarding the proposed regulation:

Florence Harmon, Chair of the Foggy Bottom & West End Advisory Neighborhood Commission 2A (ANC 2A), submitted a resolution dated March 19, 2013, supporting the proposed rulemaking. ANC 2A praised the Board for its undertaking, recognizing the difficulty in crafting a specific, quantifiable, "one-size-fits-all" definition for grocery stores. ANC 2A noted that the standards set forth in the proposed rules will encourage retail establishments seeking alcoholic beverage licenses to offer a more robust line of traditional grocery products, especially in certain geographic locations that lack stores that offer a full line of groceries.

Gary Cha, the owner of Yes Organic Market, believes that the Board's proposed regulation could exclude some full-service grocery stores. According to Mr. Cha, the proposed regulation has omitted frozen foods, which could be included in any of the categories listed in the proposed regulation. In addition, Mr. Cha is concerned that the measurement requirement is vague on how to comply with the space requirement. For example, the regulation is unclear on how to count food preparation areas, such as deli or butcher areas that include sinks, cutting equipment, and scales. In addition, he believes the measurement criteria does not consider the possibility that a

store may mix product areas and that some areas of the store may switch products on a frequent basis (i.e., end caps may change from holding rock salts, Valentine's Day products, and other products on a rotating basis). Mr. Cha suggested that the Board consider a food-related stock-keeping unit (SKU) minimum to determine whether an establishment is a full-service grocery store.

Angus Armstrong, Esq., and Stephen O'Brien, Esq., on behalf of Trader Joe's Co., cautioned the Board that the proposed regulation may unnecessarily preclude full service grocery stores from obtaining a license. Trader Joe's is concerned that the proposed regulation excludes canned and frozen foods, which are products mentioned in the statute. Trader Joe's suggests that if they are not intended to be omitted, then the Board should cite canned and frozen foods in the regulation.

Denis James asked the Board to broaden the proposed regulation to include all products that a consumer would expect at a full-service grocery store. He opposes the four out of five product category criteria created by the Board, and he believes that the regulation should include frozen or canned foods.

Nina Albert, on behalf of Walmart, is concerned that the proposed rules may adversely impact Walmart's operations in the District of Columbia, and adversely impact Walmart's merchandise selection in certain parts of the city. However, Ms. Albert believes that Walmart can comply with the product category requirements, and therefore, she does not oppose the present language in this section of the proposed rules. Nevertheless, Walmart has concerns about the minimum square footage requirement, such that it would require a store containing 100,000 square feet of retail space, to have an aggregate of 20,000 to 25,000 square feet set aside for each of the food categories identified in the rule. Moreover, Ms. Albert is concerned that the minimum requirement for each category would require 5,000 square feet if the store had 100,000 square feet of retail space. Walmart suggests that the Board consider the square footage of the grocery store within a combination retail-grocery store as the total retail space for ABRA compliance purposes.

Paul Pascal, Esq., on behalf of CVS, recounted the legislative history of the full-service grocery store exception, stating that the original law was created to attract a variety of food service businesses of all varieties to the District. He also noted that the new law was intended to be flexible. Mr. Pascal is concerned that the product requirements do not align with market realities, nor do they include canned or frozen foods. Mr. Pascal is also concerned that it is unclear as to who is responsible for ensuring the accuracy of the measurements. Mr. Pascal encouraged the Board to process pending applications, because CVS dutifully applied under the full-service grocery store exception in good faith, and it applied with the understanding that ABRA's administrative processes would adjudicate its application.

Rick Conner, the District Manager of Walgreens, commented that the proposed rules impair the ability of Walgreen, Co., to expand in the District of Columbia. Mr. Conner argued that supermarkets are entering the pharmacy market and becoming one-stop shopping destinations. Likewise, Walgreens must do the same to remain competitive. Mr. Conner also commented that the Board is departing from past practice by applying the regulation to pending applications.

ANC Commissioner Karen Perry believes the proposed regulation is not sufficiently restrictive. Citing the Food Marketing Institute, Commissioner Perry believes that a full-service grocery store should carry anywhere from 15,000 to 60,000 SKU's, and generate at least \$2 million dollars in sales. In addition, she reports that the median square footage of a grocery store is 46,000 square feet. Commissioner Perry believes that a full-service grocery store should have more than half of the store dedicated to the sale of food items.

Brian Lederer believes that the proposed regulation is too broad. He finds that the legislative history shows that the Council of the District of Columbia only intended the exception to apply to "high-quality grocery stores." According to Mr. Lederer, supermarkets like Safeway, Giant, and Whole Foods dedicate far more than half of their retail space to food products. In his opinion, the grocery store exception should not apply to pharmacies and other convenience stores.

Risa Hirao, Esq., on behalf of the District of Columbia Association of Beverage Alcohol Wholesalers (DCABAW) is concerned that the proposed regulation will impede economic development. Ms. Hirao stated that the five percent (5%) requirement should not be based on the total retail space of the store. She believes the five percent requirement will harm "big box" stores, because it requires them to dedicate more space to consumables than they otherwise would. She also believes it will be difficult for small stores or specialty grocery stores to comply with the regulation. She is further concerned that the product categories listed in the proposed rules exclude gourmet frozen foods, honey, maple syrup, soups, sauces, tuna fish, non-dairy products, like hemp, hazelnut, and soy milk, canned vegetables, and other products. Lastly, Ms. Hirao argued that the proposed regulation deprives retailers of the ability to choose what items they purchase and where to display them in their stores.

Ms. Hirao is also concerned that the regulation does not clearly explain the methodology the Board will use to determine whether a store has met the minimum space requirement set forth in the proposed rules. For example, Ms. Hirao questioned how the Board will define total retail space, and how the Board will measure the retail area if products from multiple categories are comingled on the same shelf or display case.

Ms. Hirao further argues that the regulation will create a disincentive to do business in the District of Columbia. She is concerned that businesses will delay expanding their operations or product lines, because changing space in the store would affect their ability to continue qualifying as a full-service grocery store. Furthermore, the regulations create a disincentive to add retail space dedicated to other departments, like flower shops, kitchens, and bakeries, because those other areas may reduce the amount of space available for the sale of food products required by the proposed regulation.

Eric Smucker, represented by Andrew Kline, has a pending application for a Retailer's Class B License, and he seeks to qualify his establishment as a full-service grocery store. According to Mr. Kline, the Board should consider that the city has limited space to accommodate large grocery stores and that there are many types of food selling operations that could qualify as a full-service grocery store. As a result, he urged the Board to ensure that the rules take into account small business operations.

Roderic Woodson, Esq., believes that the Board should leave itself the flexibility to determine what qualifies as a full-service grocery store on a case-by-case basis. Mr. Woodson noted that the definition of a full-service grocery store should depend on the expectations of each community.

These proposed rules were originally adopted by the Board on January 16, 2013, by a five (5) to zero (0) vote. The Board gave thoughtful and measured consideration to the oral and written comments submitted by the various affected parties. In response to the testimony, the Board has amended the rulemaking in order to clarify the definition and to address concerns raised by the public. Notably, the Board includes frozen and canned foods as product categories, which are described in §§ 25-331(d) and 25-332(c). Additionally, the Board includes a definition of the term “selling area” to clarify that the space being measured under the rule includes the areas of the store open to the public, but does not include preparation areas, rest rooms, or storage facilities.

The Board retained the minimum square footage criteria it adopted in the first proposed rulemaking. The Board concludes that the square footage requirements ensure that the full-service grocery store designation will be applied consistently. In addition, providing minimum square footage requirements provides applicants with clear guidelines on how to comply with the full-service grocery store rules. Furthermore, the Board will allow applicants to qualify as a full-service grocery store by only selling six of seven qualifying products so that retailers can experiment with different business models.

The Board also finds that the legislative history of the full-service grocery store exception does not limit the exception to large grocery stores, such as Whole Foods, Safeway and Giant. Instead, the Board concludes that the Council created the rule primarily to attract all varieties of high-quality grocery stores to the District of Columbia. The Board does not find any intent on the part of the Council to exclude small businesses that operate as full-service grocery stores, or to provide large grocery stores with a competitive advantage over small full-service grocery stores.

Finally, the Board will apply this rule to all applications approved by the Board on or after January 14, 2013, the effective date of the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012. The Board concludes that the intent of the Council in halting the issuance of Retailer’s Class B Licenses was to ensure that no additional licenses would be approved until the Board crafted a definition that could be applied to all applications being considered by the Board for approval.

The rules were published in the *D.C. Register* as a Notice of Emergency and Proposed Rulemaking on April 26, 2013 at 60 DCR 6230. Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Supp.), the rules were transmitted to the Council of the District of Columbia (Council), for a ninety (90) day period of Council review on May 30, 2013. The rules were approved by Council Resolution, R20-206, the “Full Service Grocery Store Definition Approval Resolution of 2013”, adopted by the Council at its July 10, 2013 legislative meeting. These final rules were

adopted by the Board on July 31, 2013, on a vote of five (5) to zero (0) and they will become effective five (5) days after publication in the *D.C. Register*.

**As such, Title 23, ALCOHOLIC BEVERAGES, of the DCMR is amended as follows:**

**Chapter 1 PROVISIONS OF GENERAL APPLICABILITY is amended by adding the definition of a “full-service grocery store” after the definition of “Fact-finding hearing” in § 199, which shall read as follows:**

“Full-service grocery store” –

- (A) A self-service retail establishment independently owned or part of a corporation operating a chain of retail establishments under the same trade name that:
  - (i) Is licensed as a grocery store under § 47-2827; and
  - (ii) Offers for sale a full line of food products that includes at least six (6) of the seven (7) following food categories:
    - (a) Fresh fruits and vegetables,
    - (b) Fresh and uncooked meats, poultry and seafood;
    - (c) Dairy products;
    - (d) Canned foods;
    - (e) Frozen foods;
    - (f) Dry groceries and baked goods; and
    - (g) Non-alcoholic beverages.
- (B) A “full-service grocery store” in subparagraph (A) may include related service departments, such as a bakery, pharmacy, or flower shop, as well as departments that offer household products and sundries.
- (C) A retail establishment shall meet the primary business and purpose standard described in Title 25 of the D.C. Official Code if (1) a minimum of fifty percent (50%) of the store’s square feet of selling area is dedicated to the sale of the food categories listed in (A)(ii) above; or (2) a minimum of six thousand (6,000) square feet of the store’s selling area is dedicated to the sale of the food categories listed in (A)(ii) above.
- (D) A retail establishment that meets either standard set forth in subparagraph (C) must also dedicate a minimum of five percent (5%) of the store’s selling area set aside for the sale of food items listed in subparagraph (A) to each of six (6) of the seven (7) food categories listed in subsection (A)(ii).



- (E) The term “selling area” means the area in a retail establishment that is open to the public and does not include storage areas, preparation areas, or rest rooms.
  
- (F) The definition of “full-service grocery store” contained in this subsection shall apply to license applications being considered by the Board for approval on or after January 14, 2013.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF FINAL RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code § 25-211(b)(2012 Supp.) and Mayor's Order 2001-96 (June 28, 2001) as revised by Mayor's Order 2001-102 (July 23, 2001), hereby gives notice of its intent to adopt the following final rules that make technical amendments to Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR), to conform to changes contained in the Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (Act), effective May 1, 2013 (D.C. Law 19-310; 60 DCR 3410), as amended, as well as other administrative changes not related to the Act.

The rulemaking clarifies that all retailer's license categories can apply to the Board for a stipulated license, and creates a stipulated license fee of \$100. The rules also clarify that the annual fee for a wine pub permit is \$5,000 and that the holder of a wine pub permit can apply for a wine and beer purchasing permit. The rulemaking amends the corking fee requirements contained in § 717 of Title 23 of the DCMR to require the disclosure of the fee charged to patrons. The rules also conform to the Act's requirement that retailers may keep and maintain records on the licensed premises electronically. The rules clarify that the Board may require a group of five or more individuals to appear in person before the Board. Finally, the rulemaking amends § 1609 and § 2000.3 of Title 23 of the DCMR to conform to the new settlement agreement and catering requirements contained in the Act.

These rules were initially adopted by the Board on January 30, 2013 by a five (5) to zero (0) vote. On February 28, 2013, the Board conducted a public hearing, pursuant to D.C. Official Code § 25-354 (2012 Supp.), to receive comment on the technical changes proposed to Title 23 of the DCMR.

Andrew Kline, Legislative Representative, testified on behalf of the Restaurant Association (RAMW). RAMW has approximately 700 members and is the principal representative of restaurants in the District of Columbia. At the hearing, Mr. Kline requested that the Board give consideration to eliminating Section 717.2, which creates a cap of \$25.00 as a corkage fee. Corkage fees are those fees charged by restaurants and other on-premises retailer licensees to uncork a bottle of wine brought by patrons who consume the wine with the purchased meal. Mr. Kline indicated that there is no public policy reasoning to support this regulatory cap, and the market should govern as to the amount of the fee set by the on-premises establishment. RAMW requested that the cap on the corkage fee be eliminated, but if the Board is inclined to impose one, the current \$25.00 cap should be increased to reflect today's market.

Mr. Kline also requested the Board amend Section 1204 to add the word "available" so that retailers who keep and maintain their records electronically will be required to have those electronic records available upon the licensed premises. The rationale is that ABRA will have access to the electronic records for regulatory inspection, so it does not matter where the hard data of electronic records is physically located.

The Board received no other testimony or written comments. The Board considered the testimony of RAMW, and the addition of other technical changes to the existing regulations. The Board is in agreement with RAMW’s comments regarding the corkage fee, and the electronic recordkeeping amendment, and has added those modifications below. Additionally, the Board made further amendments to Title 23 with respect to Section 200 regarding stipulated licenses, Section 1609 regarding settlement agreements, and Section 711 regarding tasting permits.

The rules were published in the *D.C. Register* as a Notice of Proposed Rulemaking on April 12, 2013 at 60 DCR 5641. Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Supp.), the proposed rules were transmitted to the Council of the District of Columbia (Council), for a ninety (90) day period of Council review on May 30, 2013. The rules were approved by Council Resolution, R20-302, the “Technical Amendment Approval Resolution of 2013”, adopted by the Council at its July 10, 2013 legislative meeting. These final rules were adopted by the Board on July 31, 2013, on a vote of five (5) to zero (0) and they will become effective five (5) days after publication in the *D.C. Register*.

**Title 23 of the D.C. Municipal Regulations is amended as follows:**

**Section 200, STIPULATED LICENSES, of Chapter 2, LICENSE AND PERMIT CATEGORIES, of title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by replacing Subsections 200.1, and 200.1(a) through 200.1(c) to read as follows:**

**200 STIPULATED LICENSES.**

200.1 The ABC Board will permit an applicant who has submitted a completed license application involving a Manufacturer’s license, Wholesaler’s license, or Retailer’s license to apply for a stipulated license under the following conditions:

- (a) The applicant must be applying for or must hold a Manufacturer’s license, Wholesaler’s license, or Retailer’s license; and
- (b) The applicant must submit to the ABC Board written correspondence from an ANC Officer where the applicant’s premises is located stating that the ANC has voted with a quorum present to either support or not to object to the issuance of a stipulated license to the applicant pending completion of the 45-day protest period; and
- (c) The applicant must stop serving or selling alcoholic beverages under the stipulated license if a valid protest is filed against the applicant during the 45-day protest period.

**Section 203, WINE AND BEER PURCHASING PERMIT, of Chapter 2, LICENSE AND PERMIT CATEGORIES, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by replacing Subsections 203.1, 203.2, and 203.3 to read as follows:**

**203 WINE AND BEER PURCHASING PERMIT.**

- 203.1 A wine and beer purchasing permit shall allow the holder of a Retailer's A, Class B, brew pub, or wine pub license to sell wine and/or beer to the public at the premises of a Temporary or a Retailer's Class C or Class D license holder.
- 203.2 Beer or wine that is purchased at the authorized location from the Class A, Class B, brew pub, or wine pub licensee under the wine and beer purchasing permit shall not be opened or consumed at the authorized location.
- 203.3 A District off-premises retailer, brew pub, or wine pub authorized to sell containers of beer or wine at the authorized location may remove closed containers of beer and/or wine from the authorized premises but shall not be permitted to remove opened containers of beer and/or wine from the authorized premises. This subsection also applies to customers who purchase or receive alcoholic beverages at the authorized location.

**Section 209, PERMIT AND ENDORSEMENT FEES, of Chapter 2, LICENSE AND PERMIT CATEGORIES, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by adding a new Subsection 209.12 to read as follows:**

**209 PERMIT AND ENDORSEMENT FEES.**

- 209.12 The annual fee for a Wine Pub permit shall be five thousand dollars (\$ 5,000).

**Section 210, APPLICATION FEES, of Chapter 2, LICENSE AND PERMIT CATEGORIES, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by adding a new Subsection 210.7 to read as follows:**

**210 APPLICATION FEES.**

- 210.7 The fee for a stipulated license shall be one hundred dollars (\$ 100).

**Section 711, PERMITS FOR SAMPLING OF ALCOHOLIC BEVERAGES, of Chapter 7, GENERAL OPERATING REQUIREMENTS, or Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by replacing Subsection 711 to read as follows:**

**711. RETAIL PERMITS FOR SAMPLING OF ALCOHOLIC BEVERAGES.**

- 711.1 The holder of a Retailer's license Class A and B may utilize a portion of the licensed premises for the sampling of alcoholic beverages during the hours of sale authorized in D.C. Official Code § 25-722(a). Containers of alcoholic beverages used for sampling purposes shall be labeled as such and may not be sold.
- 711.2 No licensee may use any portion of the licensed premises for the sampling of

alcoholic beverages without a permit issued by the Board. A request for a permit shall be in writing and shall:

- (a) State in detail the type of beverages to be offered in the sampling;
- (b) Include drawings of the premises indicating the areas where the sampling is to take place; and
- (c) State the hours and days during which the sampling is to take place.

711.3 A permit issued under this section shall be valid for two years. The permit shall expire on the same date as the applicant's Class A and B Retailer's license.

711.4 The annual fee for a permit issued under this section shall be one-hundred and thirty dollars (\$130). Payment shall be made at the same time that the second year fee or renewal fee for Class A and B Retailer's licenses is due.

711.5 The holder of a permit issued under this section shall be authorized to provide to one customer in any one day samples that do not exceed the following quantities:

- (a) Three ounces (3 oz.) of spirits;
- (b) Six ounces (6 oz.) of wines; and
- (c) Twelve ounces (12 oz.) of beer.

711.6 The holder of a tasting permit may hold public tastings during the hours it is permitted to sell and serve alcoholic beverages under its Class A and B Retailer's license unless restricted by Board order or settlement agreement.

**Section 717, CORKING FEE, of Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by deleting Subsection 717.2 in its entirety and retaining Section 717.1 to read as follows:**

**717. CORKING FEE.**

717.1 The holder of an on-premises retailer's license may permit a patron to bring to and consume on the licensed premises an alcoholic beverage that the licensee is permitted to sell or serve under its on-premises retailer's license; provided that the alcoholic beverage is opened by an employee of the establishment. However, the holder of an on-premises retailer's license shall not permit any alcoholic beverage opened on the licensed premises to be removed from the licensed premises.

717.2 The holder of an on-premises retailer's license shall be permitted to charge a corking fee provided that the corking fee is disclosed to the patron prior to the opening of the alcoholic beverage.

**Section 1204, RETAILERS BOOKS AND RECORDS, of Chapter 12 RECORDS AND REPORTS, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by replacing Subsection 1204.1 to read as follows:**

**1204. RETAILERS BOOKS AND RECORDS.**

1204.1 Each holder of a Retailer's license shall keep and maintain available upon the licensed premises, either physically or electronically, records which include invoices and delivery slips and which adequately and fully reflect all purchases, sales, and deliveries of all alcoholic beverages, except beer, made to it.

**Section 1502, NOTICE OF A NEW APPLICATION FOR A NEW LICENSE, RENEWAL OF A LICENSE, OR TRANSFER OF A LICENSE TO A NEW LOCATION, of Chapter 15, APPLICATIONS: NOTICE OF HEARINGS INVOLVING LICENSES, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by replacing Subsection 1502.3 to read as follows:**

**1502. NOTICE OF AN APPLICATION FOR A NEW LICENSE, RENEWAL OF A LICENSE, OR TRANSFER OF A LICENSE TO A NEW LOCATION.**

1502.3 At least forty-five (45) days prior to the roll call hearing, the Board shall give notice of an application to the entities set forth in D.C. Official Code § 25-421(a). This notice requirement shall not apply to renewal applications in those instances where the Applicant's new license or transfer to a new location application has a 45 day public comment period ending within thirty (30) days of the renewal deadline for that license class.

**Section 1605, FILING A PROTEST, of Chapter 16, CONTESTED HEARINGS, NON-CONTESTED HEARINGS, PROTEST HEARINGS, AND PROCEDURES, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by replacing Subsection 1605.4 to read as follows:**

**1605. FILING A PROTEST.**

1605.4 The Board may require protestants to appear in person before the Board for the purpose of determining that a sufficient number of individuals exist to have standing pursuant to D.C. Official Code § 25-601.

**Section 1609, COOPERATIVE OR VOLUNTARY AGREEMENTS of Chapter 16, CONTESTED HEARINGS, NON-CONTESTED HEARINGS, PROTEST HEARINGS, AND PROCEDURES, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by replacing § 1609.1 to read as follows, and adding new Subsections 1609.6, 1609.7, and 1609.8 to read as follows:**

**1609. SETTLEMENT AGREEMENTS.**

- 1609.1 The terms of a settlement agreement submitted by the parties shall be consistent with District of Columbia law and shall be in compliance with D.C. Official Code §§ 25-446.01 and 25-446.02.
- 1609.6 The phrase “settlement agreement” found in Title 25 of the D.C. Official Code shall be deemed equivalent to the term “cooperative agreement”, or “voluntary agreement” used in Title 23 of the D.C. Municipal Regulations.”
- 1609.7 If the Board determines that a settlement agreement submitted by the parties does not comply with all applicable laws and regulations, or otherwise exceeds the Board’s expertise to enforce, the Board may condition approval of the settlement agreement on the parties’ acceptance of modifications of the agreement proposed by the Board. If the parties reject the modifications proposed by the Board, they may submit a new settlement agreement for Board review that complies with D.C. Official Code §§ 25-446.01 and 25-446.02 and is within the Board’s expertise to enforce, or proceed to a protest hearing.
- 1609.8 Settlement agreements must be submitted by the parties to the Board for the Board’s consideration no later than ninety (90) days after the execution of the settlement agreement by parties who are signatories to the settlement agreement.

**Section 2000, CATERER’S LICENSE, of Chapter 20, CATERER’S LICENSE, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by replacing Subsection 2000.3 to read as follows:**

**2000. CATERER’S LICENSE.**

2000.3 Holders of a caterer’s license may purchase alcoholic beverages from Wholesalers and holders of an off-premises license, class A, for catered events of one hundred (100) persons or less. Holders of a caterer’s license shall purchase alcoholic beverages from an off-premises license, class A, for catered events in excess of one hundred (100) persons except that holders of a caterer’s license may also purchase alcoholic beverages from Wholesalers for catered events in excess of one hundred (100) persons when the licensed caterer also holds another type of on-premise, retailer’s license.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF FINAL RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code §§ 25-211(b) and Mayor's Order 2001-96 (June 28, 2001) as revised by Mayor's Order 2001-102 (July 23, 2001), hereby gives notice of its intent to adopt the following amendments to Chapter 7 (General Operating Requirements) of Title 23 (Alcoholic Beverages), which make clear that the sale of beer in growlers by brew pub permit holders, and the sale of wine by wine pub permit holders, for off-premises consumption, is limited to the hours between 7:00 A.M. and midnight seven days a week.

The Omnibus Alcoholic Beverage Regulation Emergency Amendment Act of 2012 (Act), effective May 1, 2013 (D.C. Law 19-310; 60 DCR 3410), as amended, created a new Section 25-124 of Title 25 of the D.C. Official Code, setting forth wine pub permit requirements and qualifications. Subsection (d) provides that the holder of a wine pub permit may also sell wine to patrons in sealed bottles or other closed containers for off-premises consumption. The Act also amends Section 25-117 of Title 25 of the D.C. Official Code to allow brew pub permit holders to sell beer in growlers for off-premises consumption. However, the Act does not indicate what the legal hours are for the sale of wine by wine pub permit holders, and beer in growlers by brew pub permit holders for off-premises consumption.

These rules were originally adopted by the Board on an emergency basis on January 16, 2013 by a five (5) to zero (0) vote. The emergency action was necessary because the new Act is silent on the permitted hours of sale by wine pub and brew pub permit holders for off-premises consumption, and these emergency rules make clear that sales may not begin before 7:00 a.m., and must end daily by midnight.

The rules were published in the *D.C. Register* as a Notice of Emergency and Proposed Rulemaking on February 8, 2013 at 60 DCR 1589. Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Supp.), the proposed rules were transmitted to the Council of the District of Columbia (Council), for a ninety (90) day period of Council review on April 18, 2013. The proposed rules were approved by Council Resolution, R20-182, the "Brew Pub and Wine Pub Hours Rules Approval Resolution of 2013", adopted by the Council at its June 26, 2013 legislative meeting. These final rules were adopted by the Board on July 31, 2013, on a vote of five (5) to zero (0) and they will become effective five (5) days after publication in the *D.C. Register*.

**Title 23 of the D.C. Municipal Regulations is amended as follows:**

**Section 705, HOURS OF SALE AND DELIVERY FOR OFF-PREMISES RETAIL LICENSEES, of Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, is amended by adding a new Subsection 705.13 to read as follows:**



705.13

The holder of a brew pub permit shall be permitted to sell beer in growlers to patrons for off-premise consumption between the hours of 7:00 a.m. and midnight. The holder of a wine pub permit shall be permitted to sell wine to patrons in sealed bottles or other closed containers for off-premise consumption between the hours of 7:00 a.m. and midnight.

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF FINAL RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code § 25-211(b)(2012 Supp.), hereby gives notice of the adoption of final rules that create a new Section 720 of Chapter 7 (General Operating Requirements) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR), and set forth the type of information that is required to be included in any public safety plan submitted to the Agency by an on-premise licensee.

The Fiscal Year 2013 Budget Support Act of 2012 (Act), effective October 1, 2012 (D.C. Law 19-168;59 DCR 8025), amends Section 25-723(c) of Title 25 of the D.C. Official Code to allow eligible on-premise retailer's licensees to apply to the Alcoholic Beverage Regulation Administration (ABRA) to sell and serve alcoholic beverages until 4:00 a.m. and operate 24 hours a day on District or federal holidays and certain holiday weekends. The Act requires eligible on-premise licensees to provide written notification of its intent to extend its hours of operation, and submit a public safety plan to ABRA once each calendar year no fewer than 30 days before the first holiday on which a licensee seeks to extend its hours of operation. However, the Act does not indicate what information must be included or covered by a licensee in its public safety plan submission to ABRA. This rulemaking clarifies what information an on-premise licensee must include in its public safety plan.

The Board conducted a public hearing on February 28, 2013. The Board heard testimony from Andrew Kline on behalf of the Restaurant Association of Metropolitan Washington (RAMW). Mr. Kline praised the Board for developing an easy form by which to provide the information required in a Safety Plan, but argued that the Plans themselves were unnecessary. Mr. Kline further stated that the requirement for a Safety Plan adds nothing to improve public safety or enhance security measures; instead it creates a burden for those on-premises licensees who elect to stay open and operate one additional hour. Lastly, Mr. Kline invited the Board to join RAMW in its efforts to convince the Council of the District of Columbia to eliminate this requirement.

The Board appreciates RAMW's testimony, but it is not inclined to ask the Council to eliminate the requirement of Safety Plans. To this end, the Board made no modifications to its initial emergency and proposed rules, and the rules remain unchanged as they were adopted by the Board on November 7, 2012.

The rules were published in the *D.C. Register* as a Notice of Emergency Rulemaking on April 5, 2013 at 60 DCR 5202. Pursuant to D.C. Official Code § 25-211(b)(2) (2012 Supp.), the proposed rules were transmitted to the Council of the District of Columbia (Council), for a ninety (90) day period of Council review on May 2, 2013. The proposed rules were approved by Council Resolution, R20-180, the "Safety Plan Rulemaking Approval Resolution of 2013", adopted by the Council at its June 26, 2013 legislative meeting. These final rules were adopted by the Board on July 31, 2013, on a vote of five (5) to zero (0) and they will become effective five (5) days after publication in the *D.C. Register*.

**Title 23 of the D.C. Municipal Regulations is amended as follows:**

**Section 720, PUBLIC SAFETY PLAN REQUIREMENTS, of Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR is added to read as follows:**

- 720.1 An on-premise licensee shall be required to submit a public safety plan to ABRA in order to sell and serve alcoholic beverages and operate during the extended hours set forth in D.C. Official Code § 25-723(c)(1).
- 720.2 A public safety plan shall be submitted by the on-premise licensee, on a form prescribed by the Board, which at a minimum shall include the following information:
- (a) The names and contact information for those individuals designated by the licensee to respond to any public safety issues that arise;
  - (b) Whether the establishment will have any security cameras in operation;
  - (c) The number and location of cameras used by the establishment and the length of time that video recordings will be kept;
  - (d) Whether the establishment will have any security working during the extended hours of operation;
  - (e) The number of security personnel to be present for the extended hours and the type of security training that security personnel have received;
  - (f) Whether the establishment will maintain an incident log; and
  - (g) What are the establishment's procedures for ensuring that intoxicated persons and minors are not served alcoholic beverages.
- 720.3 An on-premise licensee may utilize an existing security plan on file with ABRA to fulfill the public safety plan requirement set forth in § 720.1.

## DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02 (2006 Repl. & 2012 Supp.)) and Section 6 (6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6)) (2008 Repl.), hereby gives notice of the adoption of an amendment to repeal Sections 968 through 982 of Title 29, Public Welfare, of the District of Columbia Municipal Regulations (DCMR), and to add a new Chapter 41, to be entitled “Medicaid Reimbursement for Intermediate Care Facilities for Individuals with Intellectual Disabilities,” of Title 29, Public Welfare, of the DCMR.

The primary effect of these rules is to update the methodology used to calculate reimbursements for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID). The District last updated this reimbursement model in 1997 and, with the exception of the one-to-one services, it has not been updated since that time. Under these rules, a uniform per diem reimbursement rate for all ICFs/IID is established which shall include payment for: (1) residential services provided to each beneficiary based upon the beneficiary’s level of need and facility classification; (2) active treatment services; (3) other health care and programs; (4) transportation; (5) capital; (6) non-personnel operations; and (7) administrative costs. The new rate methodology authorizes adjustments for inflation beginning in Fiscal Year (FY) 2014 and annually thereafter. In addition to the per diem rate, each facility may receive a supplemental payment for training pursuant to the requirements set forth in the Stevie Sellows Intermediate Care Facility Mentally Retarded Quality Improvement Act of 2005, effective March 8, 2006 (D.C. Law 16-68; D.C. Official Code § 47-1270 *et seq.* (2006 Repl. & 2012 Supp.)). Providers are also required to spend a certain percentage of the various cost centers on service delivery to Medicaid beneficiaries. Failure to comply with the requirements governing Fiscal Accountability will result in DHCF seeking repayment from the provider. The Medicaid program projects approximately \$20 million dollars in additional expenditures in FY13 as a result of this new rate methodology.

Secondarily, this rulemaking incorporates alternative sanctions that will enhance the District’s authority to monitor ICFs/IID’s compliance with the conditions of participation (CoP) in Medicaid, and where necessary, institute corrective actions. Provided the residents of the ICF/IID are not in immediate jeopardy of harm, a CoP violation may be addressed through one or more of the following: (1) denial of payment for all new admissions; (2) directed plan of correction; (3) directed in-service training; or (4) state monitoring. DHCF will administer these alternative sanctions in conjunction with the Department of Health (DOH) and the Department on Disability Services (DDS).

The Council of the District of Columbia (Council) has approved the corresponding State Plan amendment. The State Plan amendment was approved on January 25, 2013 by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services with an effective date of October 1, 2012.

A second notice of emergency and proposed rulemaking was published in the *D.C. Register* on February 1, 2013 at 60 DCR 001196. Comments were received and no substantive changes have been made. The Director adopted these final rules on July 31, 2013 and they will become effective on the date of publication of this notice in the *D.C. Register*.

**Title 29, PUBLIC WELFARE, of the District of Columbia Municipal Regulations is amended as follows:**

**Chapter 9 (Medicaid Program) of Title 29 (Public Welfare) DCMR is amended by deleting Sections 968 through 970 and Sections 972 through 982 in their entirety.**

**A new Chapter 41 of Title 29 (Public Welfare) DCMR is added to read as follows:**

**CHAPTER 41           MEDICAID REIMBURSEMENT FOR INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES**

**4100           GENERAL PROVISIONS**

4100.1           This chapter shall establish principles of reimbursement that shall apply to each intermediate care facility for individuals with intellectual disabilities (ICF/IID) participating in the District of Columbia Medicaid program.

4100.2           For an ICF/IID to be eligible to receive reimbursement under this chapter, it shall be certified as an Intermediate Care Facility by the Health Regulation and Licensing Administration (HRLA) in the Department of Health (DOH), pursuant to 22 DCMR §§ 3100 *et seq.* for a period up to fifteen (15) months.

4100.3           Medicaid reimbursement to ICFs/IID for services provided beginning on or after October 1, 2012, shall be on a prospective payment system consistent with the requirements set forth in this chapter.

4100.4           The Department of Health Care Finance (DHCF) shall pay for ICF/IID services through the use of rates that are reasonable and adequate to meet the costs that are incurred by efficiently, economically operated facilities in order to provide services in conformity with applicable District and federal laws, regulations, and quality and safety standards. DHCF used the following financial principles in developing the reimbursement methodology described in this chapter:

- (a)    Basing payment rates on the acuity of each individual;

- (b) Establishing uniform reimbursement of services constituting the active treatment program for individuals who meet the requirements of 42 C.F.R. § 483.440(a);
- (c) Establishing consistent payment rates for the same classes of facilities serving individuals with comparable levels of need; and
- (d) Establishing one (1) day, inclusive of residential care and active treatment, as the unit of service.

4100.5 The reimbursement rates paid to ICFs/IID for Medicaid individuals residing in the facility shall be equal to one hundred percent (100%) of the following components:

- (a) Residential component base rate determined by acuity level, as defined in § 4101 of this chapter, and inclusive of the following:
  - (1) Direct service;
  - (2) All other health care and program related expenses;
  - (3) Non-personnel operations;
  - (4) Administration;
  - (5) Non-Emergency Transportation;
  - (6) Capital; and
  - (7) Allowable share of the Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment.
- (b) Services constituting an active treatment program, described in § 4103, as set forth in the individual's Individual Service Plan (ISP); and
- (c) Payments associated with participation in quality improvement initiatives, as set forth in § 4104.

4100.6 The reimbursement rates paid to ICFs/IID shall exclude all of the following services that are provided outside of the ICF/IID:

- (a) Inpatient and outpatient hospital visits;
- (b) Physician and specialty services;

- (c) Clinic services;
- (d) Emergency department services;
- (e) Services delivered by any other long-term care facility;
- (f) Custom durable medical equipment that shall be solely for the use of one (1) individual (such as a specialized wheelchair); and
- (g) Prescription drug costs, excluding copays for individuals who are also subject to the *Evans* court order.

4100.7 Medicaid reimbursement to each ICF/IID shall comply with the “Policy on Reserved Beds,” as set forth on page 2 of Attachment 4.19C of the State Plan for Medical Assistance.

4100.8 An organization related to an enrolled ICF/IID (“related organization”) may furnish services and supplies under the prudent buyer concept, provided the costs of such services and supplies are consistent with costs of such items furnished by independent third party providers in the same geographic area. These requirements shall apply to the sale, transfer, leaseback, or rental of property, plant, or equipment or purchase of services of any facility or organization.

4100.9 In accordance with 42 C.F.R. § 456.360, the District of Columbia Health Occupations Revision Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), and implementing rules, a qualified physician shall certify that an individual needs ICF/IID services. The certification shall be made at the time of admission for current Medicaid individuals, or for individuals who apply for Medicaid while residing in an ICF/IID, before any payment is made to the facility.

4100.10 Recertification of an individual’s need for continued ICF/IID services is required, at minimum, twelve (12) months following the date of the previous certification, pursuant to 42 C.F.R. § 456.360(b).

4100.11 A Medicaid individual shall be assessed by an interdisciplinary team within thirty (30) days of admission to an ICF/IID. This determination shall provide the foundation for requests to elevate an acuity level assignment beyond Acuity Level 1.

#### **4101 ACUITY LEVEL ASSIGNMENTS**

4101.1 Reimbursement rates shall be differentiated based on the individual’s acuity level, as recommended by DDS, through the Level of Need Assessment and Risk Screening Tool (LON), and interdisciplinary teams of health and habilitation professionals, pursuant to the Individual Service Plan (ISP).

- 4101.2 Acuity levels higher than Acuity Level 1 (Base), specific to the medical and health needs of each qualified individual, shall be requested by the ICF/IID, recommended by DDS, and approved by DHCF.
- 4101.3 Reimbursement under this chapter shall be governed according to the following acuity levels:
- (a) Acuity Level 1 (Base) shall represent the health, habilitation, and support needs of a beneficiary whose level of care determination (LOC) reflects a need for ICF/IID services. Acuity Level 1 shall be the base acuity level.
  - (b) Acuity Level 2 (Moderate) shall represent the health, habilitation, and support needs of a beneficiary who:
    - (1) Meets the requirements of § 4101.3(a); and
    - (2) Requires moderate levels of services in order to effectively support functional impairments, as described in § 4101.7.
  - (c) Acuity Level 3 (Extensive – Behavioral) shall represent the health, habilitation, and support needs of a beneficiary who:
    - (1) Meets the requirements of § 4101.3(a); and
    - (2) Requires services and interventions that can address conditions associated with an extensive intellectual and developmental disability and significant behavioral challenges as described in § 4101.8.
  - (d) Acuity Level 4 (Extensive – Medical) shall represent the health, habilitation, and support needs of a beneficiary who:
    - (1) Meets the requirements of § 4101.3(a); and
    - (2) Requires services and interventions that can address conditions associated with a significant intellectual and developmental disability and significant medical and support challenges as described in § 4101.9.
  - (e) Acuity Level 5 (Pervasive) shall represent the health, habilitation, and support needs of a beneficiary who:
    - (1) Meets the requirements of § 4101.3;



- (2) Requires services and interventions that can address conditions associated with a significant intellectual and developmental disability; and
  - (3) Exhibits dangerous behaviors or conditions that require one-to-one (1:1) supervision for twenty-four (24) hours per day or less, as described in § 4101.10.
- (f) Acuity Level 6 (Pervasive Plus Skilled Nursing) shall represent the health, habilitation, and support needs of a beneficiary who:
- (1) Meets the requirements of § 4101.3(a);
  - (2) Requires services and interventions that can address conditions associated with a pervasive level of care to accommodate individuals with dangerous behaviors or conditions that require one to one (1:1) supervision twenty-four (24) hours per day; and
  - (3) Requires extensive skilled nursing services as described in § 4101.11.

4101.4 For purposes of reimbursement, a beneficiary admitted on or after October 1, 2012, shall be assumed to be at Acuity Level 1 (Base). An ICF/IID may request through, and with supporting documentation by, DDS that DHCF assign a beneficiary to an enhanced level, above Acuity Level 1. This request must be accompanied by documentation submitted by the ICF/IID that justifies the enhanced acuity level.

4101.5 In order for a beneficiary to qualify at an acuity level beyond Acuity Level 1 (Base), the ICF/IID shall ensure that qualified health and habilitation practitioners assess each beneficiary using the LON.

4101.6 Acuity level assignments shall be recertified annually.

4101.7 A beneficiary shall qualify for Acuity Level 2 (Moderate) when assessed to have at least one (1) of the following characteristics:

- (a) Is unable to perform two (2) or more activities of daily living (ADL);
- (b) Is non-ambulatory;
- (c) Is unable to evacuate self without assistance in the event of a fire or other emergency situation;
- (d) Is assessed to lack life safety skills to ensure self-preservation; or

- (e) Has a diagnosis of one (1) of the following conditions:
  - (1) Blindness;
  - (2) Deafness;
  - (3) Autism Spectrum Disorder; or
  - (4) Epilepsy.

4101.8 A beneficiary shall qualify for Acuity Level 3 (Extensive – Behavioral) when he or she is dually diagnosed with an intellectual and developmental disability and with one (1) or more behavioral disorders that:

- (a) Are assaultive, self-abusive, including pica, or aggressive;
- (b) Require a Behavior Support Plan (BSP) which shall be based on current data and targets the identified behaviors; and
- (c) Require intensive staff intervention and additional staff resources to manage the behaviors set forth in § 4101.8(a).

4101.9 A beneficiary shall qualify for Acuity Level 4 (Extensive – Medical) when he or she requires skilled nursing and extensive health and habilitation supports on a daily basis. Skilled nursing and extensive health and habilitation supports shall be prescribed by the individual's primary care physician or advanced practice registered nurse (APRN).

4101.10 A beneficiary shall qualify for Acuity Level 5 (Pervasive) when he or she requires one-to-one (1:1) staffing and exhibits one (1) or more of the following characteristics:

- (a) Has a history of, or is at high risk for, elopement resulting in risk to the beneficiary or others;
- (b) Exhibits behavior that is life-threatening to the beneficiary or others;
- (c) Exhibits destructive behavior that poses serious property damage, including fire-setting;
- (d) Is a sexual predator; or
- (e) Has a history of, or is at high risk for, falls with injury and a primary care physician or advanced practice registered nurse order for one-to-one (1:1) supervision.

- 4101.11 A beneficiary shall qualify for Level 6 (Pervasive Plus Skilled Nursing) if the beneficiary requires at least one (1) type of skilled nursing that shall be ordered by a primary care physician or advanced practice registered nurse and provided, at a minimum, on an hourly basis.
- 4101.12 For a beneficiary who requires services at or above Acuity Level 4, the prescription of the physician or advanced practice registered nurse, shall specify the type, frequency, scope, and duration of the skilled nursing and health and habilitation support services required.
- 4101.13 The number of one-to-one (1:1) staffing hours shall be approved by DHCF using results from assessments conducted by ICFs/IID. Under Levels 5 and 6 (Pervasive and Pervasive Plus Skilled Nursing), DHCF's approval shall be based on having staff member(s) assigned to the beneficiary who have no other duties while assigned to the beneficiary.
- 4101.14 Each ICF/IID shall have responsible direct care staff on duty and awake on a twenty-four (24) hour basis when residents are present in the facility to ensure prompt, appropriate action in the event of injury, illness, fire, or other emergency.
- 4101.15 Each ICF/IID shall be responsible for requesting renewal of the beneficiary's acuity level assignment by compiling the beneficiary's information in the required format(s) at least twenty (20) days before the ISP effective date. Each ICF/IID shall ensure that the individual has an approved acuity level assignment by the ISP effective date. At minimum, the ICF/IID shall provide the following:
- (a) Level of Need Assessment and Risk Screening Tool (LON); and
  - (b) Current ISP document including medical, psychological, occupational or physical therapy assessment.
- 4101.16 Additional documentation shall be required to support the acuity level assignment for a beneficiary. Depending on acuity level, additional documentation shall be required as follows:
- (a) For Acuity Level 3 (Extensive – Behavioral) the following additional documentation is required:
    - (1) A BSP addressing the targeted behaviors;
    - (2) A written behavior plan that shall be based on current data and which targets the identified behaviors; and
    - (3) A concise statement that summarizes thirty (30) days of behavioral data prior to the date of the request and justification of the need for

intensive staff intervention and additional staff resources to manage targeted behaviors.

- (b) For Acuity Level 4 (Extensive – Medical) documentation that includes an order for daily skilled nursing and extensive health supports prepared by the beneficiary’s primary care physician or an advance practice registered nurse is required.
- (c) For Acuity Level 5 (Pervasive) the following additional documentation is required:
  - (1) A concise statement setting forth the presenting problem that necessitates one to one (1:1) supervision and the number of requested one to one (1:1) hours;
  - (2) Evidence of a history or risk of elopement that results in risk to the beneficiary and/or others;
  - (3) Evidence of behavior that is life threatening to self and/or others;
  - (4) Evidence of destructive behavior causing serious property damage, including fire starting;
  - (5) Evidence of sexually predatory behavior;
  - (6) Evidence of a history of, or risk of, falls with injury, and an order from the beneficiary’s primary care physician or APRN;
  - (7) A BSP that shall be based on current data and targets the behaviors identified;
  - (8) A job description for one to one (1:1) staff based on the beneficiary’s individual needs; and
  - (9) Thirty (30) days of behavioral data prior to the date of the request in support of the targeted behaviors.
- (d) For Acuity Level 6 (Pervasive plus Skilled Nursing) the following additional documentation is required:
  - (1) An order for skilled nursing services prepared by the beneficiary’s primary care physician or APRN;
  - (2) A concise statement setting forth the presenting problem that necessitates one to one (1:1) supervision and skilled nursing and the number of requested one to one (1:1) hours; and

- (3) A job description for one to one (1:1) staff based on the beneficiary’s individual needs.

4101.17 Documentation required to review a beneficiary’s acuity level shall be submitted to DHCF within sixty (60) days of the event that necessitates assignment to a higher acuity level.

4101.18 On a case-by-case basis, DHCF shall consider requests for retroactive adjustment to a beneficiary’s acuity level that may result in a change to the reimbursement rate. DHCF decisions shall be based on the facility’s submission of required documentation as set forth below:

- (a) A concise statement setting forth the situation that necessitates retroactive adjustment;
- (b) Evidence of the higher acuity level for the specified period of time for which the change in acuity level is requested. This evidence shall include the LON and other clinical and professional documentation such as discharge planning notes, physician’s notes, other clinician’s notes, interdisciplinary team meeting notes, and healthcare reports for the same defined period of time; and
- (c) Evidence that a higher level of service was delivered for the defined period and that the higher level of service delivered is that required for the higher acuity level. This evidence shall include documentation of staffing levels detailing hours and types of services delivered for each day in the defined period of time. Evidence shall also include the identity of the specific staff delivering the higher acuity services and an attestation from the staff of the higher acuity service they delivered.

4101.19 Any retroactive adjustment based on § 4101.18 shall be limited to the time that has lapsed since the date of the beneficiary’s last continuous stay review, as set forth in § 4109.

4101.20 Each ICF/IID shall notify DHCF of the transfer or death of a beneficiary at least seven (7) business days after the date of the event.

**4102 REIMBURSEMENT METHODOLOGY**

4102.1 The rates for ICF/IID services were developed based on Fiscal Year (FY) 2010 cost data reported by providers of different sizes serving individuals at varying acuity levels. The rates shall vary based on staffing ratios, facility size, and beneficiary acuity level.

4102.2 For the purposes of rate-setting, and independent of the classification used by the Department of Health for licensing, DHCF shall classify ICFs/IID as follows:

- (a) Class I - A facility with five (5) or fewer licensed beds; and
- (b) Class II - A facility with six (6) or more licensed beds.

4102.3 The residential component of the rate, as described in § 4100.5(a), shall be based on a model that includes the following seven (7) cost centers:

- (a) The “Direct Service” cost center shall include expenditures as follows:
  - (1) Nurses, including registered nurses (RNs), licensed practical nurses (LPNs), and certified nursing assistants (CNAs);
  - (2) Qualified Mental Retardation Professionals (QMRPs);
  - (3) House managers;
  - (4) Direct Support Personnel;
  - (5) Allocated time of staff with administrative duties and who are also utilized in direct service support, subject to the results of a time study or time sheet process that has been approved by DHCF; and
  - (6) Fringe benefits, including but not limited to required taxes, health insurance, retirement benefits, vacation days, paid holidays, and sick leave.
- (b) The “All Other Health Care and Program Related” cost center shall include expenditures for:
  - (1) Pharmacy co-pays and over-the-counter medications;
  - (2) Medical supplies;
  - (3) Therapy costs, including physical therapy, occupational therapy, and speech therapy;
  - (4) Physician services;
  - (5) Behavioral health services provided by psychologists or psychiatrists;
  - (6) Nutrition and food;

- (7) Medical record maintenance and review;
  - (8) Insurance for non-direct care health staff;
  - (9) Program materials excluding active treatment;
  - (10) Training for direct care staff;
  - (11) Program development and management, including recreation;
  - (12) Incident management;
  - (13) Clothing for beneficiaries; and
  - (14) Quality Assurance.
- (c) The “Non-Personnel Operations” cost center shall include expenditures for:
- (1) Food service and supplies related to food service;
  - (2) Laundry;
  - (3) Housekeeping and linen; and
  - (4) Non-capital repair and maintenance.
- (d) The “Administration” cost center shall include expenditures for:
- (1) Payroll taxes;
  - (2) Salaries and consulting fees to non-direct care staff;
  - (3) Insurance for administrators and executives;
  - (4) Travel and entertainment;
  - (5) Training costs;
  - (6) Office expenses;
  - (7) Office space rent or depreciation;
  - (8) Clerical staff;
  - (9) Interest on working capital;

- (10) Staff transportation; and
- (11) Licenses.
- (e) The “Non-Emergency Transportation” cost center shall include expenditures for:
  - (1) Vehicle license, lease, and fees;
  - (2) Vehicle maintenance;
  - (3) Depreciation of vehicle;
  - (4) Staffing costs for drivers and aides not otherwise covered by, or in excess of costs for, direct support personnel;
  - (5) Fuel; and
  - (6) Vehicle insurance.
- (f) The “Capital” cost center shall include expenditures, less all amounts received for days reimbursed pursuant to the “Policy on Payment for Reserved Beds in Intermediate Care Facilities for the Intellectually Disabled,” page 2 of Attachment 4.19C of the State Plan, for the following:
  - (1) Depreciation and amortization;
  - (2) Interest on capital debt;
  - (3) Rent;
  - (4) Minor equipment;
  - (5) Real estate taxes;
  - (6) Property insurance;
  - (7) Other capital; and
  - (8) Utilities, including electricity, gas, telephone, cable, and water.
- (g) The “Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment” cost center shall include only the allowable share of the Assessment



expenditure consistent with 42 U.S.C. § 1396(b)(w) and 42 C.F.R. §§ 433.68, 433.70 and 433.72.

4102.4 Fiscal Year (FY) 2013 rates shall be based on Fiscal Year (FY) 2010 cost data reported by providers, legal requirements, and industry standards, and shall be paid for services delivered beginning on October 1, 2012, through September 30, 2013. FY 2013 rates, and all rates thereafter, shall be set forth in this Chapter. FY 2013 rates were developed based upon the following assumptions:

- (a) FY 2013 Non-Personnel Operations per diem rates shall be based on FY 2010 costs, inflated twelve percent (12%);
- (b) FY 2013 Capital per diem rates shall be based on FY 2010 costs, inflated fifteen percent (15%);
- (c) FY 2013 rates for the cost centers described in § 4102.4(a) and (b) shall be calculated as the quotient of total industry expenditures divided by the total number of industry licensed bed days as reported for FY 2010;
- (d) The FY 2013 rate for Non-Emergency Transportation shall be eighteen dollars (\$18) per person, per day; and
- (e) Capital expenditures for Class I and Class II facilities shall be calculated separately.

4102.5 FY 2014 rates shall be based on the reported FY 2013 cost reports. In establishing the rates for FY 2014, DHCF shall use FY 2013 rates as a baseline comparison to the FY 2013 cost reports. DHCF shall make appropriate adjustments to each cost center rate based on the actual reported costs. These adjustments may increase or decrease the per diem rates for each cost center. The resulting rates shall be inflated annually, beginning in FY 2014, in accordance with the index described in this chapter.

4102.6 For dates of service on or after October 1, 2016, final reimbursement rates for the residential component will be based on providers' FY 2014 cost reports subject to audit and adjustment by DHCF.

4102.7 Direct Service cost center reimbursement rates shall be calculated based on staffing ratios, facility size, and individuals' acuity levels. All rates shall accommodate the following staffing patterns:

- (a) Two (2) Direct Support Personnel (DSP) at three (3) shifts per day for three hundred sixty-five (365) days per year, at the following staffing ratios:

- (1) Class I Facilities: One (1) DSP to every two (2) individuals (1:2); and
  - (2) Class II Facilities: One (1) DSP to every three (3) individuals (1:3).
- (b) One (1) LPN for each facility at one (1) shift per day for three hundred sixty-five (365) days per year, for all ICFs/IID.
  - (c) One (1) additional LPN for each ICF/IID at one (1) shift per weekend day (Saturday and Sunday) for fifty-two (52) weeks per year. This staffing pattern shall apply only to Class II facilities.
  - (d) One (1) RN, one (1) QMRP, and one (1) house manager, each at one (1) shift per day for two hundred forty-nine (249) days per year, at a ratio of one (1) staff person to every twelve (12) individuals (1:12) for all ICFs/IID.
  - (e) For services provided to individuals assigned to acuity levels higher than Acuity Level I, an ICF/IID shall be paid rates that can accommodate additional staffing needs as follows:
    - (1) Acuity Level 2 (Moderate) rates shall also include one (1) additional DSP at three (3) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP for every two (2) individuals (1:2) for all ICFs/IID.
    - (2) Acuity Level 3 (Extensive – Behavioral) rates shall also include costs associated with two (2) additional DSPs. The rates for Acuity Level 3 shall include one (1) DSP at three (3) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP staff member for every two (2) individuals for all ICFs/IID. The rate shall also include one (1) DSP at two (2) shifts per day for three hundred sixty-five (365) days per year, at a staffing ratio of one (1) DSP staff member for every two (2) individuals for all ICFs/IID.
    - (3) Acuity Level 4 (Extensive – Medical) rates shall also include costs associated with one (1) additional LPN at two (2) shifts per day for three hundred sixty-five (365) days per year, for all ICFs/IID. Class II facilities shall also receive a rate that includes one (1) certified nurse aide (CNA) at two (2) shifts per day for three hundred sixty-five (365) days per year.
    - (4) Acuity Level 5 (Pervasive) rates shall vary based on the number of one-to-one services prescribed for a beneficiary. Acuity Level 5 rates shall also include one (1) DSP at two (2) or three (3) shifts

per day, for five (5) or seven (7) days per week for fifty-two (52) weeks per year, at a staffing ratio of one (1) DSP to one (1) beneficiary (1:1).

- (5) Acuity Level 6 (Pervasive Plus Skilled Nursing) rates shall vary based on the number of one-to-one services prescribed for a beneficiary. Acuity Level 6 rates shall also include one (1) LPN at one (1), two (2), or three (3) shifts per day for seven (7) days per week for fifty-two (52) weeks per year, at a staffing ratio of one (1) LPN to one (1) beneficiary (1:1).
- (f) The base salaries used in the development of FY 2013 rates for direct care staff wages and salaries shall be as follows:
  - (1) DSP: \$12.50 per hour;
  - (2) LPN: \$21.00 per hour;
  - (3) CNA: \$16.83 per hour;
  - (4) House Manager: \$45,000 per year;
  - (5) RN: \$70,000 per year; and
  - (6) QMRP: \$60,000 per year.
- (g) Salaries set forth in Section 4102.7(f) shall be treated as follows:
  - (1) "Paid time off" shall include the addition of eighty (80) hours of paid leave. Holiday pay shall include the addition of forty-four (44) hours to ensure that the rate includes the rate of pay plus one-half (1/2) the rate of pay (time and one-half) for holidays worked;
  - (2) Salaries shall be inflated by twenty percent (20%) and paid leave and holiday pay shall be inflated by twelve percent (12%), to accommodate fringe benefits; and
  - (3) All rates shall include paid time off and holiday pay for all hourly full-time equivalents (FTEs).
- (h) Beginning in FY 2014 and each fiscal year thereafter, Direct Care Staff Compensation shall be inflated by the greater of any adjustment to the living wage or the associated costs of benefits and inflation based on the Centers for Medicare and Medicaid Services (CMS) Skilled Nursing Facility Market Basket Index or other appropriate index if the CMS Skilled Nursing Facility Market Basket Index is discontinued.

- 4102.8 All Other Health Care and Program Related Expenses cost center reimbursement rates shall be calculated based on the facility size and the direct care cost center rate, which varies by staffing ratios and individuals' acuity levels. The rate for this cost center shall be calculated as a fixed percentage of the rate for direct services, at twelve percent (12%) for Class I facilities and at seventeen percent (17%) for Class II facilities.
- 4102.9 The Non-Personnel Operations cost center reimbursement rates shall be calculated based on industry average reported costs. The Non-Personnel Operations reimbursement rate shall be equal to the industry average reported expenses per licensed bed day for the line items included in the cost center, and shall be uniformly set for all providers.
- 4102.10 The Administration cost center reimbursement rates shall be calculated based on the staffing ratios, facility size, and individuals' acuity levels. The Administration reimbursement rate shall vary based on the nature of ownership of the physical premises where the ICF/IID is housed. The Administration rate shall be a uniform percentage of the sum of the rates for all other cost centers and acuity levels.
- 4102.11 The Non-Emergency Transportation cost center reimbursement rates shall be based on the industry average expenses divided by the total number of licensed bed days.
- 4102.12 The Capital cost center reimbursement rates shall be determined in accordance with 42 C.F.R. § 413.130 and based on the industry average reported expenses per licensed bed day for the line items included in this cost center as described in Section § 4102.3. The rate shall vary based on the nature of ownership of the physical premises where the ICF/IID is housed. The Capital rate for leased premises shall be equal to the industry average reported expenses per licensed bed day for the line items included. The Capital rate for provider-owned premises shall be equal to fifty percent (50%) of the rate for leased premises. The Capital rate shall also be subject to the following principles:
- (a) When a sale/leaseback of an existing ICF/IID facility occurs, the ICF/IID's allowable capital related cost may not exceed the amount that the seller/lessor would have recorded had the seller/lessor retained legal title;
  - (b) When depreciated buildings and building improvements are acquired, the cost basis of the depreciable asset shall be the lesser of the cost or acquisition value of the previous owner(s) less all reimbursement attributable to the asset as determined by DHCF or the fair market value of the asset at time of acquisition. Notwithstanding, if the seller makes the full payback in accordance with paragraph (e) below, the cost basis to the

new owner shall be the lesser of the fair market value or the purchase price;

- (c) Facilities shall employ the straight-line method for calculating depreciation subject to the limits set forth in paragraphs (d) and (e) below. Accelerated methods for calculating depreciation shall not be allowed. Subject to the limits set forth in paragraphs (d) and (e), the annual depreciation expense of an asset shall be determined by dividing the basis of the asset reduced by any estimated salvage or resale value by the estimated years of useful life of the asset at the time it is placed in service;
- (d) Depreciation expense of buildings and building improvements shall be limited to the basis of each asset and shall not exceed the basis of such assets less the aggregate amount received in reimbursement for such assets in the current and prior years;
- (e) Fully depreciated buildings and building improvements subsequently sold or disposed of shall be subject to payback by the owner to the program of all depreciation expense paid to the owner and all previous owners when such assets are no longer used to provide ICF/IID services or have been transferred to new owners in an arm's length transaction, provided that such payback shall be reduced by all amounts previously paid back, if any, by prior owners;
- (f) ICFs/IID shall estimate assets' years of useful life in accordance with the most recent edition of "Estimated Useful Lives of Depreciable Hospital Assets" published by the American Hospital Association, or if not applicable, relevant guidance issued by the U.S. Internal Revenue Service. Subject to the limits set forth in paragraphs (d) and (e), depreciation expense for the year of disposal can be computed by using either the half-year method or the actual time method;
- (g) Assets shall be recorded using historical cost, except for donated assets which shall be recorded at fair market value at the time received and based on the lesser of at least two (2) bona fide appraisals. Costs during the construction of an asset, consulting and legal fees, interest, and fund raising, should be capitalized as a part of the cost of the asset;
- (h) When an asset is acquired by a trade-in, the cost of the new asset shall be the sum of the book value of the old asset and any cash or issuance of debt as consideration paid;
- (i) Facilities that previously did not maintain fixed asset records and did not record depreciation in prior years shall be entitled to any straight-line depreciation of the remaining useful life of the asset. The depreciation shall be based on the cost of the asset or fair market value of a donated

asset at the time of purchase, construction or donation over its normal useful life. No depreciation may be taken on an asset that would have been fully depreciated if it had been properly recorded at the time of acquisition;

- (j) Leasehold improvements made to rental property by the lessor shall be depreciated over the lesser of the asset's useful life or the remaining life of the lease;
- (k) On a case by case basis, DHCF may reimburse an ICF/IID by providing an offset to capital costs that shall be equal to the daily amount computed under this subsection in situations when DDS has not filled vacant bed space(s). The ICF/IID shall receive the product of the capital cost multiplied by the administrative rate anytime this payment is made;
- (l) The daily cost described in paragraph (k) shall be computed as the capital component of the daily per-diem rate, multiplied by the number of vacant bed space(s); and
- (m) ICFs/IID shall incur costs and provide DHCF with proof of the vacant bed space, in order to be eligible.

4102.13 Effective October 1, 2013, and annually thereafter, the per diem rates for Non-Personnel Operations, Non-Emergency Transportation, Capital, and Active Treatment shall be adjusted for inflation in accordance with the Centers for Medicare and Medicaid Services (CMS) Skilled Nursing Facility Market Basket Index or other appropriate index if the CMS Skilled Nursing Facility Market Basket Index is discontinued.

4102.14 The Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Fund Assessment shall be a broad based assessment on all ICF/IID providers in the District of Columbia at a uniform rate of five and one-half percent (5.5%) of each ICF/IID's gross revenue. The allowable cost of the Assessment shall be calculated consistently with 42 U.S.C. § 1396(b)(w) and 42 C.F.R. §§ 433.68, 433.70, and 433.72.

4102.15 For Fiscal Year 2013, ICF/IID reimbursement rates shall be as follows:

	Beds	Facility	Direct care staffing	Other health care & program	Non-Personnel Opers.	Trans	Capital	Admin	Active Treatment	Total Rate	Tax	Total rate paid
<b>Base</b>	4 – 5	Leased	\$291.16	\$34.94	\$18.87	\$18.00	\$58.51	\$54.79	\$82.39	\$558.67	\$30.73	\$589.40
		Owned	\$291.16	\$34.94	\$18.87	\$18.00	\$29.26	\$50.99	\$82.39	\$525.61	\$28.91	\$554.52
	6	Leased	\$220.23	\$37.44	\$18.87	\$18.00	\$53.44	\$45.24	\$82.39	\$475.60	\$26.16	\$501.76
		Owned	\$220.23	\$37.44	\$18.87	\$18.00	\$26.72	\$41.76	\$82.39	\$445.41	\$24.50	\$469.91
<b>Moderate</b>	4 – 5	Leased	\$291.16	\$34.94	\$18.87	\$18.00	\$58.51	\$54.79	\$82.39	\$558.67	\$30.73	\$589.40
		Owned	\$291.16	\$34.94	\$18.87	\$18.00	\$29.26	\$50.99	\$82.39	\$525.61	\$28.91	\$554.52
	6	Leased	\$283.56	\$48.21	\$18.87	\$18.00	\$53.44	\$54.87	\$82.39	\$559.34	\$30.76	\$590.11
		Owned	\$283.56	\$48.21	\$18.87	\$18.00	\$26.72	\$51.40	\$82.39	\$529.15	\$29.10	\$558.25
<b>Extensive behavioral</b>	4 – 5	Leased	\$354.50	\$42.54	\$18.87	\$18.00	\$58.51	\$64.02	\$82.39	\$638.83	\$35.14	\$673.97
		Owned	\$354.50	\$42.54	\$18.87	\$18.00	\$29.26	\$60.21	\$82.39	\$605.77	\$33.32	\$639.09
	6	Leased	\$325.79	\$55.38	\$18.87	\$18.00	\$53.44	\$61.29	\$82.39	\$615.17	\$33.83	\$649.00
		Owned	\$325.79	\$55.38	\$18.87	\$18.00	\$26.72	\$57.82	\$82.39	\$584.98	\$32.17	\$617.15
<b>Extensive medical</b>	4 – 5	Leased	\$397.57	\$47.71	\$18.87	\$18.00	\$58.51	\$70.29	\$82.39	\$693.34	\$38.13	\$731.47
		Owned	\$397.57	\$47.71	\$18.87	\$18.00	\$29.26	\$66.48	\$82.39	\$660.28	\$36.32	\$696.60
	6	Leased	\$348.01	\$59.16	\$18.87	\$18.00	\$53.44	\$64.67	\$82.39	\$644.54	\$35.45	\$679.99
		Owned	\$348.01	\$59.16	\$18.87	\$18.00	\$26.72	\$61.20	\$82.39	\$614.35	\$33.79	\$648.14
<b>Pervasive DSP 1:1 8 h / 7 d</b>	4 – 5	Leased	\$417.84	\$50.14	\$18.87	\$18.00	\$58.51	\$73.24	\$82.39	\$718.99	\$39.54	\$758.54
		Owned	\$417.84	\$50.14	\$18.87	\$18.00	\$29.26	\$69.43	\$82.39	\$685.93	\$37.73	\$723.66
	6	Leased	\$346.90	\$58.97	\$18.87	\$18.00	\$53.44	\$64.50	\$82.39	\$643.08	\$35.37	\$678.45
		Owned	\$346.90	\$58.97	\$18.87	\$18.00	\$26.72	\$61.03	\$82.39	\$612.89	\$33.71	\$646.60

	Beds	Facility	Direct care staffing	Other health care & program	Non-Personnel Opers.	Trans	Capital	Admin	Active Treatment	Total Rate	Tax	Total rate paid
<b>Pervasive DSP 1:1 8 h / 5 d</b>	4 – 5	Leased	\$377.58	\$45.31	\$18.87	\$18.00	\$58.51	\$67.38	\$82.39	\$668.04	\$36.74	\$704.78
		Owned	\$377.58	\$45.31	\$18.87	\$18.00	\$29.26	\$63.57	\$82.39	\$634.98	\$34.92	\$669.91
	6	Leased	\$306.64	\$52.13	\$18.87	\$18.00	\$53.44	\$58.38	\$82.39	\$589.86	\$32.44	\$622.30
		Owned	\$306.64	\$52.13	\$18.87	\$18.00	\$26.72	\$54.91	\$82.39	\$559.66	\$30.78	\$590.44
<b>Pervasive DSP 1:1 16 h</b>	4 – 5	Leased	\$544.52	\$65.34	\$18.87	\$18.00	\$58.51	\$91.68	\$82.39	\$879.31	\$48.36	\$927.68
		Owned	\$544.52	\$65.34	\$18.87	\$18.00	\$29.26	\$87.88	\$82.39	\$846.26	\$46.54	\$892.80
	6	Leased	\$473.58	\$80.51	\$18.87	\$18.00	\$53.44	\$83.77	\$82.39	\$810.56	\$44.58	\$855.14
		Owned	\$473.58	\$80.51	\$18.87	\$18.00	\$26.72	\$80.30	\$82.39	\$780.37	\$42.92	\$823.29
<b>Pervasive DSP 24 h</b>	4 – 5	Leased	\$671.20	\$80.54	\$18.87	\$18.00	\$58.51	\$110.13	\$82.39	\$1,039.64	\$57.18	\$1,096.82
		Owned	\$671.20	\$80.54	\$18.87	\$18.00	\$29.26	\$106.32	\$82.39	\$1,006.58	\$55.36	\$1,061.94
	6	Leased	\$600.26	\$102.04	\$18.87	\$18.00	\$53.44	\$103.04	\$82.39	\$978.04	\$53.79	\$1,031.84
		Owned	\$600.26	\$102.04	\$18.87	\$18.00	\$26.72	\$99.57	\$82.39	\$947.85	\$52.13	\$999.98
<b>Nursing 1:1 8 h / 7 d</b>	4 – 5	Leased	\$503.98	\$60.48	\$18.87	\$18.00	\$58.51	\$85.78	\$82.39	\$828.01	\$45.54	\$873.55
		Owned	\$503.98	\$60.48	\$18.87	\$18.00	\$29.26	\$81.98	\$82.39	\$794.95	\$43.72	\$838.67
	6	Leased	\$433.04	\$73.62	\$18.87	\$18.00	\$53.44	\$77.61	\$82.39	\$756.97	\$41.63	\$798.60
		Owned	\$433.04	\$73.62	\$18.87	\$18.00	\$26.72	\$74.13	\$82.39	\$726.77	\$39.97	\$766.75
<b>Nursing 1:1 8 h / 5 d</b>	4 – 5	Leased	\$436.35	\$52.36	\$18.87	\$18.00	\$58.51	\$75.93	\$82.39	\$742.41	\$40.83	\$783.25
		Owned	\$436.35	\$52.36	\$18.87	\$18.00	\$29.26	\$72.13	\$82.39	\$709.35	\$39.01	\$748.37
	6	Leased	\$365.41	\$62.12	\$18.87	\$18.00	\$53.44	\$67.32	\$82.39	\$667.55	\$36.72	\$704.26
		Owned	\$365.41	\$62.12	\$18.87	\$18.00	\$26.72	\$63.85	\$82.39	\$637.35	\$35.05	\$672.41
<b>Nursing 1:1 16 hours</b>	4 – 5	Leased	\$716.80	\$86.02	\$18.87	\$18.00	\$58.51	\$116.77	\$82.39	\$1,097.35	\$60.35	\$1,157.71
		Owned	\$716.80	\$86.02	\$18.87	\$18.00	\$29.26	\$112.96	\$82.39	\$1,064.29	\$58.54	\$1,122.83
	6	Leased	\$645.86	\$109.80	\$18.87	\$18.00	\$53.44	\$109.98	\$82.39	\$1,038.34	\$57.11	\$1,095.44
		Owned	\$645.86	\$109.80	\$18.87	\$18.00	\$26.72	\$106.50	\$82.39	\$1,008.14	\$55.45	\$1,063.59



	Beds	Facility	Direct care staffing	Other health care & program	Non-Personnel Oper.	Trans	Capital	Admin	Active Treatment	Total Rate	Tax	Total rate paid
<b>Nursing 1:1 24 hours</b>	4 – 5	Leased	\$929.62	\$111.55	\$18.87	\$18.00	\$58.51	\$147.75	\$82.39	\$1,366.69	\$75.17	\$1,441.86
		Owned	\$929.62	\$111.55	\$18.87	\$18.00	\$29.26	\$143.95	\$82.39	\$1,333.64	\$73.35	\$1,406.99
	6	Leased	\$858.68	\$145.98	\$18.87	\$18.00	\$53.44	\$142.35	\$82.39	\$1,319.70	\$72.58	\$1,392.28
		Owned	\$858.68	\$145.98	\$18.87	\$18.00	\$26.72	\$138.87	\$82.39	\$1,289.51	\$70.92	\$1,360.43

**4103 ACTIVE TREATMENT SERVICES**

- 4103.1 An individual residing in an ICF/IID shall receive continuous active treatment services, consistent with the requirements set forth in 42 CFR § 483.440. Active treatment services shall vary depending on the needs of the beneficiary, as determined by the interdisciplinary team.
- 4103.2 An ICF/IID shall ensure that a beneficiary receives active treatment services on a daily basis. The ICF/IID may affiliate with outside resources to assist with program planning and service delivery or the facility may provide active treatment services directly.
- 4103.3 A program of active treatment services shall include aggressive, consistent implementation of a program of specialized training, treatment, health services, and other related services that is directed towards:
- (a) The acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible; and
  - (b) The prevention or deceleration of regression or loss of current optimal functional status.
- 4103.4 In accordance with 42 C.F.R. §§ 483.440(c) - (d), an interdisciplinary team shall determine the type of active treatment services that a beneficiary needs based on preliminary evaluations, assessments, and re-assessments. Each beneficiary's active treatment requirements shall be described in his Individual Program Plan (IPP), pursuant to 42 C.F.R. § 483.440(c). The ICF/IID shall ensure that each beneficiary receives all of the services described in the IPP.
- 4103.5 The per diem reimbursement rate for active treatment shall equal the average of FY12 active treatment rates multiplied by two hundred forty-nine (249) days of service, to account for the maximum days of service provided, and divided by three hundred sixty-five (365).

**4104 SUPPLEMENTAL PAYMENT FOR QUALITY OF CARE IMPROVEMENTS**

- 4104.1 Consistent with the requirements set forth in the Stevie Sellows Intermediate Care Facility for the Intellectually and Developmentally Disabled Quality Improvement Act of 2005, effective March 8, 2006 (D.C. Law 16-68; D.C. Official Code § 47-1270 *et seq.*), implementing rules, and subsequent amendments, beginning in FY 2014 an ICF/IID that meets the criteria in this section shall be eligible to receive a supplemental payment based on the cost of training provided to employees other than managers, administrators, and contract employees.

- 4104.2 In addition to the aggregate per diem described in § 4102, an ICF/IID may receive an additional payment for participation in quality improvement initiatives that are intended to increase the qualifications of employees by making available educational opportunities.
- 4104.3 To qualify for a supplemental payment for quality improvements under this Section for a fiscal year, an ICF/IID shall, by June 30 of the preceding fiscal year, provide DHCF with documentation verifying that it:
- (a) Has a legally binding written agreement with its employees to fund quality of care improvements through measurable efforts to develop and improve staff skills by increasing staff training and educational opportunities;
  - (b) Has written procedures outlining the process, such as arbitration, for employees to follow to enforce this agreement. The process shall:
    - (1) Be expeditious;
    - (2) Be economical for the employees; and
    - (3) Provide for a neutral decision maker to resolve disputes; and
  - (c) Has provided copies of the agreement and the written procedures to its employees and their representatives.
- 4104.4 To establish the cost amount for purposes of determining the facility's supplemental payment amount, an ICF/IID shall provide DHCF with documentation verifying the amount of training costs no later than June 30 of the preceding fiscal year.
- 4104.5 The training cost amount shall include the cost of providing training for employees other than managers, administrators, and contractors, and shall be the actual costs incurred by the facility in providing training to these employees. For training costs to be included, the training shall be:
- (a) Related to patient care;
  - (b) Related to improving the skills, competency, and qualifications of employees in providing care; and
  - (c) Approved by DHCF.
- 4104.6 In order to be eligible for the supplemental payment, an ICF/IID shall incur costs and provide DHCF with evidence that payment has been made in full. Acceptable forms of evidence shall include a copy of any invoice(s) for training costs and cancelled check(s) reflecting the facility's payment of the invoice(s).

- 4104.7 All supplemental payments shall be subject to a uniform percentage of thirteen percent (13%) for administrative costs for FY 2013. The administrative cost percentage may be adjusted in subsequent fiscal years. Adjusted rates will be set forth in the *D.C. Register*.
- 4104.8 Supplemental payments associated with the costs of implementing quality improvement initiatives shall be recorded as an offset to the costs incurred, and shall be included in the cost report submitted annually.
- 4104.9 The supplemental payments described in this § shall not be used to enhance training or educational opportunities for management, administration, and contractual staff.
- 4104.10 The amount and availability of the supplemental payment shall be contingent upon the availability of funding from DHCF. If the total amount of payments to be made to all eligible providers exceeds the amount of available funds, then payments made to all eligible facilities shall be proportionately reduced.
- 4104.11 DHCF shall issue a Notice of Eligibility and Proposed Reimbursement to each provider within sixty (60) days of receipt of all required information. The written notice shall contain at a minimum all of the following information:
- (a) A determination indicating whether the provider is eligible or ineligible to receive the supplemental payment;
  - (b) If a provider is determined to be ineligible to receive the supplemental payment, a written statement explaining why the facility is ineligible; and
  - (c) Language describing the procedures and timeframes for requesting an administrative review with DHCF.
- 4104.12 A provider who disagrees with the Notice of Eligibility and Proposed Reimbursement may request an administrative review by submitting a written request for an administrative review to DHCF within thirty (30) days after the date of the Notice of Eligibility and Proposed Reimbursement.
- 4104.13 The written request for an administrative review shall include:
- (a) The reason(s) for the request, including an identification of the specific item(s) to be reviewed; and
  - (b) Supporting documentation.
- 4104.14 No later than ninety (90) days after receipt of all requests for administrative review DHCF shall issue a Final Notice of Eligibility and Reimbursement to each

provider that has applied for the supplemental payment. The notice shall contain at a minimum the following information:

- (a) A final determination indicating whether the provider is eligible to receive the supplemental payment. If ineligible, the notice shall contain a written statement explaining why the provider is ineligible;
- (b) The total amount of the supplemental payment, including the annual salary, benefit, and training cost amounts;
- (c) The annual number of employee hours excluding managers, administrators, and contract employees;
- (d) The timeframe for payment of the supplemental payment; and
- (e) Language describing the procedures and timeframes for requesting an appeal with the Office of Administrative Hearings (OAH).

4104.15 A provider who disagrees with the Final Notice of Eligibility and Reimbursement may file an appeal with the OAH within forty-five (45) days of the date of the Final Notice of Eligibility and Reimbursement.

4104.16 Any adjustments to the supplemental payment as a result of a decision rendered by the OAH shall be offset against payments the following fiscal year.

#### **4105 REBASING**

4105.1 Effective October 1, 2016, final reimbursement rates for the residential component will be based on providers' FY 2014 cost reports subject to audit and adjustment by DHCF. Subsequent rebasing to adjust the residential component will occur every three (3) years thereafter.

#### **4106 COST REPORTING AND RECORD MAINTENANCE**

4106.1 Each ICF/IID shall report costs annually to DHCF no later than ninety (90) days after the end of the provider's cost reporting period, which shall correspond to the fiscal year used by the provider for all other financial reporting purposes, unless DHCF has approved an exception. All cost reports shall cover a twelve (12) month cost reporting period unless the facility obtains advance permission from DHCF to allow an alternative reporting period, for good cause.

4106.2 In accordance with instructions from DHCF, providers shall file an initial interim cost report.

4106.3 A cost report that is not completed in accordance with the requirements of this section shall be considered an incomplete filing, and DHCF shall notify the

ICF/IID within thirty (30) days of the date on which DHCF received the incomplete cost report.

- 4106.4 DHCF shall issue a delinquency notice if the ICF/IID does not submit the cost report as specified in § 4106.1 and has not previously received an extension of the deadline for good cause.
- 4106.5 Late submission of cost reports shall result in a refundable withholding of an amount equal to seventy-five percent (75%) of the facility's total payment for the month that the cost report was due, and the same amount shall be withheld each month until the cost report is received.
- 4106.6 The costs described in § 4102 shall be reported on a cost report template developed by DHCF. The cost report shall be completed in accordance with accompanying instructions. The cost report instructions shall include, at minimum, guidelines and standards for determining and reporting allowable costs.
- 4106.7 If the ICF/IID utilizes outside resources pursuant to § 4103.2, the ICF/IID shall submit the cost reports or invoices provided by the outside resources as an attachment to the submitted cost report required under § 4106.6. Where the active treatment program is provided in house, the provider shall provide its own cost report in the active treatment section of the cost report.
- 4106.8 In the absence of specific instructions or definitions contained in the accompanying regulations, cost report forms, and instructions, the treatment and allowability of costs shall be determined in accordance with the Medicare Principles of Reimbursement, 42 C.F.R. Part 413, and the interpretation found in the relevant Provider Reimbursement Manual.
- 4106.9 Any allocated time claimed under § 4102.3(a)(5) shall be supported by contemporaneous time sheets attested to by the persons concerned, or a random moment time study designed and reviewed by an independent firm. Such documentation shall be submitted with the cost report in support of all amounts claimed.
- 4106.10 All of the facility's accounting and related records, including the general ledger and records of original entry, and all transaction documents and statistical data, shall be permanent records and be retained for a period of not less than five (5) years after the filing of a cost report.
- 4106.11 If the records relate to a cost reporting period under audit or appeal, records shall be retained until the audit or appeal is complete.
- 4106.12 In accordance with § 4100.9, the ICF/IID shall disclose a list of related organizations, associated amounts, and the reason(s) for payment to each related organization in the cost report.

4106.13 Costs incurred during a period when an ICF/IID is subject to denial of payment for new admissions, described in § 4112, shall be included on the cost report for the period during which payment was denied, in order to accurately determine rates in subsequent periods.

**4107 FISCAL ACCOUNTABILITY**

4107.1 Beginning in FY 2014, except for the Administration cost center, each facility shall spend at least ninety-five percent (95%) of the rate under each cost center on service delivery to Medicaid individuals. Facilities expending less than ninety-five percent (95%) of each cost center shall be subject to repayment requirements.

4107.2 Beginning in FY 2014, each ICF/IID shall spend one hundred percent (100%) of the rate for Active Treatment on service delivery to Medicaid individuals. Facilities expending less than one hundred percent (100%) of the rate for Active Treatment shall be subject to repayment requirements.

4107.3 DHCF shall evaluate expenditures subject to the requirements in this section through annual review of cost reports.

4107.4 The repayment amount described in § 4107.1 shall be the difference between ninety-five percent (95%) of the rate component and reported expenses plus the administrative percentage of thirteen percent (13%). The repayment amount described in § 4107.2 shall be the difference between one hundred percent (100%) of the payments made for active treatment services and reported expenses for active treatment services.

4107.5 DHCF, or its designee, shall review each cost report for completeness, accuracy, compliance, and reasonableness through a desk audit.

4107.6 On-site audits shall be conducted not less than once every three (3) years. Each ICF/IID shall allow access, during on-site audits or review by DHCF or U.S. Department of Health and Human Services auditors, to relevant financial records and statistical data to verify costs previously reported to DHCF.

4107.7 DHCF shall issue a notice to each ICF/IID that is required to repay as set forth in this section. The notice shall set forth the repayment amount and include language describing the procedure and timeframes for requesting an appeal before OAH. Filing an appeal with OAH shall not stay any action to recover the amounts prescribed in this section.

**4108 RIGHT TO APPEAL**

- 4108.1 DHCF shall issue a notice to each beneficiary when DHCF disapproves the acuity level assignment submitted by the provider. The notice shall comply with District and federal law and rules. A copy of the notice shall also be sent to the provider. If the beneficiary consents, a provider may appeal the determination described in this section on behalf of the beneficiary.
- 4108.2 For Fiscal Years 2013 and after, DHCF shall send a transmittal to all providers notifying them of the rates.
- 4108.3 Provider appeals shall be limited to challenges based on acuity level assignments and audit adjustments.
- 4108.4 At the conclusion of each rebasing year audit or any other required audit, an ICF/IID facility shall receive an audited cost report including a description of each audit adjustment and the reason for each adjustment. An ICF/IID facility that disagrees with the audited cost report may request an administrative review of the audited cost report by sending a written request for administrative review to DHCF within thirty (30) days of the date of receipt of the audited cost report.
- 4108.5 For annual cost reports submitted by the ICF/IID facility, any determinations made following reviews conducted by DHCF shall be communicated to the ICF/IID Facility within thirty (30) days. Within thirty (30) days of the date of receipt of the DHCF communication on the submitted annual cost report, an ICF/IID facility that disagrees with the determination may request an administrative review by sending a written request for administrative review to DHCF.
- 4108.6 The written request for an administrative review shall include an identification of the specific audit adjustment to be reviewed, the reason for the request for review of each audit adjustment and supporting documentation.
- 4108.7 DHCF shall mail a formal response to the ICF/IID facility no later than forty-five (45) days from the date of receipt of the written request for administrative review.
- 4108.8 Decisions made by DHCF and communicated in the formal response may be appealed, within thirty (30) days of the date of DHCF's letter notifying the facility of the decision, to OAH.
- 4108.9 Filing an appeal with OAH pursuant to this section shall not stay any action to recover any overpayment to the ICF/IID, and the provider shall be immediately liable to the program for overpayments set forth in the Department's decision.



**4109 UTILIZATION REVIEW REQUIREMENTS**

- 4109.1 In accordance with 42 C.F.R. § 456.401, each ICF/IID shall develop, implement, and maintain a written Utilization Review Plan (URP) for each Medicaid beneficiary receiving services furnished by the ICF/IID. The URP shall provide for a review of each beneficiary's need for the services that the ICF furnished him or her.
- 4109.2 Utilization review for ICFs/IID enrolled in D.C. Medicaid may be conducted by any of the following:
- (a) The ICF/IID;
  - (b) DHCF or its designee; or
  - (c) Any other approved method.
- 4109.3 The URP shall, at minimum, include the following:
- (a) A description of how utilization review shall be performed;
  - (b) The frequency of utilization review;
  - (c) Assurances and documentation establishing that the personnel who shall perform utilization review meet the requirements of 42 C.F.R. § 456.406;
  - (d) Administrative staff responsibilities related to utilization review;
  - (e) The types of records maintained by the utilization review team;
  - (f) The types and frequency of any reports developed by the utilization review team, and related plan for dissemination; and
  - (g) The procedures that shall be used when corrective action is necessary.
- 4109.4 In accordance with 42 C.F.R. §§ 456.431 - 456.438, each URP shall establish a process whereby each individual residing in the ICF/IID receives continued stay reviews, at minimum, every six (6) months.
- 4109.5 The URP shall establish written methods and criteria used to conduct continued stay reviews. The URP shall also set forth enhanced criteria used to assess a case if the individual's circumstances reflect any of the following associations:
- (a) High costs;
  - (b) Frequent and excessive services; or

- (c) Attended by a physician or other practitioner whose practices reflect questionable billing patterns or misrepresentation of facts needed in order to secure claims reimbursement, including but not limited to ordering and/or providing services that are not medically necessary or that fail to meet professionally recognized standards of care.

**4110            TERMINATION AND ALTERNATIVE SANCTIONS FOR ICF/IID NONCOMPLIANCE**

4110.1            In order to qualify for Medicaid reimbursement, intermediate care facilities for persons with intellectual and developmental disabilities (ICFs/IID) shall comply with federal conditions of participation (CoPs), pursuant to 42 C.F.R. §§ 483.400-483.480. The CoPs include adherence to acceptable standards in the following areas:

- (a)    Governing body and management;
- (b)    Client protections;
- (c)    Facility staffing;
- (d)    Active treatment services;
- (e)    Client behavior and facility practices;
- (f)    Health care services;
- (g)    Physical environment; and
- (h)    Dietetic services.

4110.2            An ICF/IID that fails to maintain compliance with the CoPs may be subject to alternative sanctions and/or termination of its participation in the Medicaid program.

**4111            ALTERNATIVE SANCTIONS FOR ICFs/IID – NON-IMMEDIATE JEOPARDY**

4111.1            In accordance with Section 1902(i)(1)(B) of the Social Security Act, the District of Columbia may impose alternative sanctions against an ICF/IID when that facility fails to meet the CoPs, but the violation does not place beneficiary health or safety in immediate jeopardy.

4111.2            In lieu of terminating the provider agreement, DHCF may impose one (1) or more alternative sanctions against an ICF/IID as set forth below:

- (a) Denial of payment, as described in § 4112;
- (b) Directed Plan of Correction (DPoC), as described in § 4113;
- (c) Directed In-Service Training (DIST), as described in § 4114; or
- (d) State Monitoring, as described in § 4115.

4111.3 DHCF shall determine the appropriateness of alternative sanctions against an ICF/IID upon notification by the Department of Health that an ICF/IID is not in compliance with any of the federal CoPs. A determination to terminate a provider from the Medicaid program, or to impose an alternative sanction shall be made based on the following factors:

- (a) Seriousness of the violation(s);
- (b) Number and nature of the violation(s);
- (c) Potential for immediate and serious threat(s) to ICF/IID residents;
- (d) Potential for serious harm to ICF/IID residents;
- (e) Any history of prior violation(s) and/or sanction(s);
- (f) Actions or recommendations of DDS, developmental disability advocacy groups, or health care entities;
- (g) Mitigating circumstances; and
- (h) Other relevant factors.

4111.4 DHCF shall issue a written notice to each ICF/IID notifying the facility of termination of the Medicaid provider agreement or the imposition of an alternative sanction. The written notice shall comply with District and federal law and rules.

4111.5 All costs associated with the imposition of an alternative sanction against an ICF/IID pursuant to these rules shall be borne by the facility.

**4112 DENIAL OF PAYMENT**

4112.1 Pursuant to Section 1902(i) of the Act and 42 C.F.R. § 442.118, and in lieu of termination in situations where residents are not in immediate jeopardy, DHCF may initiate a one-time denial of payment for claims associated with new

admissions at ICFs/IID that fail to comply with one (1) or more of the CoPs for Medicaid enrollment.

- 4112.2 The denial of payment term shall be eleven (11) months in duration, beginning on the first day of the month after DHCF imposes the denial of payments.
- 4112.3 DHCF shall also deny payment to ICFs/IID if DOH previously initiated enforcement actions due to immediate jeopardy, and the facility has failed to mitigate the circumstances that caused immediate jeopardy.
- 4112.4 DHCF, in coordination with DOH, shall notify the ICF/IID that it is subject to denial of payment. The written notification shall indicate the following:
- (a) The ICF/IID has up to sixty (60) days to correct the cited deficiencies; and
  - (b) The procedures that shall commence once the sixty (60) days have lapsed, pursuant to § 4112.5.
- 4112.5 If the ICF/IID does not correct the violations within the sixty (60) day timeframe, DHCF shall notify the facility of its intention to deny payment. This written notification shall include:
- (a) Reasons for denial of payment;
  - (b) Information on the right to request a hearing through OAH, pursuant to 29 DCMR §§ 1300 *et seq.*;
  - (c) Details of public notice; and
  - (d) The effective date for denial of payments.
- 4112.6 If an ICF/IID appeals DHCF's decision to deny payment, DHCF shall notify the provider that the effective date of the sanction, established in § 4112.2, shall be suspended until the appeal is resolved.
- 4112.7 If denial of payment is upheld at the appeal, the DHCF shall notify the facility and the public at least thirty (30) days before the newly established effective date of the sanction.
- 4112.8 DHCF, in coordination with other District agencies, shall monitor the facility's progress in improving cited violation(s) throughout the eleven (11) month period.
- 4112.9 The Director of DHCF shall consider modifying or rescinding denial of payment upon the occurrence of one of the following:

- (a) Circumstances have changed and resulted in alterations of the CoPs violation(s) in such a manner as to immediately jeopardize patient health and safety; or
- (b) The ICF/IID achieves full compliance with the CoPs in fewer than eleven (11) months; or
- (c) The ICF/IID makes significant progress in achieving compliance with the CoPs through good faith efforts.

4112.10 DHCF shall terminate the provider agreement of an ICF/IID that has been unable to achieve compliance with the CoPs during the full eleven (11) month period of denial of payment. Termination shall be effective on the first day following the last day of the denial payment period.

4112.11 An ICF/IID provider agreement that is subject to denial of payment shall be automatically extended for the eleven (11) month period if the provider agreement does not lapse on or before the effective date of denial of payments.

4112.12 ICF/IID provider agreements that are subject to denial of payment may only be renewed when the denial period expires or is rescinded.

#### **4113 DIRECTED PLAN OF CORRECTION (DPoC)**

4113.1 In lieu of termination in situations where the ICF/IID is not in compliance with the federal CoPs, and residents are not in immediate jeopardy, DHCF may require an ICF/IID to take prompt, timely action specified by DHCF to achieve and maintain compliance with CoPs and other District of Columbia Medicaid requirements. These actions specified by DHCF shall constitute a Directed Plan of Correction (DPoC).

4113.2 The DPoC shall be developed in coordination with and approved by DOH, DHCF, and DDS, incorporating findings from DDS' Continuous Quality Improvement Plan.

4113.3 The DPoC shall specify:

- (a) How corrective action shall be accomplished for beneficiaries found to have been affected by the deficient practice and include remedies that shall be implemented;
- (b) How the facility shall identify other individuals who may have been affected by the same deficient practice but not previously identified, and how the facility shall act to remedy the effect of the deficient practices for these individuals;

- (c) What measures and actions shall be put into place to ensure that the deficient practice(s) is/are being corrected and future noncompliance prevented;
- (d) Timelines, including major milestones for completion of all corrective action in the DCoP;
- (e) How compliance shall be determined; and
- (f) How the DPoC relates to other alternative sanctions.

4113.4 A state monitor shall oversee implementation of the DPoC and evaluate compliance with the plan.

4113.5 DHCF may terminate the Medicaid provider agreement of an ICF/IID that is unable to meet the timeline for completion of all corrective actions in the DCoP.

**4114 DIRECTED IN-SERVICE TRAINING (DIST)**

4114.1 In lieu of termination in situations where the ICF/IID is not in compliance with federal CoPs, but residents are not in immediate jeopardy, DHCF may require an ICF/IID to implement Directed In-Service Training (DIST) for deficiencies determined by the District to be correctable through education. This alternative sanction shall require the staff and relevant contractors of the ICF/IID to attend in-service trainings and demonstrate competency in the knowledge and skills presented during the trainings.

4114.2 DHCF, in consultation with DOH and DDS, shall develop the areas for ICF/IID staff and contractor training by incorporating the findings from the Continuous Quality Improvement Plan.

4114.3 Facilities shall use training programs developed by well-established organizations with prior experience and expertise in training, services for individuals with intellectual disabilities, and the operation of ICF/IID to meet training requirements described in this section. All programs and personnel used to deliver the training shall be approved by DHCF prior to their use.

4114.4 The ICF/IID shall bear the expense of the DIST.

4114.5 A state monitor shall oversee implementation of DIST, and shall ensure compliance with the requirements.

4114.6 DHCF may terminate the provider agreement of an ICF/IID that is unable to meet the timeline for full and successful completion of the DIST.

**4115 STATE MONITORING**

4115.1 State monitoring shall be the District's oversight of efforts made by the ICF/IID to correct cited deficiencies. State monitoring shall be a safeguard against the facility's further noncompliance.

4115.2 The following entities may serve as the State Monitor:

- (a) DOH;
- (b) DHCF;
- (c) DDS; or
- (d) A District of Columbia contractor that meets the following requirements:
  - (1) Is not a designee or current contractor of the monitored facility;
  - (2) Does not have an immediate family member who is a resident of the facility;
  - (3) Is not a person who has been terminated for cause by the facility; and
  - (4) Is not a former contractor who has had a contract canceled, for cause, by the facility.

4115.3 State monitoring shall be discontinued under the following circumstances:

- (a) The facility's provider agreement is terminated;
- (b) The facility has demonstrated to the satisfaction of the District of Columbia that it substantially complies with the CoPs as described in § 4113; or
- (c) The facility has demonstrated to the satisfaction of the District of Columbia that it has substantially implemented the DIST as described in § 4114.

**4116 ACCESS TO RECORDS**

4116.1 Each ICF/IID shall grant full access to all records during announced and unannounced audits and reviews by DHCF personnel, representatives of the U.S. Department of Health and Human Services, and any authorized agent(s) or official(s) of the federal or District of Columbia government.

**4199 DEFINITIONS**

4199.1 For purposes of this chapter, the following terms shall have the meanings ascribed:

**Active Treatment** - A program of specialized and generic training, treatment, health services, and related services designed toward the acquisition of the behaviors necessary for the individual to function with as much self-determination and independence as possible, and the prevention or deceleration of regression or loss of current optimal functional status. These services shall be provided consistent with Federal standards.

**Activities of Daily Living** - The ability to bathe, transfer, dress, eat and feed oneself, engage in toileting, and maintain bowel and bladder control (continence).

**Acuity Level** - The intensity of services required for a Medicaid beneficiary residing in an ICF/IID. Individuals with a high acuity level require more care; those with lower acuity levels require less care.

**Administrator** - An individual responsible for the administration or implementation of ICF/IID policies or procedures, and other roles other than delivering services directly related to resident treatment and care, food service, or maintenance of the facility.

**Allowable costs** - Actual costs, after appropriate adjustments, incurred by an ICF/IID, which are reimbursable under the Medicaid program.

**Base year** - The standardized year on which rates for all facilities are calculated to derive a prospective reimbursement rate.

**Behavior Support Plan** - A written document requested by the Individual Support Team that is developed by a psychologist or psychology associate and incorporated into the Individual Support Plan. If developed by a psychology associate, the plan shall be approved by the psychologist.

**Current Individual Support Plan (ISP)** - An Individual Support Plan with a range of effective dates that includes the date on which the plan is being reviewed.

**Depreciation** - The systematic distribution of the cost or other basis of depreciable assets, less salvage value, over the estimated useful life of the assets.



**Direct service costs** - Costs incurred by a provider that are attributable to the operation of providing services to individuals.

**Elopement** - To run away; abscond.

**Employee** - A worker in an ICF/IID that does not serve as a manager or administrator, and is not under contract to provide professional services.

**Facility** - An intermediate care facility for individuals with intellectual disabilities.

**Habilitation** – The process by which an individual is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, including, in the case of a person committed under D.C. Official Code § 7-1304.06a, to refrain from committing crimes of violence or sex offenses, and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency.

**Holiday pay** – The term used in a labor agreement, provider policy, or in the absence of either, by the U.S. Department of Labor.

**Individual Support Plan (ISP)** - The document produced through coordinated efforts of ICFs/IID and DDS. The ISP is the successor to the Individual Habilitation Plan as defined in the court-approved *Joy Evans* Exit Plan. For purposes of Medicaid reimbursement, the individual program plan, as described in 42 C.F.R. § 483.440(c), shall be included within the ISP.

**Industry Average** - The sum of total industry expenditures divided by total industry licensed bed days per reported fiscal year costs.

**Interdisciplinary team** - A group of persons, with special training and experience in the diagnosis and habilitation of individuals with intellectual and developmental disabilities, with the responsibility to perform a comprehensive evaluation of each beneficiary and participating in the development, implementation, and monitoring of the beneficiary's individual habilitation plan. The "core team" shall include the individual, the individual's representative, the service coordinator, and relevant clinical staff.

**Level of Care Determination (LOC)** - The assessment used by DDS to determine a beneficiary's eligibility for ICF/IID services.

**Level of Need Assessment and Risk Screening Tool (LON)** - The comprehensive and uniform assessment tool developed by DDS that

determines the beneficiary's individual support needs and identifies potential risks to be addressed by the interdisciplinary team.

**Licensed bed days** - Three hundred and sixty-five (365) days or the number of days of that calendar year.

**Life safety skills** - An individual's ability to protect oneself from perceived and apparent risks and life-threatening situations such as fires, evacuation emergencies, traffic, and ingestion of toxic substances.

**Manager** - An individual who is responsible for the administration of an ICF/IID facility inclusive of human resources, maintenance, and policy management.

**Non-ambulatory** - A beneficiary who spends all of his or her time out of bed in a wheelchair or a chair.

**One-to-One** - An altered staffing pattern that allows one staff to provide services to an individual with intellectual disabilities exclusively for an authorized period of time.

**Owner** - A person who is a sole proprietor, partner, or corporate stockholder-employee owning any of the outstanding stock of the contracted provider.

**Per diem rate** - The rate per day established by DHCF.

**Professional services** - Services provided pursuant to any legal arrangement, which include occupational and speech therapies and nursing care services provided by an individual or a corporation.

**Quality of care improvements** - The same definition as set forth in D.C. Official Code § 47-1270, and any subsequent amendments thereto.

**Related organization** - In accordance with 42 C.F.R. § 413.17(b)(1), an organization is related to an ICF/IID when the ICF/IID, to a significant extent, is associated or affiliated with, or has control over, or is controlled by the organization furnishing the services, facilities, or supplies.

## DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Interim Director of Health, pursuant to the authority set forth in Section 1 of An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, ("Act"), approved August 11, 1939 (53 Stat. 1408, Ch. 691; D.C. Official Code § 7-131 (2008 Repl.)), and Section 2 of Mayor's Order 98-141, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 2 (Communicable and Reportable Diseases) of Title 22 (Health), Subtitle B (Public Health and Medicine), of the District of Columbia Municipal Regulations (DCMR).

The rules amend Chapter 2 of Title 22B to require health care providers to report pregnancies in HIV-infected women.

A notice of proposed rulemaking was published in the *D.C. Register* on June 21, 2013, at 60 DCMR 9365. No comments were received in response to publication of the notice, and no changes have been made since publication of the proposed rules.

The rules shall become effective upon publication of this notice in the *D.C. Register*.

**Chapter 2 (Communicable and Reportable Diseases) of Title 22B (Public Health and Medicine) is amended as follows:**

**Section 206.1 is amended to read as follows:**

206.1 All Human Immunodeficiency Virus (HIV) infection cases and pregnancies in HIV-infected women (including Acquired Immune Deficiency Syndrome (AIDS)) shall be reported to the Director of the Department of Health or his or her designee.

**Section 206.2 is amended to read as follows:**

206.2 Physicians and others licensed to practice in the District under the District of Columbia Health Occupations Revision Act of 1985 (D.C. Official Code § 3-1201.01 et seq.), in charge of an AIDS diagnosis, shall report the AIDS diagnosis to the Director within forty-eight (48) hours of diagnosis and furnish information the Director deems necessary to complete a confidential case report. Additionally, physicians and others licensed under the District of Columbia Health Occupations Revision Act of 1985 shall report a HIV positive test result to the Director or his or her designee. The physician or provider, laboratory, blood bank, or other entity or facility that provides HIV testing shall report all cases of HIV infection to the Director or his or her designee. A physician, physician's assistant, nurse-midwife, and other person licensed to practice in the District under the District of Columbia Health Occupations Revision Act of 1985 (D.C. Official Code § 3-1201.01 et

*seq.*), who attends to, treats, examines, or provides perinatal treatment to a pregnant woman infected with HIV shall report the pregnancy to the Director within forty-eight (48) hours of diagnosis of the pregnancy and furnish information the Director deems necessary to complete a confidential case report.

**Section 206.4 is amended to read as follows:**

206.4 Upon receiving a report of the existence of an HIV infection, potential AIDS case, or the existence of a pregnancy in an HIV-infected woman, the Director or his or her designee shall make any investigation that he or she may deem necessary for the purpose of determining the source of the infection and the nature of the HIV treatment. To facilitate the investigation, any entity providing health or medical services shall make medical records and histories available to the Director for inspection.

**Section 206.5 is amended to read as follows:**

206.5 Information on HIV cases reported under this section shall be used for statistical, public health, epidemiological, and surveillance purposes only. Pregnancy information reported under this section shall be used for public health purposes to ensure the health of the pregnant woman and prevent the transmission of a communicable disease. The Director, or his or her designee, shall not disclose the identity of any person with an HIV infection or reported AIDS case or pregnancy status without the person's written permission.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF FINAL RULEMAKING

The Director of the Department of Human Services (Department), pursuant to the authority set forth in Section 31 of the Homeless Services Reform Act of 2005 (HSRA), effective October 22, 2005 (D.C. Law 16-35, D.C. Official Code § 4-756.02 (2008 Repl.)), and Mayor's Order 2006-20, dated February 13, 2006, hereby gives notice of adoption of amendments to Chapter 25, Shelter and Supportive Housing for Individuals and Families, of Title 29, Public Welfare, of the District of Columbia Municipal Regulations.

The purpose of the amended chapter is to establish criteria by which families will be determined eligible and prioritized for referral to the District of Columbia Housing Authority (DCHA) for consideration for inclusion in the tenant-based Local Rent Supplement Vouchers Program as authorized by Title V, Subtitle K of the Fiscal Year 2013 Budget Support Act of 2012, effective September 20, 2012 (D.C. Law 19-168; 59 DCR 8025).

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on November 19, 2012, at 59 DCR 12898. The emergency rules expired on January 8, 2013. The Department published a second Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on February 1, 2013, at 60 DCR 1236. These emergency rules expired on April 8, 2013. Subsequently, the Department published a Notice of Emergency Rulemaking in the *D.C. Register* on April 26, 2013, at 60 DCR 6223.

The second Notice of Emergency and Proposed Rulemaking was transmitted to the Council for the District of Columbia (Council) pursuant to Section 31 of the HSRA (D.C. Official Code § 4-756.02) for a forty-five- (45) day review period. The Council did not take action during the review period; thus, the rules were deemed approved on July 12, 2013. *See* PR 20-238 (Amended Special Eligibility Criteria for Local Rent Supplement Program Vouchers for Families Experiencing Homelessness Approval Resolution of 2013).

The Department adopted the rules as final on July 25, 2013. No substantive changes have been made to the rules since they were published on February 1, 2013, and they shall become effective upon publication in the *D.C. Register*.

**Chapter 25, SHELTER AND SUPPORTIVE HOUSING FOR INDIVIDUALS AND FAMILIES, of Title 29, PUBLIC WELFARE, of the DCMR is amended by adding new Sections 2556 through 2558 to read as follows:**

**2556 SPECIAL ELIGIBILITY CRITERIA FOR REFERRAL TO THE LOCAL RENT SUPPLEMENT PROGRAM – PURPOSE AND SCOPE**

2556.1 The purpose of §§ 2556 - 2558 is to establish the special eligibility criteria by which families will be determined eligible and prioritized for referral to the District of Columbia Housing Authority (DCHA) for consideration for inclusion in the tenant-based Local Rent Supplement Vouchers Program as authorized and

funded by Title V, Subtitle K of the Fiscal Year 2013 Budget Support Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 4-753.04) (hereinafter “LRSP vouchers”).

2556.2 Sections 2556 through 2558 govern only the initial eligibility, prioritization, and referral of families to the DCHA for the LRSP vouchers and no other provisions of this chapter shall apply to the families once referred, unless otherwise and explicitly provided in §§ 2556 - 2558.

2556.3 The DCHA shall make the final determination of a family’s eligibility for a LRSP voucher. Families referred to the DCHA for the LRSP vouchers are subject to all applicable eligibility and other requirements of the applicable Local Rent Supplement Program, as promulgated and administered by the DCHA, and in accordance with Title V, Subtitle K of the Fiscal Year 2013 Budget Support Act of 2012, effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 4-753.04).

2556.3 Nothing in these rules shall be construed to create an entitlement either direct or implied on the part of any individual or family to referral to or participation in the Local Rent Supplement Program.

**2557 SPECIAL ELIGIBILITY CRITERIA FOR REFERRAL TO THE LOCAL RENT SUPPLEMENT PROGRAM – ELIGIBILITY REQUIREMENTS**

2557.1 An applicant unit shall be eligible for referral to the DCHA for the LRSP vouchers if the applicant unit is a family, as defined in § 2599, that:

- (a) Is currently homeless, because the applicant unit:
  - (1) Lacks a fixed, regular residence that provides safe housing, and lacks the financial means to acquire such a residence immediately, including victims of domestic violence who cannot remain in their present housing for safety reasons;
  - (2) Has a primary nighttime residence that is a supervised publicly or privately operated shelter or transitional housing facility designed to provide temporary living accommodations governed by this chapter or is currently receiving a rental subsidy through the Family Re-Housing and Stabilization Program governed by Chapter 28 of Title 29 of the District of Columbia Municipal Regulations; or
  - (3) Has no other housing options identified;
- (b) Is a resident of the District of Columbia as defined by D.C. Official Code § 4-751.01(32) (2008 Repl. & 2012 Supp.); and

- (c) Has significant barriers to increasing income or achieving housing stability as demonstrated by having at least one (1) of the following household characteristics:
  - (1) Head of household, or both heads of household if a two (2)-parent household, is disabled and unable to work, as demonstrated by receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits, or other medical documentation;
  - (2) Household include a child or children with a moderate to severe physical, behavioral, developmental, or mental health disability that is a barrier to housing stability;
  - (3) Head of household, particularly youth head of household defined as twenty-four (24) years of age or younger, in which at least one (1) parent has aged out of foster care, experienced significant involvement with child welfare as a minor child, or experienced significant involvement with the youth rehabilitation or correctional systems as a minor child;
  - (4) Head of household is a victim of an intrafamily offense, domestic violence, dating violence, or stalking that is a barrier to work either because working places the person at further risk of violence or the family violence has resulted in creating barriers to work for the victim; or
  - (5) Large family size, defined as a household with five (5) or more minor children.

2557.2 Families determined to be eligible pursuant to § 2557.1(c), may be prioritized for referral based on the:

- (a) Severity of barrier(s) to achieving housing stability absent a LRSP voucher;
- (b) Length of time on the Public Housing or Housing Choice Voucher Waiting list at the DCHA; or
- (c) Number of episodes or length of time of homelessness.

**2558 SPECIAL ELIGIBILITY CRITERIA FOR REFERRAL TO THE LOCAL RENT SUPPLEMENT PROGRAM - APPLICATION AND RIGHT TO APPEAL**

- 2558.1 An authorized representative may apply on behalf of the applicant, if the applicant provides a written and signed statement stating why the applicant cannot apply in person and the name and address of the person authorized to act on the applicant's behalf.
- 2558.2 Each application shall be in writing on a form that the Department prescribes and signed by the applicant or authorized representative under penalty of perjury. If the applicant is married and living with a spouse, both spouses shall sign the application as an applicant unit (hereinafter "applicant").
- 2558.3 Upon request by an applicant with a disability, or the authorized representative of an applicant with a disability, the Provider shall assist the applicant or authorized representative with any aspect of the application process necessary to ensure that the applicant with a disability has an equal opportunity to submit an application.
- 2558.4 The Department shall provide application forms, and the Provider shall accept applications from each applicant who requests assistance.
- 2558.5 At the time of application, each applicant shall be provided with a clear, concise, written notice containing the applicant's rights and responsibilities and the Provider's responsibilities with respect to the Local Rent Supplement Program. The Provider shall request that all applicants, personally or through an authorized representative, sign a document acknowledging receipt of this notice.
- 2558.6 As part of the application process, all applicants, personally or through an authorized representative, shall sign a release form authorizing the Provider to obtain or verify information necessary to process the application.
- 2558.7 Each applicant shall cooperate fully in establishing his or her eligibility, including the basis of the applicant's homelessness and shall provide, to the extent available and relevant, documentation or collateral proof of:
- (a) Household composition;
  - (b) Employment status and employment history;
  - (c) Education history;
  - (d) Income and assets;
  - (e) Household expenses;
  - (f) Facts and circumstances surrounding homelessness, including rental and other relevant housing history;



- (g) Financial and other assets available or obtainable in the short and long term to support housing stability; and
  - (h) Facts and circumstances surrounding financial and other barriers to housing stability.
- 2558.8 The Provider shall give to each applicant a written request specifying the information needed to complete the application, and the Provider shall discuss with the applicant how to obtain the information. The application shall be considered complete when all required information is furnished.
- 2558.9 The Provider may use, among other things, documents, telephone conversations, personal and collateral interviews, reports, correspondence, and conferences to verify applicant information.
- 2558.10 An application shall be considered abandoned if the applicant has not obtained and provided to the Provider the required information for eligibility determination within sixty (60) calendar days of the date of application.
- 2558.11 If an interested individual or family submits an application and is found not to be eligible, the Department or its designee shall provide the applicant with a Notice of Denial of Eligibility, which shall include:
- (a) A clear statement of the applicant's eligibility determination;
  - (b) A clear and detailed statement of the factual basis of the denial, including a reference to the eligibility criteria set forth in § 2557 that has not been met;
  - (c) A clear and complete statement of the client's right to request a reconsideration from the Department or the Department's designee if he or she disagrees with the Department's or the Department's designee's decision to deny his or her referral to the Local Rent Supplement Program, or if he or she has questions regarding the Department or its designee's decision to deny his or her referral to the Local Rent Supplement Program; and
  - (d) A clear and complete statement of the client's right to appeal the denial of eligibility through a fair hearing and administrative review including the appropriate deadlines for instituting the appeal.
- 2558.12 If a family issued a Notice of Denial of Eligibility pursuant to § 2558.11 is successful in their appeal, the family shall be prioritized for referral based on the criteria set forth in § 2557.2.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority under paragraph 7 of the General Expenses titles of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and ten, and for other purposes, approved March 3, 1909 (35 Stat. 689, ch. 250; D.C. Official Code § 6-661.01(a) (2008 Repl.)) and Mayor's Order 2013-23, dated January 29, 2013; Section 101(b) of the Omnibus Regulatory Reform Amendment Act of 1998, effective April 29, 1998 (D.C. Law 12-86; D.C. Official Code § 47-2851.04(c)(1) (2005 Repl. & 2012 Supp.)); and D.C. Official Code § 29-102.12(a) (2011 Repl.) and Mayor's Order 2011-178, dated October 25, 2011, hereby gives notice of the intent to adopt amendments to Chapter 1 (DCRA Permits Division Schedule of Fees) of Title 12K (D.C. Construction Codes Supplement of 2008); Chapter 5 (Basic Business License Schedule of Fees) and Chapter 6 (DCRA Corporations Division Schedule of Fees) of Title 17 (Business, Occupations and Professions) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking would maintain the fee charged on DCRA Permits Division, Business Licensing Division, and Corporations Division transactions to cover the costs of enhanced technological capabilities for each division.

Pursuant to Section 101(b) of the Omnibus Regulatory Reform Amendment Act of 1998, effective April 29, 1998 (D.C. Law 12-86; D.C. Official Code § 47-2851.04(c)(1)(B) (2012 Supp.)) and D.C. Official Code § 29-102.12(d) (2011 Repl.), the proposed amendments to Title 17, Chapters 5 and 6 of the DCMR will be submitted to the Council of the District of Columbia for a thirty- (30-) day and forty-five- (45-) day period of review, respectively, and final rulemaking action will not be taken until the later of forty-five (45) days after the date of publication of this notice in the *D.C. Register* or Council approval of the amendment.

**Title 12 K (DCRA PERMITS DIVISION SCHEDULE OF FEES), Chapter 1 (DCRA Permits Division Schedule of Fees), Section 100.2 of the DCMR is amended to read as follows:**

100.2 Starting on October 1, 2010, the Director shall charge an additional fee of ten percent (10%) on the total cost of each permit issued, or document furnished, pursuant to this chapter to cover the costs of enhanced technological capabilities of the Permits Division.

**Title 17 (BUSINESS, OCCUPATIONS AND PROFESSIONS), Chapter 5 (Basic Business License Schedule of Fees), Section 500.4 of the DCMR is amended to read as follows:**

500.4 Starting on October 1, 2010, the Director shall charge an additional fee of ten percent (10%) on the total cost of each basic business license issued pursuant to this chapter to cover the costs of enhanced technological capabilities of the basic business licensing system.

**Title 17 (BUSINESS, OCCUPATIONS AND PROFESSIONS), Chapter 6 (DCRA Corporations Division Schedule of Fees), Section 600.1 of the DCMR is amended to read as follows:**

- 600.1 This chapter establishes the fees and charges for filings, certifications, and reports submitted to or requested of the Corporations Division of the Department of Consumer and Regulatory Affairs. In addition to the amounts set out in this section, the Director shall charge an additional fee of ten percent (10%) on the total cost of any filing or document that is submitted to, or requested from, the Corporations Division to cover the costs of enhanced technological capabilities.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Room 5164, Washington, D.C. 20024, or via e-mail at [helder.gil@dc.gov](mailto:helder.gil@dc.gov), not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 442-4400. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “About DCRA” tab, clicking on “News Room”, and then clicking on “Rulemaking”.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

**SECOND NOTICE OF PROPOSED RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority under Section 2 of the District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2009, effective July 2, 2011 (D.C. Law 18-378; D.C. Official Code § 29-101.05 (2011 Repl.)) and Mayor’s Order 2011-178, dated October 25, 2011, hereby gives notice of the intent to adopt a new Chapter 7 (Business Organizations) to title 17 (Business, Occupations and Professions) of the District of Columbia Municipal Regulations.

The proposed rulemaking clarifies and prescribes the requirements for forming, maintaining, and operating foreign and domestic business organizations formed or regulated under Title 29 (Business Organizations) of the D.C. Official Code.

A Notice of Proposed Rulemaking was previously published in the *D.C. Register* on February 8, 2013 (60 DCR 1536). In response to several comments received on the provisions dealing with nonprofit corporations formed prior to January 1, 1963 (commonly referred to as “Old Act Corporations”), several substantive changes have been made. Section 704 has been completely revised and renamed; a new Section 705 (Requirements for Nonprofit Corporations Formed by Special Act of Congress) has been added; and Section 727 (Conversion Authorized) has been deleted. In addition, the Definitions section has been renumbered as Section 799.

This Second Notice of Proposed Rulemaking supersedes the Notice of Proposed Rulemaking published in the *D.C. Register* on February 8, 2013 (60 DCR 1536).

The Director also gives notice of his intent to take final rulemaking action to adopt this amendment in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

**A new Chapter 7 (Business Organizations) to Title 17 (Business, Occupations and Professions) of the District of Columbia Municipal Regulations is added to read as follows:**

**CHAPTER 7 BUSINESS ORGANIZATIONS**

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- 702 ENTITIES REQUIRED TO FILE A BIENNIAL REPORT TO THE SUPERINTENDENT
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**SUBCHAPTER A: GENERAL PROVISIONS**

**700 GENERAL PROVISIONS**

700.1 The provisions of this chapter are issued pursuant to the authority under section 2 of the District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2009, effective July 2, 2011 (D.C. Law 18-378; D.C. Official Code § 29-101.05 (2011 Repl.)) and Mayor’s Order 2011-178, dated October 25, 2011.

700.2 For the purposes of this chapter, the following phrase from Title 29 (Business Organizations) of the District of Columbia Official Code (2011 Repl.) (the “Act”) shall be interpreted by the Superintendent as follows:

- (a) **Doing business** – any trade, profession, or activity that provides, or holds itself out to provide, goods or services to the general public or to any portion of the general public, for hire or compensation in the District of Columbia, except as otherwise provided in D.C. Official Code § 29-105.05 (2011 Repl.).

**701 CERTIFICATE OF GOOD STANDING**

701.1 The Superintendent shall issue a certificate of good standing to a registered domestic or registered foreign entity after all required corporate filing fees and any outstanding penalties are paid to the Superintendent and the other requirements of D.C. Official Code § 29-102.08 (2011 Repl.) are met.

**702 ENTITIES REQUIRED TO FILE A BIENNIAL REPORT TO THE SUPERINTENDENT**

702.1 Each of the following entities shall file a biennial report with the Superintendent:

- (a) Business corporation;
- (b) Professional corporation;
- (c) Nonprofit corporation;
- (d) Limited partnership;
- (e) Limited liability limited partnership;
- (f) Limited liability company;
- (g) General cooperative association;
- (h) Limited cooperative association;
- (i) Statutory trust;
- (j) Business trust;
- (k) Common-law business trust; and
- (l) Limited liability partnership.

702.2 Each biennial report shall include:

- (a) The date of formation or registration;
- (b) The signature of at least one (1) governor of the entity or other individual authorized to sign on behalf of the governor; and
- (c) An affirmation that the facts stated in the filing are true.

702.3 In addition to the requirements of Chapter 1 (General Provisions) of the Act, a registered foreign entity filing a biennial report pursuant to § 702.1 shall include the following:

- (a) A statement that the foreign entity is in good standing in its state of domicile, if applicable;
- (b) A description of the foreign entity's efforts to be in good standing if the foreign entity is not in good standing in its state of domicile; and
- (c) A statement that the foreign entity cured the grounds for dissolution if the foreign entity is involuntarily dissolved in its state of domicile.



**703 DEADLINE FOR FILING BIENNIAL REPORT**

- 703.1 For any domestic or foreign entity that registered with the Superintendent between January 1 and December 31 of the current calendar year, the biennial report shall be filed with the Superintendent by April 1 of the next calendar year.
- 703.2 A domestic or foreign entity that files a biennial report under § 703.1 shall file subsequent biennial reports every two (2) years following the first April 1 filing.
- 703.3 For any registered domestic or registered foreign entity that previously was not required to file a biennial report with the Superintendent, the biennial report shall be filed with the Superintendent by April 1, 2013.
- 703.4 A domestic or foreign entity that files a biennial report under § 703.3 shall file subsequent biennial reports every two (2) years following the first April 1 filing.
- 703.5 For any registered domestic or registered foreign entity general cooperative or cooperative association that has filed an annual report with the Superintendent, the biennial report shall be filed with the Superintendent by April 1, 2013.
- 703.6 A domestic or foreign entity that files a biennial report under § 703.5 shall file subsequent biennial reports every two (2) years following the first April 1 filing.

**704 REQUIREMENTS FOR NONPROFIT CORPORATIONS FORMED BEFORE JANUARY 1, 1963 THAT WERE NOT SUBJECT TO THE DISTRICT OF COLUMBIA NONPROFIT CORPORATION ACT OF 1962.**

- 704.1 This section shall apply to any nonprofit corporation formed in the District of Columbia before January 1, 1963 that did not elect to become subject to the District of Columbia Nonprofit Corporations Act of 1962, approved August 6, 1962 (76 Stat. 265; D.C. Official Code § 29-301.01 *et seq.* (2001) (recodified as D.C. Official Code § 29A-301.01 *et seq.* (2011 Repl.)).
- 704.2 Until January 1, 2014, but not afterwards, a nonprofit corporation described in § 704.1 shall be governed by the statute under which it was formed as if that statute had not been repealed unless, before that date, the corporation elects to avail itself of the Act as provided in § 704.3.
- 704.3 Before January 1, 2014, a nonprofit corporation described in § 704.1 shall become subject to the Act if it:
- (a) Adopts a resolution in accordance with the corporation's articles and bylaws expressly electing to become subject to the Act; and
  - (b) Files the following with the Superintendent:

- (1) The resolution described in § 704.3(a);
- (2) A copy of the corporation's articles of incorporation; and
- (3) If the corporation has members and this is not stated in the articles of incorporation, an amendment to the articles of incorporation, adopted in accordance with D.C. Official Code § 29-408.01 *et seq.*, that states that the corporation has members.

704.4 A resolution under § 704.3(a) is sufficient if it is adopted in accordance with the articles of incorporation or bylaws of the nonprofit corporation and contains the following language, or substantially similar language:

“RESOLUTION

“Pursuant to D.C. Official Code § 29-107.04(b)(2) (2011 Repl.) (as amended), the [insert name of nonprofit corporation] hereby elects to become subject to the District of Columbia Business Organization Code (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.) (as amended)).”.

704.5 A nonprofit corporation described in § 704.3 shall file a biennial report by April 1, 2014 and shall otherwise comply with, and be subject to, the Act and this chapter.

704.6 A nonprofit corporation that complies with § 704.3 shall be deemed to have been incorporated under the Act for purposes of D.C. Official Code § 29-402.02(a)(3) (2011 Repl.).

704.7 Subject to §§ 704.8, 704.9, and 704.10, a nonprofit corporation described in § 704.1 may elect not to be subject to the Act if it does all of the following before January 1, 2014:

- (a) Adopts a resolution in accordance with the corporation's articles and bylaws expressly electing not to become subject to the Act;
- (b) Files the following with the Superintendent:
  - (1) A copy of the resolution described in § 704.7(a);
  - (2) A copy of the corporation's articles of incorporation; and
  - (3) A list of the names and addresses of all current directors and officers of the corporation; and
- (c) Files a designation of a registered agent pursuant to D.C. Official Code § 29-104.04 (2011 Repl.) (as amended).

- 704.8 A nonprofit corporation described in §704.7 shall:
- (a) File a biennial report before April 1, 2014;
  - (b) File subsequent biennial reports every two (2) years following the first April 1 filing; and
  - (c) Maintain a registered agent at all times.
- 704.9 If a nonprofit corporation described in § 704.7 fails to comply strictly and completely with all of the requirements of § 704.7 or 704.8, at any time, the corporation shall irrevocably become subject to the Act.
- 704.10 A nonprofit corporation described in § 704.1 that has elected not to be subject to the Act in accordance with § 704.7 may become subject to the Act by following the procedures in § 704.3.
- 704.11 If a nonprofit corporation described in § 704.7 is administratively dissolved for failing to file a biennial report or failing to maintain a registered agent, the corporation must elect to be subject to the Act in order to apply for reinstatement.
- 704.12 On January 1, 2014, a nonprofit corporation described in § 704.1 that did not elect to become subject to the Act pursuant to § 704.3 or not to be subject to the Act pursuant to § 704.7 shall irrevocably become subject to the Act.
- 704.13 A nonprofit corporation described in § 704.12 shall:
- (a) On or before April 1, 2014, file:
    - (1) A biennial report;
    - (2) A copy of the corporation's articles of incorporation;
    - (3) A list of the names and addresses of the current directors and officers of the corporation; and
    - (4) If the corporation has members and this is not stated in the articles of incorporation, an amendment to the articles of incorporation, adopted in accordance with D.C. Official Code § 29-408.01 *et seq.* (2011 Repl.), that states that the corporation has members.
  - (b) File subsequent biennial reports every two (2) years following the first April 1 filing; and

(c) Maintain a registered agent pursuant to D.C. Official Code § 29-104.04 (2011 Repl.) (as amended).

704.14 A nonprofit corporation described in § 704.12 that complies with § 704.13 shall be deemed to have been incorporated under the Act for purposes of D.C. Official Code § 29-402.02(a)(3) (2011 Repl.).

704.15 If a nonprofit corporation described in § 704.12 does not comply with § 704.12(a), it may be administratively dissolved.

704.16 A nonprofit corporation described in § 704.12 that is administratively dissolved may apply for reinstatement subject to the requirements D.C. Official Code § 29-106.03 (2011 Repl.), provided that the corporation files the documents specified in § 704.13(a).

## **705 REQUIREMENTS FOR NONPROFIT CORPORATIONS FORMED BY SPECIAL ACT OF CONGRESS**

705.1 This section applies to nonprofit corporations formed in the District of Columbia by a special act of Congress, except to the extent that a requirement of this section is in irreconcilable conflict with a provision of the special act of Congress.

705.2 A nonprofit corporation described in § 705.1 that elects to become subject to Chapter 4 (Nonprofit Corporations) of the Act (D.C. Official Code § 29-401 *et seq.* (2011 Repl.) (as amended) before January 1, 2014, shall file with the Superintendent:

- (a) A copy of the corporation's congressional charter and any amendments thereto;
- (b) A copy of a resolution adopted by the corporation electing to be subject to the Act; and
- (c) A copy of the corporation's articles of incorporation, if any.

705.3 A nonprofit corporation that makes an election under § 705.2 shall:

- (a) File a biennial report with the Superintendent by April 1, 2014; and
- (b) File subsequent biennial reports every two (2) years following the first April 1 filing.

705.4 A nonprofit corporation described in § 705.1 that does not make an election to become subject to Chapter 4 (Nonprofit Corporations) of the Act (D.C. Official Code § 29-401 *et seq.* (2011 Repl.) (as amended) shall file with the

Superintendent, no later than January 1, 2014, a statement containing the following:

- (a) The corporation's name;
- (b) The corporation's date of formation;
- (c) The name and address of at least one (1) governor of the corporation;
- (d) The name and address of the registered agent of the corporation; and
- (e) A copy of the corporation's congressional charter and any amendments thereto.

705.5 A nonprofit corporation described in § 705.4 shall:

- (a) File a biennial report by April 1, 2014;
- (b) File subsequent biennial reports every two (2) years following the first April 1 filing; and
- (c) Maintain a registered agent pursuant to D.C. Official Code § 29-104.04 (2011 Repl.) (as amended).

705.6 If a nonprofit corporation described in § 705.1 fails to file a timely biennial report or fails to maintain a registered agent, as required by § 705.5, the Superintendent may administratively dissolve the corporation.

## **706 FAILURE TO FILE A BIENNIAL REPORT**

706.1 If a domestic entity required to file a biennial report under § 702 fails to file a timely biennial report, the failure to timely file shall be grounds for administrative dissolution of the domestic entity by the Superintendent.

706.2 If a foreign entity required to file a biennial report under § 702 fails to file a timely biennial report, the failure to timely file shall be grounds for the termination of the foreign entity's registration by the Superintendent.

## **707 FAILURE TO RENEW NAME REGISTRATION**

707.1 If a foreign filing entity or foreign limited liability partnership fails to renew the registration of its name within one (1) year of the date of registration:

- (a) The name registration shall expire; and

- (a) The name shall be available for use by another entity on the next business day after the expiration date.

**708 REFUND OF ENTITY FILING FEES**

708.1 In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-102.13(d) (2011 Repl.):

- (a) The request for a refund shall be made within sixty (60) calendar days from the date of payment; or
- (b) The request for a refund shall be made within sixty (60) calendar days from the date of DCRA's rejection notification.

708.2 The Superintendent shall retain all fees not requested within sixty (60) calendar days from the date of payment or date of the Superintendent's rejection letter.

**709 PERMITTED NAMES**

709.1 In addition to the requirements of Chapter 1 (General Provisions), Subchapter III of the Act (D.C. Official Code § 29-103.01 (2011 Repl.):

- (a) If the name of the domestic or foreign entity is in a foreign language, the entity is required to register the English translation of the entity's name when registering with the Superintendent.
- (b) If the English translation of the entity's name is currently on file with the Superintendent, the domestic or foreign entity shall adopt and register a different English translation.

**710 NAME REQUIREMENTS FOR CERTAIN TYPES OF ENTITIES**

710.1 In addition to the requirements of Chapter 1 (General Provisions), Subchapter III of the Act (D.C. Official Code § 29-103.02 (2011 Repl.)), the name requirements apply to domestic and foreign entities.

710.2 The following word, phrase, or abbreviation indicating the type of entity shall appear at the end of the name of the entity: "Assn", "Assn.", "Assoc", "Assoc.", "Coop", "Co-op", "cooperative association", "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "professional association", "PA", "Limited", "Ltd.", "limited partnership", "limited liability partnership", "LLP", "registered limited liability partnership", "RLLP", "limited liability limited partnership", "LLLLP", "registered limited liability limited partnership", "RLLLLP", "limited liability company", "LLC", or similar words, phrases, or abbreviations indicating entity types as defined by D.C. Official Code § 29-103.02 (2011 Repl.).

**711 ENTITIES REQUIRED TO DESIGNATE AND MAINTAIN A REGISTERED AGENT**

711.1 The following types of entities shall designate and maintain a registered agent in the District:

- (a) A domestic filing entity;
- (b) A domestic limited liability partnership; and
- (c) A registered foreign entity.

**712 COMMERCIAL REGISTERED AGENT FOR A FEE OR ON BEHALF OF MULTIPLE FILING ENTITIES**

712.1 An individual or entity intending to serve as the commercial registered agent for a fee and for fifty (50) or more filing entities shall:

- (a) File with the Superintendent a commercial registered agent listing statement; and
- (b) Include the signature of the entity, individual, or other person authorized to sign on behalf of the commercial registered agent on the commercial registered agent listing statement.

712.2 An individual or entity serving as a commercial registered agent pursuant to § 711.1 shall file a commercial registered agent filing with the Superintendent within thirty (30) business days of serving a minimum of fifty (50) filing entities.

712.3 An individual or entity currently serving as a commercial registered agent for a fee and for fifty (50) or more filing entities shall:

- (a) File with the Superintendent a commercial registered agent listing statement; and
- (b) Include the signature of the entity, individual, or other person authorized to sign on behalf of the commercial registered agent on the commercial registered agent listing statement.

712.4 An individual or entity currently serving as a commercial registered agent pursuant to § 711.2 shall file a commercial registered agent filing with the Superintendent within thirty (30) business days that these regulations are adopted.

712.5 Failure to comply with filing a commercial registered agent listing statement may lead to the removal by the Superintendent of the commercial registered agent from each entity.

712.6 An individual or entity serving as a commercial registered agent for a fee and for forty-nine (49) or less filing entities may:

- (a) File with the Superintendent a commercial registered agent listing statement; and
- (b) Include the signature of the entity, individual, or other person authorized to sign on behalf of the commercial registered agent on the commercial registered agent listing statement.

**713           TERMINATION OF LISTING OF COMMERCIAL REGISTERED AGENT**

713.1 In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)):

- (a) If the commercial registered listing agent is a domestic filing entity and the status of the commercial registered listed agent is revoked or terminated, the commercial registered listing agent is terminated as the agent for all entities it represents.
- (b) If the commercial registered listing agent is a foreign filing entity and the status of the commercial registered listing agent is revoked or terminated, the commercial registered listing agent is terminated as the agent for all entities it represents.
- (c) Reinstatement of the commercial registered listing agent shall reinstate the listing of an agent.

**714           CHANGE OF NAME, ADDRESS, TYPE OF ENTITY, OR JURISDICTION OF FORMATION BY COMMERCIAL REGISTERED AGENT**

714.1 Upon filing a commercial registered agent statement of change, the Superintendent shall charge the commercial registered agent a fee to change the commercial registered agent information for each entity represented by the commercial registered agent.

**715           DESIGNATION OF REGISTERED AGENT BY NONREGISTERED FOREIGN ENTITY OR NONFILING DOMESTIC ENTITY**

715.1 In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)), a nonregistered foreign entity or non-filing domestic entity filing a statement designating a registered agent shall include the entity's principal address.

**716           SERVICE OF PROCESS, NOTICE OR DEMAND ON ENTITY**



716.1 In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)), a person seeking to serve process, notice, or demand on the Superintendent shall submit to the Superintendent:

- (a) A completed service of process action on a form to be provided by the Department; or
- (b) A declaration containing the plaintiff's name and address, defendant's domestic or foreign filing entity's name and last known address, and grounds for serving the Superintendent. The declaration shall contain the plaintiff or authorized person's name and signature.

716.2 Service on the Superintendent shall only be made after the person seeking to serve the Superintendent has filed the notice or demand with a court of competent jurisdiction.

#### **717 FOREIGN REGISTRATION STATEMENT**

717.1 In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)), a foreign entity or foreign limited liability partnership filing a statement of foreign registration shall include in the statement:

- (a) The signature of the entity's governor or other individual authorized to sign on behalf of the governor; and
- (b) The signing individual's name and capacity to sign.

#### **718 AMENDMENT OF FOREIGN REGISTRATION STATEMENT**

718.1 In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)), the foreign entity amending its foreign registration statement shall:

- (a) Specify in detail how the amended foreign registration statement differs from the existing foreign registration statement;
- (b) Submit a certified copy of the filing effectuating the amendment; and
- (c) The certified copy must be dated within the most recent ninety (90) days by the Secretary of State or authorized officer of the jurisdiction of formation.

**719 WITHDRAWAL OF REGISTRATION OF REGISTERED FOREIGN ENTITY**

719.1 In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)), the foreign entity shall:

- (a) Be in good standing in the District before filing its statement of withdrawal;
- (b) Include the date of its initial foreign registration in the District in its statement of withdrawal; and
- (c) Include in the statement of withdrawal, the signature of the entity's governor or other individual authorized to sign on behalf of the governor, and the signing individual's name and capacity to sign.

**720 WITHDRAWAL ON DISSOLUTION OR CONVERSION TO NONFILING ENTITY OTHER THAN LIMITED LIABILITY PARTNERSHIP**

720.1 In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)), a registered foreign entity which dissolves or converts to a domestic or foreign nonfiling entity other than a limited liability partnership shall include in its state of withdrawal:

- (a) The signature of the entity's governor or other individual authorized to sign on behalf of the governor; and
- (b) The signing individual's name and capacity to sign.

**721 TRANSFER OF REGISTRATION**

721.1 In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)), a registered foreign entity that merges into a nonregistered foreign entity or converts to a foreign entity that is required to register with the Superintendent shall:

- (a) Be in good standing in the District before filing a transfer of application;
- (b) Submit a certified copy of the filing effectuating the merger or conversion; and
- (c) The certified copy shall be dated within the most recent ninety (90) days by the Secretary of State or authorized officer of the jurisdiction of formation.

721.2 The application for the transfer of registration shall contain:

- (a) The signature of the entity's governor or other individual authorized to sign on behalf of the governor; and
- (b) The signing individual's name and capacity to sign.

**722                   TERMINATION OF REGISTRATION FOR FOREIGN ENTITIES**

722.1               In addition to the requirements of Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)), the Superintendent may terminate the registration of a foreign filing entity or foreign limited liability partnership to do business in the District if the entity is voluntarily or involuntarily dissolved in its state of domicile without filing an application for withdrawal in the District.

722.2               A foreign filing entity whose registration is terminated and seeks reinstatement in the District shall:

- (a) Comply with the same rules found in Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)) governing a domestic filing entity that is dissolved administratively and seeking reinstatement;
- (b) Affirm that the entity is neither voluntarily nor involuntarily dissolved in its state of domicile at the time it seeks reinstatement in the District;
- (c) File with the Superintendent all reports which would have been due to the Superintendent while the entity was dissolved administratively; and
- (d) Pay all corporate filing fees which would have been due to the Superintendent while the entity was dissolved administratively.

**723                   TERMINATION OF REGISTRATION FOR DOMESTIC ENTITIES**

723.1               A domestic filing entity whose registration is terminated and seeks reinstatement in the District shall:

- (a) Comply with the same rules found in Chapter 1 (General Provisions) of the Act (D.C. Official Code § 29-101.01 *et seq.* (2011 Repl.)) governing a domestic filing entity that is dissolved administratively and seeking reinstatement;
- (b) File with the Superintendent all reports which would have been due to the Superintendent while the entity was dissolved administratively; and

- (c) Pay all corporate filing fees which would have been due to the Superintendent while the entity was dissolved administratively.

## **724 PROCEDURE AND EFFECT**

724.1 The following provisions shall apply to business corporations:

- (a) A business corporation that plans a merger or share exchange with one or more business corporations shall comply with Subchapter IX (Merger and Share Exchanges) of Chapter 3 (Business Corporations) of the Act.
- (b) A business corporation that plans a merger with an entity other than a business corporation shall comply with Chapter 2 (Entity Transactions) of the Act.

724.2 The following provision shall apply to nonprofit corporations:

- (a) A nonprofit corporation that plans a merger or membership exchange with one or more nonprofit corporations shall comply with Subchapter IX (Merger and Membership Exchanges) of Chapter 4 (Nonprofit Corporations) of the Act.

724.3 The following provisions shall apply to professional corporations:

- (a) A professional corporation that plans a merger with one or more professional corporations or limited liability companies shall comply with D.C. Official Code § 29-512 (2011 Repl.).
- (b) A professional corporation that plans a merger with an entity other than a professional corporation or limited liability company shall comply with Chapter 2 (Entity Transactions) of the Act.

724.4 The following provisions shall apply to general partnerships:

- (c) A general partnership that plans a merger with one or more general partnerships shall comply with Subchapter IX (Mergers and Interest Exchanges) of Chapter 6 (General Partnerships) of the Act.
- (b) A general partnership that plans a merger with an entity other than a general partnership shall comply with Chapter 2 (Entity Transactions) of the Act.

724.5 The following provisions shall apply to limited partnerships:

- (a) A limited partnership that plans a merger with one or more limited partnerships shall comply with Subchapter X (Merger) of Chapter 7 (Limited Partnerships) of the Act.
- (b) A limited partnership plans a merger with an entity other than a limited partnership shall comply with Chapter 2 (Entity Transactions) of the Act.

724.6 The following provisions shall apply to limited liability companies:

- (a) A limited liability company that plans a merger with one or more limited liability companies shall comply with Subchapter IX (Merger and Domestication) of Chapter 7 (General Partnerships) of the Act.
- (b) A limited liability company that plans a merger with one or more professional corporations shall comply with D.C. Official Code § 29-512 (2011 Repl.).
- (c) A limited liability company that plans a merger with an entity other than a limited liability company or professional corporation shall comply with Chapter 2 (Entity Transactions) of the Act.

724.7 The following provision shall apply to general cooperative associations:

- (a) A general cooperative association that plans a merger with one or more general cooperative associations shall comply with Chapter 2 (Entity Transactions) of the Act.

724.8 The following provisions shall apply to limited cooperative associations:

- (a) A limited cooperative association that plans a merger with one or more limited cooperative associations shall comply with Subchapter XV (Merger) of Chapter 10 (Limited Cooperative Associations) of the Act.
- (b) A limited cooperative association that plans a merger with an entity other than a limited cooperative association shall comply with Chapter 2 (Entity Transactions) of the Act.

724.9 The following provisions shall apply to unincorporated nonprofit associations:

- (a) An unincorporated nonprofit association that plans a merger with one or more unincorporated nonprofit associations shall comply with D.C. Official Code § 29-1126 of Chapter 11 (Unincorporated Nonprofit Associations) of the Act.

- (b) An unincorporated nonprofit association that plans a merger with an entity other than an unincorporated nonprofit association shall comply with Chapter 2 (Entity Transactions) of the Act.

724.10 The following provisions shall apply to statutory trusts:

- (a) A statutory trust that plans a merger with one or more statutory trusts shall comply with Subchapter VII (Merger) of Chapter 12 (Statutory Trusts) of the Act.
- (b) A statutory trust that plans a merger with an entity other than a statutory trust shall comply with Chapter 2 (Entity Transactions) of the Act.

724.11 An entity that plans a merger with one or more entities other than those described in the other provisions of this section shall comply with Chapter 2 (Entity Transactions) of the Act.

724.12 In addition to the requirements set forth in other provisions of this section:

- (a) A foreign filing entity shall be in good standing in the state of domicile before filing its articles of merger or articles of share exchange.
- (b) A registered foreign filing entity shall be in good standing in the state of domicile before filing its articles of merger or articles of share exchange with the Superintendent.
- (c) A nonregistered foreign filing entity shall submit to the Superintendent a certificate of good standing, certificate of existence, or similar document dated within the last ninety (90) days from the Secretary of State or other authorized officer of the jurisdiction of formation.

## **SUBCHAPTER B: ENTITY TRANSACTIONS**

### **725 ENTITY TRANSACTIONS: MERGER AUTHORIZED**

725.1 A domestic nonprofit corporation planning to merge shall comply with Chapter 4 (Nonprofit Corporations) of the Act (D.C. Official Code § 29-401.01 *et seq.* (2011 Repl.)).

725.2 A foreign nonprofit corporation planning to merge shall comply with Chapter 4 of (Nonprofit Corporations) of the Act (D.C. Official Code § 29-401.01 *et seq.* (2011 Repl.)).

725.3 A general cooperative association planning to merge shall comply with Chapter 4 of the Act.

**726 ENTITY TRANSACTIONS: GOOD STANDING FOR MERGING ENTITIES**

- 726.1 A business corporation planning an interest exchange with another business corporation shall comply with Subchapter IX (Mergers and Interest Exchanges) of Chapter 3 (Business Corporations) of the Act.
- 726.2 A general partnership planning an interest exchange with another general partnership must comply with D.C. Official Code § 29-609.05 (2011 Repl.) and, to the extent not insistent with that section, shall comply with Chapter 2 (Entity Transactions) of the Act.
- 726.3 An entity planning an interest exchange other than an interest exchange described in §§ 725.1 and 725.2 shall comply with Chapter 2 (Entity Transactions) of the Act.
- 726.4 In addition to the requirements set forth in this section:
- (a) A foreign entity shall be in good standing in the state of domicile before filing its statement of merger with the Superintendent.
  - (b) A registered foreign entity shall be in good standing before filing its statement of merger with the Superintendent.
  - (c) A nonregistered foreign entity shall submit to the Superintendent a certificate of good standing, certificate of existence, or similar document dated within the last ninety (90) days from the Secretary of State or other authorized officer of the jurisdiction of formation.

**727 ENTITY TRANSACTIONS: INTEREST EXCHANGE AUTHORIZED**

- 727.1 In addition to the requirements of Chapter 2 (Entity Transactions) of the Act (D.C. Official Code § 29-201.01 *et seq.* (2011 Repl.)):
- (a) A foreign entity shall be in good standing in the state of domicile before filing its statement of interest exchange with the Superintendent.
  - (b) A registered foreign entity shall be in good standing before filing its statement of interest exchange with the Superintendent.
  - (c) A nonregistered foreign entity shall submit to the Superintendent a certificate of good standing, certificate of existence, or similar document dated within the last ninety (90) days from the Secretary of State or other authorized officer of the jurisdiction of formation.

**728 ENTITY TRANSACTIONS: PLAN OF CONVERSION**

728.1 In addition to the requirements of Chapter 2 (Entity Transactions) of the Act (D.C. Official Code § 29-201.01 *et seq.* (2011 Repl.)), a registered domestic filing entity or registered foreign filing entity shall be in good standing with the Superintendent before filing its statement of conversion.

**729 ENTITY TRANSACTIONS: GOOD STANDING FOR CONVERTING ENTITIES**

729.1 In addition to the requirements of Chapter 2 (Entity Transactions) of the Act (D.C. Official Code § 29-201.01 *et seq.* (2011 Repl.)):

- (a) A converting foreign entity not registered in the District shall submit to the Superintendent a certificate of good standing, certificate of existence, or similar document; and
- (b) The certificate of good standing, certificate of existence, or similar document shall have a date within the last ninety (90) days from the Secretary of State or other authorized officer of the jurisdiction of formation.

**730 ENTITY TRANSACTIONS: DOMESTICATION AUTHORIZED**

730.1 A business corporation that plans to domesticate shall comply with Subchapter VII (Domestication) of Chapter 3 (Business Corporations) of the Act.

730.2 A nonprofit corporation that plans to domesticate shall comply with Subchapter VII (Domestication) of Chapter 4 (Nonprofit Corporations) of the Act.

730.3 A limited liability company that plans to domesticate shall comply with Subchapter IX (Domestication) of Chapter 8 (Limited Liability Companies) of the Act.

730.4 An entity that plans a domestication other than those described in the other provisions of this section shall comply with Chapter 2 (Entity Transactions) of the Act.

**731 ENTITY TRANSACTIONS: PLAN OF DOMESTICATION**

731.1 In addition to the requirements of Chapter 2 (Entity Transactions) of the Act (D.C. Official Code § 29-201.01 *et seq.* (2011 Repl.)):

- (a) A registered foreign filing entity becoming a domestic entity must be in good standing with the Superintendent before filing its statement of domestication.



- (b) A nonregistered foreign entity shall submit to the Superintendent a certificate of good standing, certificate of existence, or similar document dated within the last ninety (90) days from the Secretary of State or other authorized officer of the jurisdiction of formation.

**732 ENTITY TRANSACTIONS: GOOD STANDING FOR DOMESTICATING ENTITIES**

- 732.1 In addition to the requirements of Chapter 2 (Entity Transactions) of the Act (D.C. Official Code § 29-201.01 *et seq.* (2011 Repl.)), a registered foreign entity becoming a domestic entity shall be in good standing with the Superintendent before filing its statement of domestication.

**SUBCHAPTER C: BUSINESS CORPORATIONS**

**733 BUSINESS CORPORATIONS: CALCULATION OF FEES FOR ARTICLES OF INCORPORATION**

- 733.1 The Superintendent shall assign a value of one dollar (\$1) to each authorized share for the purpose of calculating filing fees if the articles of incorporation include:

- (a) A number of authorized shares; and
- (b) Does not specify the par value for each authorized share.

**734 BUSINESS CORPORATIONS: SURRENDER OF CHARTER UPON DOMESTICATION**

- 734.1 A domestic business corporation that has adopted and approved a plan for the corporation to be domesticated in a foreign jurisdiction shall be in good standing with the Superintendent before filing its articles of charter surrender.

**735 BUSINESS CORPORATIONS: CALCULATION OF FEES FOR ARTICLES OF AMENDMENT**

- 735.1 The Superintendent shall assign a value of one dollar (\$1) to each authorized share for the purpose of calculating filing fees if the articles of amendment include:

- (a) An increase of authorized shares; and
- (b) Does not specify the par value for each authorized share.

- 735.2 A corporation shall not use the articles of amendment to amend:

- (a) The registered agent on record;
- (b) The name of the incorporators; or
- (c) The address of the incorporators.

**736 BUSINESS CORPORATIONS: CALCULATION OF FEES FOR RESTATED ARTICLES OF INCORPORATION**

736.1 The Superintendent shall assign a value of one dollar (\$1) to each authorized share for the purpose of calculating filing fees if the restated articles of incorporation include:

- (a) An increase of authorized shares; and
- (b) Does not specify the par value for each authorized share.

736.2 The corporation shall not use the restated articles of incorporation to amend:

- (a) The registered agent on record;
- (b) The name of the incorporators; or
- (c) The address of the incorporators.

**737 BUSINESS CORPORATIONS: DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS**

737.1 In addition to the requirements of Chapter 3 (Business Corporations) of the Act (D.C. Official Code § 29-301.01 *et seq.* (2011 Repl.)), a majority of the incorporators or initial directors of a corporation may dissolve the corporation if:

- (a) The incorporators or initial directors have not filed a biennial report by the deadline; and
- (b) The corporation is in good standing in the District before filing its articles of dissolution with the Superintendent.

**738 BUSINESS CORPORATIONS: ARTICLES OF DISSOLUTION**

738.1 A domestic corporation shall be in good standing before filing its articles of dissolution with the Superintendent.

**SUBCHAPTER D: NONPROFIT CORPORATIONS**

**739 NONPROFIT CORPORATIONS: GOOD STANDING FOR DOMESTICATING NONPROFIT CORPORATIONS**

739.1 In addition to the requirements of Chapter 4 (Nonprofit Corporations) of the Act (D.C. Official Code § 29-401.01 *et seq.* (2011 Repl.)):

- (a) A registered foreign nonprofit domesticating in the District shall be in good standing with the Superintendent before filing its articles of domestication; and
- (b) A nonregistered foreign nonprofit domesticating in the District shall submit to the Superintendent a certificate of good standing, certificate of existence, or similar document dated within the last ninety (90) days from the Secretary of State or other authorized officer of the jurisdiction of formation.

**740 NONPROFIT CORPORATIONS: AMENDING ARTICLES OF AMENDMENT**

740.1 A nonprofit corporation shall not use the articles of amendment to amend:

- (a) The registered agent on record;
- (b) The name of incorporators; or
- (c) The address of incorporators.

**741 NONPROFIT CORPORATIONS: AMENDING RESTATED ARTICLES OF INCORPORATION**

741.1 A nonprofit corporation shall not use the restated articles of incorporation to amend:

- (a) The registered agent on record;
- (b) The name of incorporators; or
- (c) The address of incorporators.

741.2 A nonprofit corporation restating its articles of incorporation may identify the filing as a “restated articles of incorporation” or “restated and amended articles of incorporation” instead of an articles of amendment as stated in D.C. Official Code § 29-408.07(c) (2011 Repl.).

**742 NONPROFIT CORPORATIONS: ARTICLES OF DISSOLUTION**

- 742.1 A nonprofit corporation shall be in good standing before filing its articles of dissolution with the Superintendent.

**SUBCHAPTER E: PROFESSIONAL CORPORATIONS**

**743 PROFESSIONAL CORPORATIONS: PERPETUAL DURATION;  
DISSOLUTION**

- 743.1 A professional corporation that is treated as having converted into a corporation organized under Chapter 3 (Business Corporations) of the Act (D.C. Official Code § 29-301.01 *et seq.* (2011 Repl.)) shall file with the Superintendent its statement of conversion in accordance with Chapter 2 (Entity Transactions) of the Act (D.C. Official Code § 29-201.01 *et seq.* (2011 Repl.)).
- 743.2 A professional corporation filing its articles of dissolution with the Superintendent shall satisfy the filing of articles of dissolution requirements of Chapter 3 (Business Corporations) of the Act (D.C. Official Code § 29-301.01 *et seq.* (2011 Repl.)).
- 743.3 For purposes of D.C. Official Code § 29-502(3) (2011 Repl.), the term practitioners of the healing arts shall mean a licensed professional authorized to practice a health occupation under Title 3 of Chapter 12 of the D.C. Official Code. This excludes an assistant, technician, technologist, aide, or person in a similar position who is licensed or permitted to practice a health occupation in the District under Title 3, Chapter 12 of the D.C. Official Code.

**SUBCHAPTER F: GENERAL PARTNERSHIPS AND LIMITED  
LIABILITY PARTNERSHIPS**

**744 GENERAL PARTNERSHIPS AND LIMITED LIABILITY  
PARTNERSHIPS: STATEMENT OF PARTNERSHIP AUTHORITY**

- 744.1 Unless earlier canceled, a general partnership may amend its filed statement of partnership authority before the end of the fifth year following the date of:
- (a) The existing statement of partnership authority on file with the Superintendent; or
  - (b) The existing amended statement of partnership authority on file with the Superintendent.

**745 GENERAL PARTNERSHIPS AND LIMITED LIABILITY  
PARTNERSHIPS: STATEMENT OF QUALIFICATION**

- 745.1 In addition to the requirements of Chapter 6 (General Partnerships) of the Act (D.C. Official Code § 29-601.01 *et seq.* (2011 Repl.)), a partnership becoming a

limited liability partnership shall be in good standing before filing an amendment to or cancellation of the statement of qualification with the Superintendent.

**746 GENERAL PARTNERSHIPS AND LIMITED LIABILITY PARTNERSHIPS: NONJUDICIAL DISSOLUTION**

746.1 A dissolved limited partnership that has completed winding up and is in good standing shall submit to the Superintendent a statement of dissolution for filing.

**SUBCHAPTER G: LIMITED LIABILITY COMPANIES**

**747 LIMITED LIABILITY COMPANIES: CERTIFICATE OF ORGANIZATION FOR COMPANIES WITH ONE OR MORE SERIES**

747.1 In addition to the requirements of Chapter 8 (Limited Liability Companies) of the Act (D.C. Official Code § 29-801.01 *et seq.* (2011 Repl.)), if a limited liability company has one (1) or more series that is treated as a separate entity, the certificate of organization filed with the Superintendent shall include:

- (a) That the limited liability company has at least one (1) member;
- (b) The date on which the person(s) became the company's initial member or members; and
- (c) The name of the company's initial member or members.

**748 LIMITED LIABILITY COMPANIES: AMENDMENT OR RESTATEMENT OF CERTIFICATE OF ORGANIZATION**

748.1 A limited liability company shall not use the restated or amended certificate of organization to amend:

- (a) The registered agent on record;
- (b) The name of organizers; or
- (c) The address of organizers.

**SUBCHAPTER H: GENERAL COOPERATIVE ASSOCIATIONS**

**749 GENERAL COOPERATIVE ASSOCIATIONS: ARTICLES OF INCORPORATION AMENDMENTS**

749.1 A general cooperative shall not use the amended articles to amend:

- (a) The registered agent on record;

- (b) The name of incorporators; or
- (c) The address of incorporators.

**SUBCHAPTER I: LIMITED COOPERATIVE ASSOCIATIONS**

**750 LIMITED COOPERATIVE ASSOCIATIONS: PAYMENT OF A FOR-PROFIT FILING FEE**

750.1 If a limited cooperative association does not specify a nonprofit purpose in the articles of organization filed with the Superintendent, the limited cooperative association shall pay a for-profit filing fee.

**751 LIMITED COOPERATIVE ASSOCIATIONS: AMENDMENT OR RESTATEMENT OF ARTICLES OF ORGANIZATION**

751.1 A limited cooperative association shall not use the amended articles, restated articles of organization, or articles of merger to amend:

- (a) The registered agent on record;
- (b) The name of organizers; or
- (c) The address of organizers.

**752 LIMITED COOPERATIVE ASSOCIATIONS: NONJUDICIAL DISSOLUTION**

752.1 A dissolved limited cooperative association shall be in good standing before filing a statement of dissolution with the Superintendent.

**SUBCHAPTER J: STATUTORY TRUSTS**

**753 STATUTORY TRUSTS: USE OF AMENDMENT, ARTICLES OF CONVERSION OR ARTICLES OF MERGER**

753.1 A statutory trust shall not use an amendment, articles of conversion, or articles of merger to amend:

- (a) The registered agent on record;
- (b) The name of the initial trustee; or
- (c) The address of the initial trustee.

**754 STATUTORY TRUSTS: ARTICLES OF DISSOLUTION**

754.1 A statutory trust shall be in good standing before filing its articles of dissolution with the Superintendent.

**799 DEFINITIONS**

799.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

**Act** – The District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010, effective July 2, 2011 (D.C. Law 18-378; D.C. Official Code § 29-101.01 *et seq.*).

**Business day** – A day of the week consisting of Monday through Friday, and excludes Saturday, Sunday, any legal holiday, or any day that the District government is closed.

**Calendar day** – Monday through Sunday; however, if the final day is a day that DCRA is closed for business, the filing changes to the first day DCRA is open for business.

**Calendar year** – January 1 through December 31.

**DCRA or Department** – Department of Consumer and Regulatory Affairs.

**Domicile** – The state where the entity formed.

**Registered** – A domestic or foreign filing entity listed on the records maintained by the Superintendent.

**Superintendent** – DCRA Superintendent of Corporations.

All persons desiring to comment on these proposed regulations should submit comments in writing to Josef Gasimov, Assistant Superintendent of Corporations, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Fourth Floor, Washington, D.C. 20024, or via e-mail at [Joseph.Gasimov@dc.gov](mailto:Joseph.Gasimov@dc.gov), not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 442-4400. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “About DCRA” tab, clicking on “News Room”, and then clicking on “Rulemaking”.

**DISTRICT DEPARTMENT OF TRANSPORTATION**

**NOTICE OF PROPOSED RULEMAKING**

The Director of the District Department of Transportation (DDOT), pursuant to the authority in Sections 4(5)(A) (assigning authority to coordinate and manage public space permits and records to the Department Director), 5(3)(D)(i) and (iii) (allocating and regulating on-street parking), and 5(4)(A) (assigning duty to review and approve public space permit requests to the Department Director) of the Department of Transportation Establishment Act of 2002 (“DDOT Establishment Act”), effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.03(5)(A), 50-921.04(3)(D)(i) and (iii), and 50-921.04(4)(A) (2009 Repl. & 2012 Supp.)); and Sections 6(a)(6) and 6(b), of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03 (a)(6), and (b)(2009 Repl. & 2012 Supp.)), hereby gives notice of this proposed action to adopt rules that amend Chapter 24 (Stopping, Standing, Parking, and Other Non-Moving Violations) of Title 18 (Vehicles and Traffic) of the District of Columbia Municipal Regulations (DCMR).

The proposed regulations will consolidate all Visitor Parking Pass pilot programs into an annual Visitor Parking Pass program, and extend the program to all blocks zoned for Residential Permit Parking or Enhanced Residential Permit Parking in the District of Columbia. The proposed regulations will also maintain a 15-day visitor parking permit program administered by the Chief of Police and a 60-day temporary parking permit program administered by the District Department of Transportation for a resident’s medical necessity.

**Title 18, VEHICLES AND TRAFFIC, of the DCMR is amended as follows:**

**Chapter 24, STOPPING, STANDING, PARKING, AND OTHER NON-MOVING VIOLATIONS, is amended as follows.**

**Section 2414, VISITOR OR TEMPORARY PERMITS, is amended to read as follows:**

**2414 VISITOR AND TEMPORARY PERMITS**

2414.1 Except as provided in § 2424, the Chief of Police may issue visitor parking permits valid for periods up to fifteen (15) days to visitors at an address on a residential permit parking block.

2414.2 The Director may issue temporary parking permits, valid for periods up to sixty (60) days, for temporary use warranted by a resident’s medical necessity.

2414.3 The Director may issue an annual visitor parking permit to each household on a residential permit parking block in the District. One (1) permit may be issued to each eligible household.

2414.4 The annual visitor parking permit shall authorize a visitor to park a vehicle in an Advisory Neighborhood Commission parking zone designated on the permit for



the same amount of time as a vehicle with a residential permit parking sticker. The Advisory Neighborhood Commission designated on the annual visitor parking permit shall be the Advisory Neighborhood Commission in which the resident applying for the annual visitor parking permit resides.

- 2414.5 In order to obtain an annual visitor parking permit from the Director, a resident from an eligible household shall:
- (a) Submit an application, in a format provided by DDOT; and
  - (b) Provide proof of District residency.
- 2414.6 An annual visitor parking permit shall be mailed, upon approval, to the address on the application.
- 2414.7 Visitor parking permits shall be valid on commercial vehicles only while the operator of the vehicle is actually involved in the performance of construction, maintenance, repair, or reconstruction work at an address on a residential permit parking street.
- 2414.8 A visitor parking permit issued by the Chief of Police or a temporary parking permit issued by the Director may be issued for a zone even though the motor vehicle displays a residential permit parking sticker for another zone.
- 2414.9 Neither a visitor parking permit nor a temporary parking permit may be sold or otherwise exchanged, on a temporary or permanent basis, for anything of value.
- 2414.10 The forgery, counterfeiting, sale, exchange for value, or unauthorized use or replication of a visitor permit or temporary permit shall be punishable by a fine of three hundred dollars (\$300).
- 2414.11 Any annual visitor parking permits issued prior to September 1, 2013 shall expire on October 31, 2013.

All persons interested in commenting on the subject matter in this proposed rulemaking may file comments in writing, not later than thirty (30) days after the publication of this notice in the *D.C. Register*, with Samuel D. Zimbabwe, Associate Director, District Department of Transportation, 55 M Street, S.E., 5th Floor, Washington, D.C. 20003. An interested person may also send comments electronically to [publicspace.policy@dc.gov](mailto:publicspace.policy@dc.gov). Copies of this proposed rulemaking are available, at cost, by writing to the above address, and are also available electronically, at no cost, on the District Department of Transportation's website at [www.ddot.dc.gov](http://www.ddot.dc.gov).

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION****NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The State Superintendent of Education, pursuant to Section 3(b)(11) of the District of Columbia State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(11) (2012 Supp.)) and Section 401 of the Healthy Schools Act of 2010, effective July 27, 2010 (D.C. Law 18-209; D.C. Official Code §§ 38-824.01 (2012 Supp.)), hereby gives notice of an emergency and proposed rulemaking amending Chapter 27 (Interscholastic Athletics) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR), adopted on July 31, 2013.

This emergency proposed rulemaking maintains the framework of rules published on September 14, 2012 (59 DCR 10858), and incorporates recommendations received from D.C. Public Schools (“DCPS”) and public charter schools during the thirty (30) public comment period commencing April 5, 2013 (60 DCR 5147) to an initial rulemaking proposing amendments to Title 5-A Chapter 27 (DCMR). This emergency proposed rulemaking maintains uniformity among public schools to enhance eligibility, student safety, training standards, recruiting, and scholarship opportunities, for the immediate benefit of District’s high school student athletes attending D.C. Public Schools (“DCPS”) and public charter schools. The primary purpose of the revisions is to refine provisions affecting the safety and wellbeing of student athletes with an effective date prior to the start of the upcoming 2013-2014 school sports season beginning in mid-August 2013.

These emergency rules were approved by the State Superintendent of Education on July 31, 2013, and are deemed effective as of that date. The State Superintendent of Education also gives notice of her intent to take final rulemaking action to adopt these rules on a permanent basis not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

The emergency rule shall remain in effect for one hundred twenty (120) days after the date of adoption, expiring on November 28, 2013, or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

**Chapter 27 (Interscholastic Athletics) of Subtitle A (Office of the State Superintendent of Education) of Title 5 (Education) of the District of Columbia Municipal Regulations (DCMR) is amended in its entirety to read as follows:**

**CHAPTER 27            INTERSCHOLASTIC ATHLETICS****2700                    GENERAL POLICY**

2700.1                Student participation in interscholastic athletic programs in the District of Columbia public schools in grades four (4) through twelve (12) shall be governed by the rules and procedures set forth in this chapter.

- 2700.2 Interscholastic athletic programs shall place an emphasis on academic achievement, principles and practices of good sportsmanship, ethical conduct, and fair play, as well as safety, skills, and the rules of a particular sport.
- 2700.3 Consistent with this chapter, each Local Educational Agency (“LEA”) shall promulgate and implement interscholastic athletic standards including, without limitation, safety and first aid, eligibility, satisfactory progress toward graduation, practice, equipment, training, probationary actions, and grievance procedures for participants.
- 2700.4 Each LEA shall ensure that students with disabilities consistently have appropriate opportunities to participate in extracurricular athletic activities.
- 2700.5 All coaches, officials and other personnel, including volunteers engaged with students participating in interscholastic LEA programs, shall obtain a required background check, and demonstrate expertise with regard to a respective sport, applicable rules, safety and first aid standards.
- 2700.6 A student shall not be excluded from participation in, be denied the benefits of, be treated differently from other students, or otherwise be unlawfully discriminated against in interscholastic athletics based on, race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offense, or place of residence or business.
- 2700.7 Notwithstanding § 2700.6, a public school may operate a separate sports team for members of each sex, provided that the selection for such team is based upon competitive skill or the activity involved is a contact sport.
- 2700.8 Notwithstanding § 2700.6, a public school may operate a sports team for members of a single sex, so long as the public school operates a sports team for an underrepresented sex when there is sufficient interest to maintain a team. In the event there is insufficient interest, the LEA shall allow members of the underrepresented sex to try out for existing teams and qualify based on appropriate skill level, safety, and other standards for participation on such team.
- 2700.9 Except as provided in § 2700.12, a high school varsity team shall be limited to eligible students enrolled in that high school in grades nine (9), ten (10), eleven (11), and twelve (12).
- 2700.10 Except as provided in § 2700.12, a junior varsity team in high school shall be limited to eligible students enrolled in that high school in grades nine (9), ten (10), and eleven (11).

- 2700.11 A student who has participated in varsity competition in a sport during a school year shall be ineligible to participate in junior varsity competition in the same sport in the same year.
- 2700.12 (a) A DCPS student in grade nine (9), ten (10), eleven (11), or twelve (12) attending a DCPS school in which a desired sport is not offered, may request authorization at any DCPS school offering the desired sport.
- (b) A public charter school student in grade nine (9), ten (10), eleven (11), or twelve (12) attending a public charter school in which a desired sport is not offered, may request authorization at another school located within the student's attendance zone (based upon the student's primary residential address), or at another public charter school.
- (c) Students under this section seeking to participate at another school may only participate if it is allowed in the written policy of the LEA in which the student seeks to participate, and the student meets the eligibility requirements of the State, LEA, and school. An LEA may require actual costs associated with a student's participation and the sending school is required to provide funding for the costs.
- 2700.13 LEAs and member schools shall annually publish their schedules for interscholastic competition.
- 2700.14 The State Superintendent may establish an advisory committee on interscholastic athletics to advise LEAs or the Office of the State Superintendent of Education ("OSSE") on matters pertaining to interscholastic athletic programs.
- 2700.15 LEAs that receive federal funding and maintain athletic programs in the District shall designate at least one (1) employee for purposes of athletics to coordinate with the LEAs' Title IX (as codified at 20 U.S.C. §§ 1681 – 1688) coordinator, to ensure that the requirements of Title IX are met regarding athletics.

## **2701 ELIGIBILITY TO PARTICIPATE**

- 2701.1 The eligibility certification for students to participate in interscholastic athletics shall occur as follows:
- (a) Principals shall be responsible for determining the eligibility of the students participating in interscholastic athletics by submitting a master eligibility list to the LEA's athletic director ("AD") fourteen (14) days before the date of the first (1st) official contest for each team.

- (b) A supplemental eligibility list may be submitted up to fourteen (14) days after the first (1<sup>st</sup>) official contest. However, students on the supplemental eligibility list may not participate without the prior written approval of both the Principal and the LEA's AD.
- (c) Each LEA shall report the eligibility and participation of each student determined eligible to play by his or her Principal not later than seven (7) calendar days after receipt of the master eligibility list from the Principal, to the Statewide Athletics Office ("SAO"). Any supplemental list shall also be provided to the SAO immediately after it has been approved by the Principal and LEA.
- (d) Each LEA shall provide a written summary with supporting documentation to the SAO with regard to any determinations related to a student's ineligibility within five (5) school days of the determination of ineligibility.
- (e) An LEA shall maintain a record of a student's eligibility for each school year of a student's participation on a junior varsity or varsity team. All documentation required in this chapter shall be on file prior to the first (1<sup>st</sup>) official contest of each sport and maintained during the sport season.
- (f) The SAO, upon a thirty day (30) request to the LEA, shall be given access to review and sample athletic eligibility files. The SAO shall notify the LEA in writing regarding any recommendations to maintain sufficient eligibility documentation.

2701.2 LEA and school representatives shall not engage in any activity seeking to influence a student to transfer from one (1) LEA or school to another for the purpose of participating in interscholastic athletics.

2701.3 A student who transfers enrollment from any school to a public school in the District of Columbia in grades nine (9), ten (10), eleven (11), or twelve (12) is ineligible to participate in interscholastic athletics unless he or she meets one (1) of the following exceptions:

- (a) A student in grade nine (9) may transfer one (1) time during that school year without loss of eligibility;
- (b) A student attending a public school moves to a new bona fide permanent residence in the District of Columbia, with his or her custodial parent(s), legal guardian, or primary caregiver;
- (c) The student is transferred to another school by any court order;

- (d) A reorganization, consolidation, or annexation of the student's school occurs;
- (e) The closure of the student's school or school's athletic program;
- (f) The student is ordered to transfer for non-athletic purposes;
- (g) The student has special needs, as identified by the Individualized Education Program (IEP) or Section 504 Plan, and is transferred to another public school for the delivery of a free appropriate public education;
- (h) A transfer is the result of the student's being homeless as defined in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2), except if the student's homeless status is shown to have been created by the student or his/her family for the primary reason of eligibility in interscholastic athletics;
- (i) The student transfers as provided for in 5 DCMR E § 3805 because his or her school has been designated as a persistently dangerous school;
- (j) The student transfers as provided for in 5 DCMR E § 3809 because he or she has been the victim of a violent crime or a pattern of bullying or other aggressive conduct or sexual harassment;
- (k) The student is a qualified foreign exchange student under § 2701.4(e) or an international student residing in the District with his or her parents.
- (l) The period of ineligibility for students that transfer absent an exception shall be one (1) calendar year commencing with the first (1<sup>st</sup>) day of official attendance in the receiving school.

2701.4 The LEA shall develop written procedures for challenges to eligibility based upon credible information that a student may not meet eligibility requirements set forth in this chapter. Challenges to a student-athlete's eligibility shall occur as follows:

- (a) A challenge must be presented in writing and signed by the submitting party, addressed to the appropriate school authority where the student is enrolled.
- (b) The LEA shall provide a written report with supporting documentation of its findings and the student's right to appeal to the LEA, to the challenging party, SAO, and parents or guardian, not later than five (5) school days after the date the matter is reported to or by the LEA.

- (c) Upon a final eligibility determination by the LEA, the LEA shall issue the results of its review and supporting documentation to the SAO and the parents or legal guardian. For the protection of his or her team's win/loss record, the student whose eligibility is in question may not practice, scrimmage, or play in any school sponsored interscholastic athletic competition, until the LEA has issued its eligibility determination pursuant to its review.
- (d) In the event an LEA requires forfeiture of a contest already played, the Athletic Appeals Panel ("Panel") shall review the decision affirming or denying the forfeiture and shall provide the results of its findings and recommendations to the LEA not later than five (5) school days after the date the matter is reported to the SAO.
- (e) If the LEA fails to provide the results and supporting documentation required in this subsection before the student participates, the SAO may on its own initiative refer the case to the Panel for a final decision regarding eligibility and the forfeiture of contest.

2701.5

In order to be eligible to participate in interscholastic athletics at a public school, a student shall also meet the following requirements:

- (a) A student shall be a resident of the District of Columbia in conformance with all residency laws and regulations for students attending public schools in the District of Columbia.
- (b) A nonresident student of the District of Columbia is eligible to participate in interscholastic athletics under the following circumstances:
  - (1) Admission to a public school complies with applicable laws and Regulations;
  - (2) Applicable nonresident tuition payments are current; and
  - (3) Enrollment in a public school in the District of Columbia for one (1) calendar year, consistent with § 2701.3.
- (c) A student shall provide written authorization for each team that he or she wishes to participate on, and the authorization shall contain the signature of the custodial parent, legal guardian, or primary caregiver.;
- (d) A student shall provide a medical certification confirming that the student is physically fit for the sport in which the student seeks to participate;

- (e)
  - (1) A student shall be covered by appropriate accident insurance, obtained either by his or her LEA or his or her parent or guardian and approved by his or her school's LEA, during each season the student participates;
  - (2) Appropriate notice of the coverage and cost of the accident insurance obtained by his or her school's LEA shall be provided annually to parents or guardians and adult students;
  - (3) A parent or guardian submitting a policy for approval by the student's school's LEA shall do so within the time specified by the LEA; and
  - (4) Students participating in football shall be insured by additional football accident insurance which shall be paid for by the LEA in which the student is enrolled;
- (f) A student athlete shall maintain compliance with State attendance regulations and shall be present at least two-thirds (2/3) of the required school days preceding the first day of each season designated by the SAO for each sport that the student participates in. The student athlete shall have no more than three (3) unexcused absences during the season of participation for each sport;
- (g) A student in grade nine (9), ten (10), eleven (11), or twelve (12), shall have a grade point average of at least 2.0 ("C") to participate in interscholastic athletics;
- (h) A student in grade four (4), five (5), six (6), seven (7), or eight (8) shall not fail more than one (1) subject in the grading period immediately preceding the sport season in which the student wishes to participate;
- (i) The student shall not have graduated from high school from the LEA for which he or she participates in a sport; provided, that an eligible student whose graduation exercises are held before the end of the school year may continue to participate in interscholastic athletics until the end of that school year;
- (j) A student-athlete who reaches the following ages on or before August 1 of the school year in which he/she wishes to compete is not eligible:
  - (1) (12) years old in grades four (4) and five (5);
  - (2) (15) years old in grades six (6) through eight (8); or



- (3) (19) years old in grades nine (9) through (12);
- (k) A student shall maintain amateur standing by engaging in sports only for the physical, educational, and social benefits derived from sports and by not accepting, directly or indirectly, a remuneration, gift, or donation based on his or her participation in a sport other than approved school, LEA, or State awards;
- (l) A student is eligible to participate in regular season, playoff, or championship interscholastic athletic contests for a maximum of:
  - (1) Four (4) semesters (two (2) seasons) in grades four (4) through five (5);
  - (2) Six (6) semesters (three (3) seasons) in grades six (6) through eight (8); and
  - (3) Eight (8) semesters (four (4) seasons) in grades nine (9) through twelve (12), consistent with paragraphs in this subsection;
- (m) (1) Semester computations pursuant to Subsection (l) shall begin from the semester in which the student was enrolled for the first time in any school in grades four (4), six (6), and nine (9), and shall be counted continuously thereafter, regardless of whether he or she remains continuously enrolled in school.
  - (2) For student athletes in grades nine (9) through twelve (12), eligibility shall cease at the end of the eighth (8<sup>th</sup>) semester after first (1<sup>st</sup>) entering the ninth (9<sup>th</sup>) grade;
- (n) Completion of a summer school program shall not be counted as a semester of attendance;
- (o) A student shall participate only under the name by which he or she is registered in the public school he or she attends;
- (p) A student's participation shall be classified as follows:
  - (1) Grades four (4) and five (5) shall participate on the elementary level;
  - (2) Grade six (6) shall participate on the elementary level, unless enrolled in grade (6) at a middle school, in which case shall participate on the middle school level;

- (3) Grades seven (7) and eight (8) shall participate on the middle school level; and
- (3) Grades nine (9) through twelve (12) shall participate on the high school level;
- (q) The grade designation on the student's official record, or official transfer record, shall be controlling in determining whether a student is assigned to grades four (4) through six (6) as used in this chapter;
- (r) A student shall be considered to be assigned to grades seven (7) through twelve (12), as used in this chapter, based upon the qualifications adopted by the Chancellor of DCPS or the director of another LEA, as applicable; or the grade designation on the official transfer record from another jurisdiction; provided that the student has met the minimum criteria required for the grade;
- (s) A student may represent only one (1) school in the same sport during a school year;
- (t) A student who has participated in varsity competition in a sport during a school year shall be ineligible to participate in junior varsity competition in the same sport in the same year;
- (u) A student who needs fewer than two (2) credits to graduate from twelfth (12th) grade and who transferred to a high school within the preceding twelve (12) months is prohibited from participation in any interscholastic athletic activity for the duration of the student's enrollment at that school;
- (v) An international student participating in a foreign exchange program shall be considered immediately eligible for a maximum period of one calendar school year if the student:
  - (1) Has not completed his or her home secondary school program;
  - (2) Meets all other eligibility requirements of this section;
  - (3) Has been randomly assigned to his or her host parents and school and neither the school the student attends nor any person associated with the school has had input in the selection of the student and no member of the school's coaching staff, paid or voluntary, serves as the resident family of the student;
  - (4) Possesses a current J-1 visa issued by the U.S. State Department; and

- (5) Is attending school under a foreign exchange program on the current Advisory List of International Educational Travel and Exchange Programs published by the Council on Standards for International Education Travel and such program assigns students to schools by a method which ensures that no student, school, or other interested party may influence the assignment;
- (w) An international student not participating in a foreign exchange program shall be treated as all other students who transfer schools;
- (x) A student in grade nine (9), ten (10), eleven (11), or twelve (12) shall not participate in the same individual or team sport outside of school, or with a team, an organized league, tournament meet, match or contest between the first (1<sup>st</sup>) and last scheduled contest of the school team during the season of the sport; provided, that a student who is selected to represent the United States in international amateur competition shall not become ineligible in school competitions for participating in qualifying trials. The following sports shall be exempted from the restrictions of this paragraph:
  - (1) Golf;
  - (2) Swimming;
  - (3) Tennis;
  - (4) Gymnastics;
  - (5) Volleyball;
  - (6) Softball;
  - (7) Track and field;
  - (8) Cross-country;
  - (9) Crew;
  - (10) Soccer;
  - (11) Cheerleading;
  - (12) Lacrosse;
  - (13) Rugby;

(14) Field Hockey; and

(15) Wrestling;

(y) A hardship waiver was granted to the student by the Panel.

2701.6 A request for a waiver of the eligibility requirements shall be made only upon presentation in writing by the AD of an LEA to the SAO for a decision by the Panel, as follows:

(a) A request for a waiver from the requirements in this chapter shall be presented to the SAO in writing with supporting documentation by the LEA;

(b) The SAO shall forward the waiver request received from the AD of an LEA to the Panel; and

(c) No later than five (5) school days after the date of receipt, the Panel shall affirm or deny the waiver request in a written decision.

(d) The decision of the Panel is final.

## **2702 INELIGIBILITY AND CHALLENGES**

2702.1 A student who is ineligible to participate in interscholastic athletics is prohibited from playing, practicing, or otherwise participating with a team in the District of Columbia during the period of such ineligibility.

2702.2 A student who participates in interscholastic athletics and is found ineligible is prohibited from participating in any interscholastic competition for one (1) calendar year from the date of the finding of ineligibility. Additionally, in order to be considered for eligibility when the calendar year has passed, the student must show that all of the eligibility requirements are satisfied.

2702.3 A student who is ineligible to participate in interscholastic athletics at the time of transfer from one (1) school to another, for any reason other than failing to meet the requirements of this chapter, shall not be considered for eligibility at the receiving school until one (1) full calendar year has passed from the date it was determined that the student was ineligible.

2702.4 Each LEA shall establish policies addressing probationary actions based on determinations of ineligibility in accordance with this chapter. The LEA shall provide copies of the written regulations to the SAO no later than August 1 of each school year.

- 2702.5 Any LEA carrying an ineligible student as a member of the team shall forfeit each contest played by such student.
- 2702.6 If any forfeiture creates a tie among teams participating in a SAO tournament and/or championship contest, a coin toss as mutually agreed by the school ADs shall determine the requisite order.
- 2702.7 An LEA, or school official including, without limitation, a coach, trainer, or volunteer assisting in athletics, who knows, or should have known, that an ineligible student is participating or has participated in an interscholastic athletic program or contest, shall be subject to disciplinary action pursuant to LEA regulation or policy.
- 2702.8 The LEA shall provide the disciplinary determinations pursuant to § 2702.7 to the SAO for review by the Panel no later than five (5) calendar days after the date of such action. The Panel shall investigate the matter and issue a written decision whether the school officer or agent participation in SAO activities shall be reduced, suspended, or revoked, in addition to any LEA actions.

### **2703 ALL-STAR CONTESTS**

- 2703.1 A student who participates in a team sport may participate in an “all-star” competition for the sport that occurs outside the interscholastic season of the sport without jeopardy to his or her eligibility if:
- (a) The all-star competition is an activity sanctioned by the SAO or another National Federation of State High School Association (“NFHS”) member;
  - (b) All participants in the all-star competition are graduating seniors or students completing their athletic eligibility at the end of the school year;
  - (c) The student has played in no more than one (1) other all-star competition in his or her sport; or
  - (d) The all-star competition occurs after the student has participated in his or her final contest for his or her school.
- 2703.2 A senior who fails to comply with § 2703.1 shall be subject to a penalty that may result in the loss of athletic eligibility for the balance of the school year. For all other students, the penalty may result in loss of eligibility for the next season in the sport in which the student participated in the all-star competition. The SAO shall review penalty decisions. The decision of the SAO shall be final.

**2704 LEA REGULATIONS**

2704.1 All LEA rules, policies, and procedures related to athletics shall be consistent with the provisions of this chapter. Upon request, LEAs shall provide the SAO with copies of their respective rules, policies, and procedures.

**2799 DEFINITIONS**

2799.1 When used in this chapter, the following terms shall have the meanings ascribed:

**Athletic Appeals Panel (“Panel”)**--A review Panel composed of three (3) people appointed by the State Superintendent of Education on a case by case basis, consisting of one (1) member from the public charter schools, one (1) member from DCPS, and one (1) member from OSSE.

**Athletic Director (“AD”)** – A person who holds the position of athletic director or a person or entity that performs the functions of an athletic director as designated by an LEA.

**Boundary Zone or Attendance Zone** - The area designated by DCPS as inbounds for a particular residence.

**Day** – One (1) calendar day, unless otherwise stated.

**First year of eligibility** – The school year a student first enters ninth (9<sup>th</sup>) grade for the first (1<sup>st</sup>) time.

**Ninth Grade** - A student is considered to be in grade nine (9) upon the student’s promotion from the eighth (8<sup>th</sup>) grade to the ninth (9<sup>th</sup>) grade on the last school day of the student’s eighth (8<sup>th</sup>) grade (8<sup>th</sup>) grade academic year. The ninth (9<sup>th</sup>) grade year is considered to be completed on the thirtieth (30<sup>th</sup>) calendar day following the last day of the student’s first ninth (9<sup>th</sup>) grade academic year.

**Local Education Agency or LEA** – means an educational institution at the local level that exists primarily to operate a publicly funded school or schools in the District of Columbia, including the District of Columbia Public Schools (DCPS) and a District of Columbia public charter school.

**League** – An association of sports teams or clubs that compete mainly against each other.

**OSSE** – The District of Columbia Office of the Superintendent of State Education.

**Participate** – Inclusion on the tryout roster or team roster as a member of a recognized school team to tryout or play in practices, contests, and competitions, or otherwise engaging in other activities as part of the team.

**Previous participation** – Prior participation in interscholastic athletics in grades nine (9) through twelve (12).

**Public School** – A school within the District of Columbia Public Schools (“DCPS”) system, a District of Columbia public charter school, or a private school member participating in the District-wide competitions approved by the SAO.

**Receiving school** - The school a student enrolls in, after leaving his or her previous school.

**Sending School** – A school that a student withdraws from, in order to attend a different school.

**Semester (“full academic semester”)** -- A semester is approximately two (2) marking periods during which academic coursework towards graduation requirements occurs but does not include the summer.

**Statewide Athletics Office (SAO)** – A unit of the Office of the State Superintendent of Education that directs, coordinates, and provides guidance for interscholastic athletic programs.

**Title IX** - Title IX is a portion of the Education Amendments of 1972, approved June 23, 1972 (Pub. L. No. 92-318, 86 Stat. 235 20 U.S.C. §§ 1681 – 1688).

**Transfer** - The student has withdrawn from a sending school and has enrolled in a receiving school.

**Week** – Seven (7) calendar days, unless otherwise stated.

Persons wishing to comment on this notice of rulemaking should submit their comments in writing including or through an electronic submission to: Office of the State Superintendent of Education, 810 First Street, N.E., 9<sup>th</sup> Floor, Washington, D.C. 20002 [(202) 727-6436], or to [Jamai.Deuberry@dc.gov](mailto:Jamai.Deuberry@dc.gov) with subject “Attn: Jamai Deuberry, Interscholastic Athletics Rules.” All comments must be received no later than thirty (30) days after publication of this notice in the *D.C. Register*. All comments received will be taken into consideration during the proposed rulemaking process prior to final adoption of these rules.

## DEPARTMENT OF HEALTH CARE FINANCE

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02 (2006 Repl. & 2012 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2008 Repl.)), hereby gives notice of the adoption, on an emergency basis of an amendment to Section 1918, entitled “Professional Services”, of Chapter 19 (Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR). These emergency and proposed rules establish standards governing reimbursement of art therapies services provided to participants in the Home and Community-Based Waiver Services for Individuals with Intellectual and Developmental Disabilities (ID/DD Waiver) and conditions of participation for providers

The ID/DD Waiver was approved by the Council of the District of Columbia and renewed by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services for a five-year period beginning November 20, 2012.

Art therapies services are designed to provide therapeutic supports to help a person with a disability express and understand emotions through artistic expression and the creative process. The goal of art therapies is to assess and treat a variety of mental health problems including anxiety, depression and substance abuse disorders. These rules amend the previously published rules by: (1) renaming Section 1918 entitled “Professional Services” as “Art Therapies”; (2) deleting massage therapy services, sexuality education and fitness training from Section 1918 and incorporating these services into a new Section 1936, entitled “Wellness Services”; (3) deleting acupuncture services as an approved service; and (4) mandating new professional certification requirements for providers of art therapies services.

Emergency action is necessary for the immediate preservation of the health, safety, and welfare of ID/DD Waiver participants who are in need of Art Therapies services. The ID/DD Waiver serves some of the District’s most vulnerable residents. Many of the persons enrolled in the ID/DD Waiver suffer from complex diseases and require a plan of care incorporating multiple services. Requiring providers to be certified to deliver art therapies will ensure that providers will receive focused academic training in their areas of expertise. In addition, the certification of providers ensures that providers are duly trained to provide optimal therapies in conjunction with nationally recognized standards of health delivery. Insufficient training of art therapies professionals may retard a person’s overall health improvement and reduce the efficacy of a person’s plan of care. Therefore, in order to ensure that the residents’ health, safety, and welfare are not threatened by the lapse in access to art therapies services provided by certified professionals, it is necessary that that these rules be published on an emergency basis.



The emergency rulemaking was adopted on July 22, 2013, and became effective on that date. The emergency rules shall remain in effect for one hundred and twenty (120) days or until November 18, 2013, unless superseded by publication of a Notice of Final Rulemaking in the *D.C. Register*. The Director of DHCF also gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

**Section 1918 (Professional Services) of Chapter 19 (Home and Community Based Services for Individuals with Intellectual and Developmental Disabilities) of Title 29 (Public Welfare) of the DCMR is amended to read as follows:**

**1918 ART THERAPIES**

- 1918.1 The purpose of this section is to establish standards governing Medicaid eligibility for art therapies services for persons enrolled in the Home and Community-Based Services Waiver for Individuals with Intellectual and Developmental Disabilities (Waiver) and to establish conditions of participation for providers of these services.
- 1918.2 Art therapies services utilize art, dance, drama, and music therapy to provide therapeutic supports to help a person with disabilities express and understand emotions through artistic expression and the creative process.
- 1918.3 To be eligible for reimbursement, the services shall be:
- (a) Ordered by a physician or a practitioner listed in Section 1918.7;
  - (b) Reasonable and necessary for the treatment of social and emotional difficulties related to a number of mental health issues including disability, illness, trauma, loss, and physical and cognitive problems; and
  - (c) Included in the person's Individual Support Plan (ISP) and Plan of Care.
- 1918.4 The types of services eligible for reimbursement shall be:
- (a) Art therapy;
  - (b) Dance therapy;
  - (c) Drama therapy; and
  - (d) Music therapy.
- 1918.5 Each person providing art therapies services shall:

- (a) Conduct an assessment within the first two (2) hours of delivering the service;
- (b) Develop and implement an individualized art, dance, drama, or music plan for the person that is in keeping with their choices, goals and prioritized needs that includes the following:
  - (1) Treatment strategies including direct therapy, caregiver training, monitoring requirements and instructions, and anticipated outcomes; and
  - (2) Identification of specific outcomes for the person.
- (c) Deliver the completed plan to the person, family, guardian or other caregiver, and the Department on Disability Services (DDS) Service Coordinator prior to the Support Team meeting;
- (d) Participate in the ISP and Support Team meetings to provide consultative services and recommendations specific to the expert content;
- (e) Provide necessary information to the individual, family, guardian or caregivers, and/or team, to assist in planning and implementing the approved ISP and Plan of Care;
- (f) Recording progress notes on each visit and quarterly reports;
- (g) Conduct periodic examinations and modify treatments for the person receiving services to ensure that the art therapy practitioner's recommendations are incorporated into the ISP, when necessary; and
- (h) Meet all of the requirements in Section 1906 (Requirements for Direct Support Professionals) of Chapter 19 of Title 29 of the DCMR.

1918.6 Services shall be provided by a certified practitioner in an independent practice or a practitioner employed by a Waiver provider.

1918.7 Art therapies services shall be delivered by the following practitioners:

- (a) Art therapists certified to practice art therapy by the American Art Therapy Association, Inc. and/or credentialing of the Art Therapy Credentialing Board;
- (b) Dance therapists authorized to practice dance therapy pursuant to Chapter 71 (Dance Therapy) of Title 17 (Business, Occupations, and Professions) of the DCMR;

- (c) Drama therapists certified by the National Association for Drama Therapy; and
  - (d) Music therapists certified by the Certification Board for Music Therapists, which is managed by the American Music Therapy Association.
- 1918.8 Each Waiver provider or certified practitioner in an independent practice shall meet the requirements as set forth in Section 1904 (Provider Qualifications) and Section 1905 (Provider Enrollment Process) of Chapter 19 of Title 29 of the DCMR.
- 1918.9 Practitioners, without regard to their employer of record, shall be selected by the person or his/her authorized representative and shall be answerable to the person receiving services.
- 1918.10 Any Waiver provider substituting practitioners for more than a two (2) week period or four (4) visits due to emergency or availability events shall request a case conference with the DDS Service Coordinator to evaluate continuation of services.
- 1918.11 Services shall be authorized for reimbursement in accordance with the following provider requirements:
- (a) DDS shall provide a written service authorization before the commencement of services;
  - (b) The provider shall conduct an assessment and develop an art therapies treatment plan with training goals and techniques that will assist the caregivers, within the first two (2) hours of service delivery;
  - (c) The service name and provider delivering services shall be identified in the ISP and Plan of Care;
  - (d) The ISP, Plan of Care, and Summary of Supports and Services shall document the amount and frequency of services to be received; and
  - (e) Services shall not conflict with the service limitations described under Section 1918.15.
- 1918.12 Each certified practitioner or Waiver provider shall maintain records required under Section 1908 (Reporting Requirements) and Section 1909 (Records and Confidentiality of Information) of Chapter 19 of Title 29 of the DCMR.
- 1918.13 Each certified independent practitioner or Waiver provider shall comply with Section 1911 (Individual Rights) under Chapter 19 of Title 29 DCMR.

- 1918.15 Any combination of art therapies services shall be limited to a maximum of two thousand, two hundred and fifty dollars (\$2,250.00) per person, per ISP year and delivered in accordance with the person's ISP and Plan of Care.
- 1918.16 The reimbursement rate for art therapies services shall be:
- (a) Forty-five dollars (\$45.00) per hour for art therapy;
  - (b) Forty-five dollars (\$45.00) per hour for dance therapy;
  - (c) Forty-five dollars (\$45.00) per hour for drama therapy; and
  - (d) Forty-five dollars (\$45.00) per hour for music therapy.
- 1918.17 The billable unit of service for art therapies services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to bill a unit of service.

**Section 1999 (DEFINITIONS) is amended by adding the following:**

**ISP year-** The three hundred and sixty five (365) day period during which a person's ISP is in effect.

Comments on the emergency and proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 899 North Capitol Street, NE, Suite 6037, Washington, D.C. 20002, via telephone on (202) 442-9115, via email at DHCF [Publiccomments@dc.gov](mailto:Publiccomments@dc.gov), or online at [www.dcregs.dc.gov](http://www.dcregs.dc.gov), within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

## DEPARTMENT OF HEALTH CARE FINANCE

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes approved December 27, 1967 (81 Stat.774; D.C. Official Code §1-307.02 (2006 Repl. & 2012 Supp.)), and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2008 Repl.)), hereby gives notice of the adoption, on an emergency basis, of a new Chapter 89, of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled “ Medicaid Electronic Health Record Incentive Payment Program.”

This emergency and proposed rule sets forth the conditions of provider participation, reimbursement, and administrative appeal procedures for the Medicaid Electronic Health Record Incentive Payment Program (MEIP). MEIP is established pursuant to the Health Information Technology and Clinical Health Act (HITECH) of 2009, enacted under Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub.L. 111-5) (codified as amended in Title 42 of the Code of Federal Regulations, Part 495) and the corresponding State Medicaid Health Information Technology Plan (SMHP) approved by the U.S. Department of Health and Human Services (HHS) on April 23, 2012. MEIP may grant incentive payments to eligible hospitals and eligible professionals, who adopt, implement, upgrade, and demonstrate the meaningful use of certified Electronic Health Records (EHR) technology.

This emergency rulemaking is necessary for the immediate preservation of the health, safety, and welfare of District residents by providing incentive payments to hospitals and health care professionals as they adopt, implement, upgrade, or demonstrate meaningful use of EHR technology. With the aid of incentive payments to establish a health information technology infrastructure, hospitals and health care professionals can apply further financial resources to the provision of quality patient care in the District of Columbia.

The emergency rulemaking was adopted on July 5, 2013 and became effective on August 1, 2013. The emergency rules will remain in effect for one hundred and twenty (120) days until November 28, 2013, unless superseded by publication of a Notice of Final Rulemaking in the *DC Register*. The Director also gives notice of the intent to take final rulemaking action to adopt this proposed rule in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

**Title 29 (Public Welfare) of the DCMR is amended as follows:**

**Add a new Chapter 89, MEDICAID ELECTRONIC HEALTH RECORD INCENTIVE PAYMENT PROGRAM to read as follows:**

**89 MEDICAID ELECTRONIC HEALTH RECORD INCENTIVE PAYMENT PROGRAM (MEIP)**

**8900 Provider Eligibility**

8900.1 The Department of Health Care Finance (DHCF) shall administer the Medicaid Electronic Health Record Incentive Payment Program (MEIP), which provides incentive payments to certain eligible providers participating in the District of Columbia Medicaid program as they adopt, implement, upgrade, or demonstrate meaningful use of certified Electronic Health Record (EHR) technology.

8900.2 The following providers shall be eligible for participation in MEIP:

- (a) Eligible professionals as identified in subsection 8900.3; and
- (b) Eligible hospitals as identified in subsection 8900.5.

8900.3 An eligible professional shall be one (1) of the following:

- (a) A physician licensed in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.));
- (b) A dentist licensed to engage in the practice of dentistry as defined by § 102(5) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.* (2007 Repl. & 2012 Supp.));
- (c) A certified nurse midwife licensed as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)), and certified by the American Midwifery Certification Board (AMCB);
- (d) A nurse practitioner licensed as an advanced practice registered nurse pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.));  
or

- (e) A physician's assistant, licensed in accordance with the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq.* (2007 Repl. & 2012 Supp.)), who practices in a Federally Qualified Health Center (FQHC).
- 8900.4 Consistent with the requirements of Subsection 8900.3, an eligible professional shall not be hospital-based, unless the professional's eligibility for incentive payments is based on practice at a FQHC.
- 8900.5 An eligible hospital shall be one (1) of the following:
- (a) An acute care hospital located in the District of Columbia; or
  - (b) A children's hospital located in the District of Columbia.
- 8900.6 For each year of MEIP participation, an eligible provider shall meet all of the following requirements:
- (a) Have no current or pending sanction identified by the United States Department of Health and Human Services, Office of Inspector General or the District of Columbia list of excluded providers;
  - (b) Declare the intent to participate by electronically registering with the CMS using the Medicare and Medicaid electronic health record incentive program registration and attestation website;
  - (c) Use the District of Columbia State Level Registry to attest to the provider's qualifications to receive the incentive payment; and submit an electronic copy of a signed attestation form at <http://dc.rraincentive.com>;
  - (d) Meet Medicaid patient volume requirements consistent with the requirements of Section 8901, "Methodology for Volume Requirements", and the District of Columbia State Medicaid Health Information Technology Plan (SMHP);
  - (e) Submit a Certified Health IT Product List (CHPL) Product Number; and
  - (f) Declare, if applicable, the intent to reassign incentive payments to a third party subject to the requirements of 42 C.F.R. § 495.10(f).

8900.7 For the first year of MEIP participation, an eligible provider shall meet the requirements of Subsection 8900.6 and meet one (1) of the following conditions:

- (a) Demonstrate and attest to adopting, implementing or upgrading EHR technology as defined in 42 C.F.R. § 495.302 that has been certified by the Office of the National Coordinator for Health Information Technology; or
- (b) Demonstrate that it is a meaningful EHR user as defined in 42 C.F.R. § 495.4.

8900.8 An eligible provider that demonstrates and attests to adopting, implementing or upgrading EHR technology in accordance with Subsection 8900.7 shall report which certified EHR technology they have adopted, implemented or upgraded to and provide supporting documentation (*e.g.*, purchase receipts or other proof of good faith payment between purchaser and seller, or proof of binding contract) in a manner specified by DHCF.

8900.9 In the second, third, fourth, fifth, and sixth year of MEIP participation, an eligible provider shall satisfy all of the following criteria:

- (a) Meet the requirements of Subsection 8900.6;
- (b) Demonstrate that is a meaningful EHR user as defined in 42 C.F.R. § 495.4; and
- (c) Use certified EHR technology interoperable with the system designated by the District to report clinical quality measures.

## **8901 Methodology for Volume Requirements**

8901.1 An eligible professional shall establish and demonstrate, based on individual and group practice methodology, compliance with the following volume requirements:

- (a) An eligible professional shall have at least thirty percent (30%) of the professional's patient volume covered by Medicaid, except that:
  - (1) A board-certified pediatrician who does not practice at a FQHC shall have a minimum of twenty percent (20%) of patient encounters; and



- (2) Any eligible professional predominately practicing at a FQHC shall have at least thirty percent (30%) of patient volume attributable to needy individuals.
- (b) An eligible professional shall calculate individual Medicaid patient volume by dividing the total Medicaid patient encounters (in and out of the District) in any continuous ninety (90) day period in the calendar year (CY) preceding the eligible professional’s payment year, or in the twelve (12) months before the eligible professional’s attestation; by the total patient encounters in the same ninety (90) day period;
- (c) Subject to 42 C.F.R. § 495.306(h), an eligible professional shall calculate group Medicaid patient volume by dividing the total Medicaid patient encounters (in and out of the District across the entire group or clinic) in any continuous ninety (90) day period in the CY preceding the eligible professional’s payment year, or in the twelve (12) months before the eligible professional’s attestation; by the total patient encounters (in and out of the District across the entire group or clinic); and
- (d) An eligible professional practicing in a FQHC shall calculate needy individual patient volume by dividing the total needy individual patient encounters in any continuous ninety day period in the CY preceding the eligible professional’s attestation; by the total patient encounters in the same ninety (90) day period.

8901.2 An eligible acute care hospital shall have at least ten percent (10%) Medicaid patient volume based on individual methodology as calculated below:

- (a) An eligible hospital shall divide the total Medicaid patient encounters (in and out of the District) in any continuous ninety (90) day period in the preceding fiscal year (FY), or in the twelve (12) months before the eligible hospital’s attestation; by
- (b) The total patient encounters in the same ninety (90) day period to calculate individual Medicaid patient volume.

8901.3 An eligible children’s hospital shall be exempt from volume requirements of Subsections 8901.1 through 8901.2.

**8902 Provider Incentive Payments**

8902.1 For all payment years, MEIP incentive payments for each eligible provider shall be subject to all of the following conditions:

- (a) Incentive payments shall be calculated pursuant to 42 C.F.R. § 495.310;
- (b) An eligible provider may receive a MEIP incentive payment so long as the eligible provider meets all MEIP requirements as set forth in this chapter; and
- (c) No eligible provider shall receive an incentive payment after payment year 2021.

8902.2 In the first payment year, to receive an incentive payment, an eligible professional shall meet all eligibility and volume requirements in accordance with Sections 8900, “Provider Eligibility” and 8901, “Methodology for Volume Requirements;” and satisfy one (1) of the following conditions:

- (a) Demonstrate and attest to adopting, implementing or upgrading EHR technology as defined in 42 C.F.R. § 495.302 that has been certified by the Office of the National Coordinator for Health Information Technology; or
- (b) Demonstrate that is a meaningful EHR user as defined in 42 C.F.R. § 495.4.

8902.3 Incentive payments to an eligible professional in the first payment year shall meet the following requirements:

- (a) An initial incentive payment shall not be dispersed after CY 2016;
- (b) An incentive payment shall not exceed twenty-one thousand two hundred fifty dollars (\$21,250);
- (c) Incentive payments cannot be received from more than one State or Medicaid incentive payment program in a payment year;
- (d) Incentive payments to pediatricians shall be subject to the limitations of 42 C.F.R. § 495.310(a)(4); and
- (e) Incentive payments to professionals that are Medicaid and Medicare eligible shall be subject to the limitations set forth in 42 C.F.R. § 495.10(e).

8902.4 In the second, third, fourth, fifth, and sixth payment year, to receive an incentive payment, an eligible professional shall meet all eligibility

requirements in accordance with Sections 8900, “Provider Eligibility” and 8901, “Methodology for Volume Requirements;” and demonstrate that it is a meaningful EHR user as defined in 42 C.F.R. § 495.4.

8902.5 Incentive payments to an eligible professional in subsequent payment years shall meet the following requirements:

- (a) Incentive payments shall be disbursed consistent with the CY on a non-consecutive, annual basis, following verification of eligibility for the payment year;
- (b) A single incentive payment may not exceed eight thousand five hundred dollars (\$8,500);
- (c) An eligible professional shall not participate in MEIP for more than a total of six (6) years. Incentive payments shall not exceed sixty-three thousand seven hundred and fifty dollars (\$63,750) over a six (6) year period;
- (d) Incentive payments to pediatricians shall be subject to the limitations of 42 C.F.R § 495.310(a)(4); and
- (e) Incentive payments to professionals that are Medicaid and Medicare eligible shall be subject to the limitations set forth in 42 C.F.R. § 495.10(e).

8902.6 In the first payment year, to receive an incentive payment, an eligible hospital shall meet all eligibility requirements in accordance with Sections 8900, “Provider Eligibility” and 8901, “Methodology for Volume Requirements;” and satisfy one (1) of the following conditions:

- (a) Demonstrate and attest to adopting, implementing or upgrading EHR technology as defined in 42 C.F.R. § 495.302 that has been certified by the Office of the National Coordinator for Health Information Technology; or
- (b) Demonstrate that it is a meaningful EHR user as defined in 42 C.F.R. § 495.4.

8902.7 Incentive payments to an eligible hospital in the first payment year shall meet the following requirements:

- (a) Incentive payments shall be disbursed consistent with the Federal FY on a rolling basis following verification of eligibility for the payment year;
- (b) An initial incentive payment shall not be dispersed after FY 2016; and
- (c) An eligible hospital shall receive an incentive payment from only one State or Medicaid incentive payment program in a payment year.

8902.8 In the second, third, fourth, fifth, and sixth payment year, to receive an incentive payment, an eligible hospital shall meet all eligibility requirements in accordance with Sections 8900, "Provider Eligibility" and 8901, "Methodology for Volume Requirements;" and demonstrate that it is a meaningful EHR user as defined in 42 C.F.R. § 495.4.

8902.9 Incentive payments to an eligible hospital in subsequent payment years shall meet the following requirements:

- (a) Incentive payments shall be disbursed consistent with the Federal FY on a rolling basis following verification of eligibility for the payment year;
- (b) Prior to FY 2016, incentive payments may be disbursed on a non-consecutive, annual basis for the fiscal year;
- (c) After 2016, incentive payments shall be dispersed only to an eligible hospital that received an incentive payment in the prior FY;
- (d) Incentive payments shall be dispersed over a minimum of a three (3) year period and a maximum of a six (6) year period;
- (e) An eligible hospital shall receive an incentive payment from only one State or Medicaid incentive payment program in a payment year;
- (f) No single incentive payment may exceed fifty percent (50%) of the aggregate EHR incentive amount as calculated under 42 C.F.R. § 495.310(g);
- (g) The total incentive payment received over all payment years of the program shall be no greater than the aggregate EHR incentive amount as calculated under 42 C.F.R. § 495.310(g); and

- (h) No incentive payments over a two (2) year period may exceed ninety percent (90%) of the aggregate EHR hospital incentive amount as calculated in 42 C.F.R. § 495.310(g).

8902.10 Incentive payments, identified in Subsections 8902.1 through 8902.9, may be assigned to a third party employer or to an entity under the following conditions:

- (a) The third party must have an contractual arrangement with the eligible hospital that allows the third party to bill and receive payment for the eligible hospital's covered professional services;
- (b) Assignments in Medicare must be consistent with § 1842(b)(6)(A) of the Social Security Act and 42 C.F.R. §§ 424.70-424.90;
- (c) Medicaid eligible providers may also assign their incentive payments to a Taxpayer Identification Number (TIN) for an entity promoting the adoption of EHR technology, consistent with 42 C.F.R. §§ 495.300-495.370; and
- (d) Each eligible provider may reassign the entire amount of the incentive payment to only one employer or entity.

8902.11 Incentive payments, identified in Subsections 8902.1 through 8902.9, that are disbursed through Medicaid managed care plans shall not exceed one hundred and five percent (105%) of the capitation rate pursuant to 42 C.F.R. § 438.6(c)(5)(iii).

8902.12 Incentive payments assigned to third party employers and other entities as described in Subsection 8902.10 shall not be implemented until on or after November 1, 2013.

### **8903 Program Integrity**

8903.1 An eligible provider shall retain documentation that verifies its eligibility for MEIP for a minimum of ten (10) years and cooperate with DHCF and any other duly authorized agent of a governmental agency seeking to audit compliance with MEIP requirements.

8903.2 An eligible provider's cooperation shall include, but is not limited to, the following:

- (a) Making available to DHCF, or its designee, upon request, all necessary and complete records and other documentation for audit purposes as specified in the request;

- (b) Permitting DHCF, or its designee, to audit, inspect, examine, excerpt, copy and/or transcribe the records related to this incentive program; and
- (c) Permitting DHCF, or its designee, to access its premises to inspect and monitor its compliance with program requirements.

8903.3 DHCF shall prevent fraud, waste, and abuse by employing the following actions:

- (a) Conduct a full investigation or refer the case to the State Medicaid fraud control unit upon suspicion or detection of fraud or abuse by an eligible provider;
- (b) Refer the case to the appropriate law enforcement agency upon suspicion or detection of fraud by a beneficiary; and
- (c) Comply with all other laws and regulations designed to prevent fraud, waste, and abuse, including, but not limited to applicable provisions of federal criminal law, the False Claims Act (31 U.S.C. § 3729 *et seq.*), the Anti-Kickback Statute (42 U.S.C. § 1320a-7b), § 1128B(b) of the Social Security Act, and 42 C.F.R. § 495.368.

8903.4 DHCF may take the following actions with respect to an eligible provider found deficient or in violation of this rule:

- (a) Suspend an incentive payment until the eligible provider has removed the deficiency to the satisfaction of DHCF;
- (b) Require full repayment of all or a portion of an incentive payment; or
- (c) Terminate the eligible provider's MEIP participation.

8903.5 DHCF shall issue a written notice when any action is taken pursuant to Subsection 8903.3 in accordance with the requirements set forth in Chapter 13 of Title 29 DCMR.

## **8904 Appeals**

8904.1 A provider may appeal any of the following issues:

- (a) Incentive payment amounts;
- (b) Provider eligibility determinations; and

- (c) Demonstration of adopting, implementing, upgrading, and meaningful use of technology.

8904.2 DHCF shall issue a written determination to a provider if it finds the following:

- (a) The initial MEIP amount will not be issued because the calculation is incorrect;
- (b) The initial MEIP amount will not be issued because the provider has an outstanding balance due which was offset against the MEIP payment;
- (c) Failure to meet MEIP eligibility requirements;
- (d) Failure to meet the meaningful use requirements; or
- (e) Failure to provide sufficient documentation to support adopting, implementing, or upgrading a certified electronic health record.

8904.3 The written determination described in Subsection 8904.2 shall include the following:

- (a) A finding as described in Subsection 8904.2 that includes a description of why the criteria were not met;
- (b) The policy, rule, or statute upon which the determination was made; and
- (c) An explanation of the right to request an administrative review as well as the timeframes for a request.

8904.4 Within thirty (30) calendar days of receipt of the written determination set forth in Subsections 8904.2 and 8904.3, a provider that disagrees with the determination shall have the right to request an administrative review with DHCF. The written request for administrative review shall include the reason for the request, the relief requested and documentation in support of the relief requested.

8904.5 DHCF shall issue a formal written determination relative to the administrative review no later than sixty (60) calendar days after receipt of the provider's written request for administrative review.

8904.6 Within thirty (30) calendar days after receipt of DHCF's written response to the administrative review, the provider may appeal the decision by

filing a written notice of appeal with the D.C. Office of Administrative Hearings.

8999

## DEFINITIONS

**Acute care hospital:** A health care facility: (1) where the average length of patient stay is twenty-five (25) days or fewer; and (2) with a Centers for Medicare and Medicaid Services (CMS) certification number (previously known as the Medicare provider number) that has the last four (4) digits in the series 0001–0879 or 1300–1399 pursuant to 42 C.F.R. § 495.302.

**Children’s hospital:** A separately certified children's hospital, either freestanding or hospital-within-hospital that (1) has a CMS certification number (CCN), (previously known as the Medicare provider number), that has the last four (4) digits in the series 3300–3399; or (2) does not have a CCN but has been provided an alternative number by CMS for purposes of enrollment in MEIP as a children's hospital; and; (3) predominantly treats individuals under twenty-one (21) years of age, pursuant to 42 C.F.R. § 495.302.

**Hospital based professional:** As defined in 42 C.F.R. § 495.4, a professional who furnishes ninety (90) percent or more of covered professional services in sites of service identified by the codes used in the Health Insurance Portability and Accountability Act of 1996, enacted August 21, 1996 (Pub.L. 104–191, 110 Stat. 1936) (HIPAA) standard transaction as an inpatient hospital or emergency room setting in the year preceding the payment year, or in the case of a payment adjustment year, in either of the two (2) years before such payment adjustment year.

**Federally Qualified Health Center (FQHC):** An entity that meets the definition set forth in § 1905(1)(2)(B) of the Social Security Act (42 U.S.C. § 1396d(1)(2)(B)).

**Medicaid encounter:** Services rendered in accordance with 42 C.F.R. § 495.306(e).

**Needy individuals:** As defined at 42 C.F.R. § 495.302, individuals who: received medical assistance from Medicaid or the Children's Health Insurance Program; (or a Medicaid or CHIP demonstration project approved under § 1115 of the Act); were furnished uncompensated care by the provider; or were furnished services at either no cost or reduced cost based on a sliding scale determined by the individuals' ability to pay.



**Patient Encounter:** Services rendered to an individual pursuant to 42 C.F.R. § 495.306(e).

**Patient Volume:** The minimum participation threshold pursuant to 42 C.F.R. § 495.304(c)-(e), § 495.306, and the District of Columbia State Medicaid Health Information Technology Plan.

**Payment year:** For an eligible professional, a calendar year (CY) beginning with CY 2011 and for an eligible hospital, a federal fiscal year (FFY) beginning with FFY 2011.

**Provider:** For the purposes of this section, the term “provider” shall include both health care professionals and hospitals.

Comments on the emergency and proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 899 North Capitol Street, NE, Suite 6037, Washington, D.C. 20002, via telephone on (202) 442-9115, via email at DHCF [Publiccomments@dc.gov](mailto:Publiccomments@dc.gov), or online at [www.dcregs.dc.gov](http://www.dcregs.dc.gov), within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rule may be obtained from the above address.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2013-141  
August 5, 2013


**SUBJECT:** Appointment – Washington Convention Center Advisory Committee

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and in accordance with section 218 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994, D.C. Law 10-188, D.C. Official Code § 10-1202.18 (2012 Supp.), it is hereby **ORDERED** that:

1. **ELIZABETH BLAKESLEE** and **LINDA LEE** are appointed as designee representative members for the Councilmember from Ward 2, to the Washington Convention Center Advisory Committee (“Committee”), and shall serve until replaced by the Councilmember from Ward 2.
2. **JOSEPH HAIRSTON** is appointed, by the Chairperson of the Council’s committee with oversight of the Washington Convention and Sports Authority (“Authority”), as a member to the Committee, and shall serve until replaced by the Chairperson of the Council’s committee with oversight of the Authority.
3. **CARMENCITA KINSEY** is appointed as the Chairperson of the Committee, and shall serve in that capacity at the pleasure of the Mayor.
4. **EFFECTIVE DATE:** This Order shall be effective immediately.

  
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**VINCENT C. GRAY**  
**MAYOR**

**ATTEST:**   
 \_\_\_\_\_  
**CYNTHIA BROCK-SMITH**  
**SECRETARY OF THE DISTRICT OF COLUMBIA**

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2013-142  
August 5, 2013


**SUBJECT:** Reappointment – District of Columbia Healthy Youth and Schools  
Commission

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) (2012 Supp.), and pursuant to section 701 of the Healthy Schools Act of 2010, effective July 27, 2010, D.C. Law 18-209, D.C. Official Code § 38-827.01 (2012 Supp.) (“Act”), which establishes the District of Columbia Healthy Youth and Schools Commission, and section 702(a) and (b) of the Act, it is hereby **ORDERED** that:

1. **ALEXANDRA C. LEWIN-ZWERDLING** is reappointed to the District of Columbia Healthy Youth and Schools Commission, as a general member, for a term to end May 1, 2016.
2. **EFFECTIVE DATE:** This Order shall be effective immediately.

  
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 VINCENT C. GRAY  
 MAYOR

**ATTEST:**   
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 CYNTHIA BROCK-SMITH  
 SECRETARY OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

NOTICE OF MEETING  
AGENDA

WEDNESDAY, AUGUST 14, 2013 AT 1:00 PM  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009

1. Review of Request for Reinstatement of Group of 5, dated July 29, 2013, from Grace Group. Grace United Baptist Church was dismissed on July 8, 2013, for lack of standing. **Brooklyn's Finest**, 3126-3128 12<sup>th</sup> Street NE, Retailer C, Lic# 092010.

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2. Review of Request for Reinstatement of Group of 5, dated August 3, 2013 from First Group. First Church of Christ Holiness Church was dismissed on July 8, 2013 for lack of standing. **Brooklyn's Finest**, 3126-3128 12<sup>th</sup> Street NE, Retailer C, Lic# 092010.

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3. Review of a proposal, dated July 29, 2013, from Paul Pascal, Counsel for DCanter, to utilize a portion of the Licensee's space for tastings. **DCanter**, 545 8<sup>th</sup> Street SE, Retailer B, Lic# 090639.

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4. Review of Request dated July 29, 2013, from Rebecca Silberman of Room 11, for off premise storage of invoices. **Room 11**, 3234 11<sup>th</sup> Street NW, Retailer C, Lic# 079568.

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5. Review of Application for Change of Hours. Approved Hours of Operation: Monday through Saturday 9:30 am-10:00 pm. No Current Sunday Hours. Approved Hours of Sales/Tasting: Monday through Saturday 9:30 am – 10:00 pm. No Current Sunday Hours. Proposed/Requested Change(s): Operations/Sales/Tasting: Sundays 10:00 am-10:00 pm; Monday – Saturday 9:00 am – 11:00 pm. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations. Amended Settlement Agreement Approved May 29, 2013. ANC 6B. **Gandel's Liquors**, 211 Pennsylvania Avenue, SE, Retailer A, Lic#: 071312.

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6. Review of Application for Change of Hours. Approved Hours of Operation: Sunday through Saturday 12:00 pm – 9:00 pm. Approved Hours of Sales/Consumption: Sunday through Saturday 12:00 pm – 9 pm. Proposed/Requested Change(s): Operations/ Sales/Consumption: Sunday through Friday 10:00 am – 11:00 pm, Saturday 9:00 am – 11:00 pm. No pending investigative matters. No pending enforcement matters. No outstanding fines/citations.

*Diplomatic & Consular Officers Retired Inc.*, 1801 F Street, NW, Multipurpose CX, Lic#: 089631.

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7. Review of Request for Reinstatement of Cancelled License. The License was placed in Safekeeping in 2011. Owner and agent had been unresponsive to ABRA requests. The License was deemed abandoned and cancelled on 6/26/2013 by the Board. **Family Market**, 1309 5<sup>th</sup> Street, NE, Retailer B, Lic#: 010660.
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8. Review of Request for Reinstatement of Application dated August 5, 2013 from Gary Silversmith of Sequoia Presidential Yacht Group. Sequoia was dismissed August 7, 2013 for failure to appear. **Sequoia Presidential Yacht Group**, 600 Water Street SW, Retailer CX, Lic#: 090850.
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9. Review of Petition for Reconsideration dated August 5, 2013, of Board Order No. 2013-293, from Watergate West Cooperative. **Watergate Hotel**, 2650 Virginia Ave NW, Retailer CH, Lic#: 091162.
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10. Review of Petition for Reinstatement filed by Dr. Patricia D. Kellogg. **Watergate Hotel**, 2650 Virginia Ave NW, Retailer CH, Lic#: 091162.
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11. Review of Settlement Agreement, dated April 8, 2013 between The Queen Vic and ANC 6A. **The Queen Vic**, 1206 H Street NW, Retailer CR, Lic#: 083930.
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12. Review of Settlement Agreement, dated March 13, 2013, between Oasis Liquor and ANC 6C. **Oasis Liquor**, 1179 3<sup>rd</sup> Street NE, Retailer A, Lic#: 088531.
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13. Review of Settlement Agreement, dated July 17, 2013, between Capitol Fine Wine and Spirits and ANC 6C. **Capitol Fine Wine and Spirits**, 415 H Street NE, Retailer A, Lic#: 079335.
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14. Review of Settlement Agreement dated August 5, 2013 between Diego and Meridian Hill Neighborhood Association. **Diego**, 2100 14<sup>th</sup> Street NW, Retailer C, Lic# 085469.
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**\* In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, this portion of the meeting will be closed for deliberation and to consult with an attorney to obtain legal advice. The Board's vote will be held in an open session, and the public is permitted to attend.**

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF MEETING  
INVESTIGATIVE AGENDA**

**WEDNESDAY, AUGUST 14, 2013  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S, WASHINGTON, D.C. 20009**

**On August 14, 2013 at 4:00 pm, the Alcoholic Beverage Control Board will hold a closed meeting regarding the matters identified below. In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will be closed “to plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations.”**

1. Case#13-251-00079 Lotus, 1420 K ST NW Retailer C Nightclub, License#: ABRA-075162

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2. Case#13-CC-00057 Andy's Carryout, 209 NEW YORK AVE NW Retailer B Retail - Grocery, License#: ABRA-021721

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3. Case#13-CC-00053 Teak Wood Restaurant, 1323 14TH ST NW Retailer C Restaurant, License#: ABRA-084954

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4. Case#13-CC-00044 Zenebech Restaurant, 608 T ST NW Retailer C Restaurant, License#: ABRA-085946

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5. Case#13-CC-00060 The Codmother, 1334 U ST NW A Retailer C Tavern, License#: ABRA-086231

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6. Case#13-CC-00059 Central Liquors, 625 E ST NW Retailer A Retail - Liquor Store, License#: ABRA-086268

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7. Case#13-CC-00061 The Big Board, 421 H ST NE Retailer C Tavern, License#: ABRA-087398

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8. Case#13-CC-00051 Pound the Hill, 621 PENNSYLVANIA AVE SE Retailer D Restaurant,  
License#: ABRA-088067

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9. Case#13-CC-00052 Wise Eats Cafe/Wiseats, 2132 WISCONSIN AVE NW Retailer D  
Restaurant, License#: ABRA-088282

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10. Case#13-CC-00047 Paramount Market, 2200 16TH ST SE Retailer B Retail - Grocery,  
License#: ABRA-071324

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11. Case#13-CC-00058 State Liquors, 2159 P ST NW Retailer A Retail - Liquor Store,  
License#: ABRA-088025

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12. Case#13-CMP-00305 Brentwood Liquors, 1319 RHODE ISLAND AVE NE Retailer A  
Retail - Liquor Store, License#: ABRA-060622

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**CESAR CHAVEZ PUBLIC CHARTER SCHOOL DC****REQUEST FOR PROPOSALS**

The Cesar Chavez Public Charter For Public Policy Schools invites interested and qualified vendors to submit proposals to provide services in the following areas:

**Tutoring Services Provider:** Chavez Schools seeks to establish a network of tutors employed through a local agency to provide youth development and academic assistance services to young individuals. The provider must have the capacity to service 6<sup>th</sup> through 12<sup>th</sup> grade students, at three (3) different locations, twice a week, and at varying times. Provider must also provide Saturday tutoring services.

Interested vendors can contact Tracy Wright at [Tracy.Wright@chavezschools.org](mailto:Tracy.Wright@chavezschools.org)

Deadline for receiving bids is Tuesday August 13<sup>th</sup>, 2013 at 12pm.

**Independent Contractor for Common Core Professional Development** The ToPPP Grant, a Race to the Top Grant administered by Chavez Public Charter Schools, is seeking an independent contractor to plan and administer different aspects of our grant programming including small-group Common Core professional development and planning large-scale Common Core workshops. This person will oversee all compliance, budgeting, and programming activities for the grant.

Interested vendors can contact [topppgrant@chavezschools.org](mailto:topppgrant@chavezschools.org).

Deadline for receiving bids is Tuesday August 13<sup>th</sup>, 2013 at 12pm.



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****BUSINESS REGULATORY REFORM TASK FORCE****NOTICE OF SOLICITATION OF COMMENTS**

The Business Regulatory Reform Task Force (Task Force) is soliciting comments from the public regarding simplifying and streamlining the regulatory requirements for doing business in the District of Columbia.

The Task Force is interested in receiving thoughts and recommendations on the following general topic areas:

- For either construction permitting or business licensing, are there areas with significant overlap and/or inconsistency between agencies involved in the review and approval process?
- Are there specific District statutes or regulations that are obsolete, inconsistent or duplicative relevant to the business licensing or construction permitting processes?
- Would fee reduction or financial incentives make the District more competitive and attractive to businesses?
- What technological changes or developments would be beneficial to customers seeking to obtain or renew business licenses or construction permits?

All submitted comments will be reviewed by the Task Force and will provide critical insight into District business owners' experiences navigating the regulatory regime.

Comments must be submitted in writing to DCRA, Office of the Director, Attn: Business Regulatory Reform Task Force, 1100 Fourth Street, SW, Washington, D.C. 20024.

Comments will be accepted until 5 p.m. on Friday, September 13, 2013. All comments will be posted on the Task Force website: <http://dcbizreform.dc.gov/>

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****CONSTRUCTION CODES COORDINATING BOARD****NOTICE OF SPECIAL AND REGULAR MEETINGS**

The Construction Codes Coordinating Board will be holding its regular meeting on Thursday, August 15, 2013 at 9:30 am.

The Construction Codes Coordinating Board will be holding a special meeting on Thursday, August 22, 2013 at 9:30 am.

The Construction Codes Coordinating Board will be holding a special meeting on Thursday, August 29, 2013 at 9:30 am.

The Construction Codes Coordinating Board will be holding a special meeting on Thursday, September 5, 2013 at 9:30 am.

The meetings will be held at 1100 Fourth Street, SW, Fourth Floor Conference Room, Washington, D.C. 20024. The location is on the Metro Green Line, at the Waterfront/SEU stop. Limited paid parking is available on site.

Draft board meeting agendas and Technical Advisory Group meeting schedules and agendas are available on the website of the Department of Consumer and Regulatory Affairs at [dcra.dc.gov](http://dcra.dc.gov), under the Permits/Zoning tab on the main page.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****NOTICE OF VENDING REGULATIONS INFORMATION SESSIONS**

The Department of Consumer and Regulatory Affairs will be offering several free training sessions to the public regarding the recently approved vending business license regulations.

Staff from DCRA, the Department of Health (DOH), the Department of Transportation (DDOT), the Metropolitan Police Department (MPD), the Fire and Emergency Medical Services Department (FEMS), the Office of Tax and Revenue (OTR), and the Department of the Environment (DDOE) will be on hand to answer questions on topics such as:

- Vending licenses (classes, types, and requirements);
- Sidewalk vending;
- Mobile roadway vending (e.g., food and merchandise/services trucks);
- Vendor employee ID badges;
- Vending locations;
- Public/Farmers markets;
- Fees; and
- New vending business opportunities.

The free training sessions will be held on the following dates and times:

- Saturday, August 17 from 9:00 am to 11:00 am.
- Monday, August 19 from 6:00 pm to 8:00 pm.
- Saturday, August 24 from 9:00 am to 11:00 am.
- Monday, August 26 from 6:00 pm to 8:00 pm.
- Tuesday, August 27 from 6:00 pm to 8:00 pm.

Each of the training sessions will be held at the DCRA offices at 1100 Fourth Street, SW, Second Floor Conference Room (Room E-200), Washington, D.C. 20024. The location is on the Metro Green Line, at the Waterfront stop. Limited paid parking is available on site.

To register for any of the free training sessions, please visit:

<http://bizdc.ecenterdirect.com/Conferences.action> and search for keyword “vending”.

If you need assistance with registering for any of the training sessions, please contact the DCRA Small Business Resource Center at 202-442-4538 or email [Claudia.Herrera@dc.gov](mailto:Claudia.Herrera@dc.gov) or [India.Blocker@dc.gov](mailto:India.Blocker@dc.gov).

**DISTRICT OF COLUMBIA BILINGUAL PUBLIC CHARTER SCHOOL****REQUEST FOR PROPOSALS****SPED Contracts**

DC Bilingual Public Charter School seeks bids for the following services in the area of Special Education: Occupational Therapist, Speech and Language Pathologist, Physical Therapist, Board Certified Behavioral Analyst, and School Psychologist.

Interested parties should read the requirements at:

<http://dcbilingual.org/sites/dcbilingual.org/files/RFP2013-14.pdf>

to submit a proposal that outlines the services and qualifications.

**The deadline for submitting proposals is August 16, 2013.**

**Proposals should be addressed to:**

Rocio Tyler  
Special Education Coordinator  
DC Bilingual PCS  
1420 Columbia Road  
Washington DC 20009  
Or via e-mail to [rt Tyler@centronia.org](mailto:rt Tyler@centronia.org)

And

Hannah Buie  
School Operations Manager  
DC Bilingual PCS  
1420 Columbia Rd NW  
Washington, DC 20009  
Or via email to [hbuie@centronia.org](mailto:hbuie@centronia.org)

**OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION****NOTICE OF FUNDING AVAILABILITY****Fiscal Year 2014 DC Personal Responsibility Education Program (DC-PREP)****Request for Application Release Date: Thursday, August 1, 2013****Application Submission Deadline:**

The Division of Wellness and Nutrition Services within the Office of the State Superintendent of Education (OSSE) is soliciting continuation applications to implement the DC Personal Responsibility Education Program (DC-PREP). DC-PREP is funded through the Prevention and Public Health Fund established by the Patient Protection and Affordable Care Act, Pub.L.No.111-148, which is administered by the United States Department of Health and Human Services Administration on Children, Youth and Families (ACYF), Family and Youth Services Bureau (FYSB).

The purpose of DC-PREP is to expand the use of an evidence-based or promising program that will be medically-accurate, complete, and age-appropriate, designed to educate adolescents on both abstinence and contraception to prevent pregnancy, sexually-transmitted infections (STI), including HIV/AIDS, and at least three adulthood preparation subjects within the District of Columbia. The OSSE will pay particular attention to organizations that have successfully implemented their DC-PREP program and satisfied all grant requirements assigned by the OSSE and FYSB.

**Eligibility:** The OSSE will accept continuation applications from non-profit entities in the District of Columbia having a 501(c)(3) status with the Internal Revenue Service (IRS). All applicants must submit evidence of being a legally-authorized entity (501(c)(3) determination letter) and any correspondence or other communication received from the IRS within three years before submission of the application that relates to the applicant's tax status. These continuation funds are only eligible to organizations that were previously funded, and have successfully completed all grant requirements under CA# OSSE-WNS-DCPREP-091912

**Length of Award:** Awards will be made available annually until fiscal year 2014, pending funding availability and the grantee's satisfactory implementation of the proposed program.

**Available Funding for Award:** The total amount available for this award period is \$100,000 each year. Each awarded organization will receive \$20,000.

**Anticipated Number of Awards:** The OSSE anticipates funding five (5) non-profit organizations

For additional information regarding this competition, please contact:

Latonia Coryatt, MPH  
Office of the State Superintendent of Education  
810 First Street NE  
4<sup>th</sup> Floor  
Washington, DC 20002  
Phone (202) 442-3268  
Fax (202)724-7656  
Email Address: [Latonia.Coryatt@dc.gov](mailto:Latonia.Coryatt@dc.gov)

The RFA and applications are also available on the [www.osse.dc.gov](http://www.osse.dc.gov).

**DISTRICT DEPARTMENT OF THE ENVIRONMENT  
AMENDED NOTICE OF FUNDING AVAILABILITY**

**GRANTS for  
DDOE's Low Income Weatherization Services for FY 2014**

This is the second notice for this matter, and supersedes the earlier notice. The District Department of the Environment (“DDOE”) is seeking nonprofit organizations or government agencies that are capable of effectively delivering weatherization-related services and assistance to eligible low income households in the District of Columbia.

The full text of the Request for Applications (“RFA”) is available online at DDOE’s web site. It is also available for pick-up. A person may obtain a copy of this RFA by any of the following:

**Download** by visiting the DDOE’s website, [www.ddoe.dc.gov](http://www.ddoe.dc.gov). Look for the following title/section, “Resources”, click on it, cursor over the pull-down “Grants and Funding”, click on it, then, on the new page, cursor down to the announcement for this RFA. Click on “read more.” Then choose this document, and related information, to download in PDF format;

**Email** a request to [2013WeatherizationRFA.grants@dc.gov](mailto:2013WeatherizationRFA.grants@dc.gov) with “Request copy of RFA 2013-11-WAP” in the subject line;

**In person** by making an appointment to pick up a copy from DDOE's offices at the 5th floor reception desk at the following street address (call LaWanda Jones at (202) 671-1757 and mention this RFA by name); or

**Write** DDOE at 1200 First Street, N.E., 5th Floor, Washington, DC 20002, “Attn: Request copy of RFA 2013-11-WAP” on the outside of the letter.

**Application Conference** Thursday, August 15, 2013, 10:00 am, DDOE 1200 First Street, N.E., 5<sup>th</sup> Floor, Washington, DC 20002. Attendance is not mandatory.

**The original deadline for application submissions was 8/30/2013 at 4:30 p.m. The amended date is 9/09/2013, at 4:30 p.m.** This is an amended deadline, superseding that in the earlier notice dated July 26, 2013. Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to [2013WeatherizationRFA.grants@dc.gov](mailto:2013WeatherizationRFA.grants@dc.gov).

**Eligibility:** All the checked institutions below may apply for these grants. This list is amended, and supersedes the earlier notice’s list:

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith based organizations, and educational institutions;
- Government agency and

University / Higher Education.

**Period of Awards:** The date for the work of this grant program will be 10/1/2013 through 9/30/2014.

**Available Funding:** Funding for FY2014 to be determined. The last 3-year annual total average funding was \$1.2 million. The amount for FY2014 is subject to availability and approval by the grantors.

For additional information regarding this RFA, please contact DDOE at 2013WeatherizationRFA.grants@dc.gov.



**DISTRICT DEPARTMENT OF THE ENVIRONMENT  
NOTICE OF FUNDING AVAILABILITY**

**GRANT for  
DEVELOPING A CLIMATE CHANGE ADAPTATION PLAN  
FOR THE DISTRICT OF COLUMBIA**

The District of Columbia District Department of the Environment (“DDOE”) is seeking nonprofit organizations or educational institutions to provide the District of Columbia with an analysis of climate change impacts, an assessment of the District's vulnerabilities to climate change, and adaptation planning to make the District more prepared for and resilient to climate change impacts.

Beginning 8/9/2013, the full text of the Request for Applications (“RFA”) will be available online at DDOE’s website. It will also be available for pick-up. A person may obtain a copy of this RFA by any of the following:

**Download** by visiting DDOE’s website, [www.ddoe.dc.gov](http://www.ddoe.dc.gov). Look for the following title/section, “Resources”, click on it, cursor over the pull-down “Grants and Funding”, click on it, then, on the new page, cursor down to the announcement for this RFA. Click on “read more.” Then choose this document, and related information, to download in PDF format;

**Email** a request to 2013ClimateDCRFA.grants@dc.gov with “Request copy of RFA 2013-9-OPS” in the subject line;

**In person** by making an appointment to pick up a copy from DDOE's offices at the 5th floor reception desk at the following street address (call Latonia Tabb at (202) 645-5664 and mention this RFA by name); or

**Write** DDOE at 1200 First Street, NE, 5th Floor, Washington, DC 20002, “Attn: Request copy of RFA 2013-9-OPS” on the outside of the letter.

**The deadline for application submissions is 9/13/2013, at 4:30 p.m.** Five hard copies must be submitted to the above address and a complete electronic copy must be e-mailed to 2013ClimateDCRFA.grants@dc.gov.

**Eligibility:** All the checked institutions below may apply for these grants:

- Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- Faith based organizations, and educational institutions;
- Government agency and
- University / Higher Education.

**Period of Awards:** The end date for the work of this grant program will be 9/30/2014.

**Available Funding:** The total amount available for this RFA is approximately \$200,000.00.

For additional information regarding this RFA, please contact DDOE as instructed in the RFA document, or after reviewing the document, at [2013ClimateDCRFA.grants@dc.gov](mailto:2013ClimateDCRFA.grants@dc.gov).

**DISTRICT DEPARTMENT OF THE ENVIRONMENT**

FISCAL YEAR 2013

**PUBLIC NOTICE**

Notice is hereby given that, pursuant to 40 C.F.R. Part 51.161, and D.C. Official Code §2-505, the Air Quality Division (AQD) of the District Department of the Environment (DDOE), located at 1200 First Street NE, 5<sup>th</sup> Floor, Washington, DC, intends to issue Permits (#6334-R1, #6335-R1 and #6336-R1) to Washington Aqueduct, U.S. Army Corps of Engineers, Baltimore District, to operate the listed fuel-burning equipment, located at the Dalecarlia Water Treatment Plant (WTP) in Washington, DC. The contact person for the facility is Shabir Choudhary, Section Supervisor, at (202) 764-2771.

**Fuel-burning Equipment to be Permitted**

<b>Equipment Location</b>	<b>Equipment Address</b>	<b>Equipment Size</b>	<b>Model Number</b>	<b>Serial Number</b>	<b>Permit Number</b>
Dalecarlia WTP (Admin Building)	5900 MacArthur Blvd. NW, Washington, DC	5,240,000 Btu/hr	S4-X-125-15	S625-15-27	6334-R1
Dalecarlia WTP (Admin Building)	5900 MacArthur Blvd. NW, Washington, DC	5,240,000 Btu/hr	S4-X-125-15	S625-15-28	6335-R1
Dalecarlia WTP (Admin Building)	5900 MacArthur Blvd. NW, Washington, DC	5,240,000 Btu/hr	S4-X-125-15	S625-15-26	6336-R1

The proposed emission limits are as follows:

- a. Each of the boilers shall not emit pollutants in excess of those specified in the following table [20 DCMR 201]:

<b>Boiler Emission Limits</b>		
<b>Pollutant</b>	<b>Short-Term Limit (Natural Gas) (lb/hr)</b>	<b>Short-Term Limit (No. 2 Fuel oil) (lb/hr)</b>
Carbon Monoxide (CO)	0.432	0.187
Oxides of Nitrogen (NO <sub>x</sub> )	0.514	0.748
Particulate Matter < 10 microns (PM10)	0.010	0.075
Volatile Organic Compounds (VOC)	0.029	0.013
Sulfur Dioxide (SO <sub>2</sub> )	0.003	0.265

- b. No visible emissions shall be emitted into the outdoor atmosphere from each boiler; except that no greater than 40% opacity (unaveraged) shall be permitted for two minutes per hour and for an aggregate of twelve minutes per 24-hour period during start-up, cleaning, soot blowing, adjustment of combustion controls, or malfunction. [20 DCMR 606.1]

- c. Particulate matter emissions from each unit shall not be greater than 0.12 pounds per million BTU. *(Permittee is deemed to have complied with this requirement by burning natural gas or No. 2 fuel oil, unless other credible evidence of a violation of the standard is identified.)* [20 DCMR 600.1]
- d. An emission into the atmosphere of odorous or other air pollutants from any source in any quantity and of any characteristic and duration which is, or likely to be injurious to the public health or welfare, or which interferes with the reasonable enjoyment of life and property is prohibited. [20 DCMR 903.1]

The maximum total estimated emissions from these Dalecarlia WTP boilers are as follows:

<b>Pollutant</b>	<b>Maximum Annual Emissions (tons/yr)</b>
Total Particulate Matter, PM (Total)	0.27
Sulfur Oxides (SO <sub>x</sub> )	0.15
Nitrogen Oxides (NO <sub>x</sub> )	3.39
Volatile Organic Compounds (VOCs)	0.18
Carbon Monoxide (CO)	2.85

The applications to operate the fuel-burning equipment and the draft renewal permits are available for public inspection at AQD and copies may be made available between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Stephen S. Ours at (202) 535-1747.

Interested persons may submit written comments or may request a hearing on this subject within 30 days of publication of this notice. The written comments must also include the person’s name, telephone number, affiliation, if any, mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permits.

Comments on the proposed permits and any request for a public hearing should be addressed to:

Stephen S. Ours  
 Chief, Permitting Branch  
 Air Quality Division  
 District Department of the Environment  
 1200 First Street NE, 5<sup>th</sup> Floor  
 Washington, DC 20002  
[Stephen.Ours@dc.gov](mailto:Stephen.Ours@dc.gov)

**No written comments or hearing requests postmarked after September 9, 2013 will be accepted.**

For more information, please contact Stephen S. Ours at (202) 535-1747.

**FRIENDSHIP PUBLIC CHARTER SCHOOL****INVITATION FOR BID****Nursing Services**

Friendship Public Charter School (FPCS) is soliciting bids from agencies to provide temporary nursing services during school year 2013-2014 in accordance with requirements and specifications detailed in the RFP. For full Request for Proposal, send an email to [ProcurementInquiry@friendshipschools.org](mailto:ProcurementInquiry@friendshipschools.org).

**HEALTH BENEFIT EXCHANGE AUTHORITY****NOTICE OF PUBLIC MEETING****Executive Board of the Health Benefit Exchange Authority**

The Executive Board of the Health Benefit Exchange Authority, pursuant to the requirements of Section 6 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-0094), hereby announces a public meeting of the Executive Board. The meeting will be held at 441 4<sup>th</sup> Street, NW, Old Council Chambers on **Tuesday, August 13, 2013** starting at 11:00 am, moving immediately to a closed executive session, public meeting reconvenes at approximately 1:30 pm. The call in numbers are:

11:00 am 1-877-668-4493; Access Code: 649 477 291

1:30 pm 1-877-668-4493; Access Code: 642 886 217

The Executive Board meeting is open to the public.

If you have any questions, please contact Debra Curtis at (202) 741-0899.

## DEPARTMENT OF HEALTH CARE FINANCE

## NOTICE OF PUBLIC MEETING

**District of Columbia Health Information Exchange Policy Board**

The District of Columbia Health Information Exchange Policy Board, pursuant to the requirements of Mayor's Order 2012-24, dated February 15, 2012, hereby announces a public meeting of the Board. The meeting will be held **Wednesday, August 21, 2013** at 2:00 pm in the **6<sup>th</sup> Floor Conference Room 6130** at 899 North Capitol Street, NE, Washington, DC 20002.

The District of Columbia Health Information Exchange Policy Board meeting is open to the public. The topics to be discussed on the agenda include a Welcome and Introduction; Approval of the Minutes from the July 17, 2013 Meeting; Hospital HIE Connection Program; Expansion of Department of Health Electronic Interface Capacity; Project Update: Strategic, Operating and Sustainability Plan, and Evaluation Plan; New Business; and Reports.

If you have any questions, please contact Cleveland Woodson at (202) 724-7342.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF AFFORDABLE DWELLING UNIT  
AFFORDABILITY ANALYSIS REQUEST

The Department of Housing and Community Development (DHCD), pursuant to the authority granted by Mayor's Order 2009-112 to monitor and enforce compliance with requirements to provide or maintain Affordable Dwelling Units (ADUs) in the District of Columbia, hereby gives notice that DHCD will intake requests to review the affordability of current ADUs. ADUs are for-sale and for-rent homes that are locally restricted and set-aside for occupancy by households whose income falls within a certain range and are generally offered at a below-market rate. ADUs do not include developments solely funded through the District's Housing Production Trust Fund (HPTF) or homes that are federally restricted through programs such as Home Investment Partnerships Act (HOME), Low-Income Housing Tax Credits (LIHTC), and the Community Development Block Grant (CDBG).

The purpose of this analysis is to determine whether the subject ADU is considered an "Unaffordable ADU" under the current policies and procedures of the ADU program. If an ADU is considered to be an Unaffordable ADU, then DHCD may adjust the area median income (AMI) of prospective purchasers eligible to purchase the ADU while maintaining the maximum resale price. DHCD may take other actions as appropriate within its delegated authority.

An ADU is considered an unaffordable ADU when a household – at the benchmark income and size for the unit's designated AMI level and unit type<sup>1</sup> – spends more than thirty-six percent (36%) of its monthly income on monthly mortgage payments and associated homeownership expenses (i.e. condominium fees).

To obtain an analysis request form, please call the Housing Regulation Administration at (202) 442-7221 or visit [www.dhcd.dc.gov/service/affordable-dwelling-units](http://www.dhcd.dc.gov/service/affordable-dwelling-units). All requests should be submitted to DHCD by mail at the following address: Department of Housing and Community Development; Housing Regulation Administration, Affordable Dwelling Unit Monitoring; 1800 Martin Luther King Jr. Avenue; Washington, DC 20020.

Once DHCD receives a completed request form, it will conduct an analysis of the ADU's affordability and will endeavor to respond to the requesting ADU owner within 20 days. (Please note that the response time may be longer or shorter depending on the volume of requests.) If the ADU is determined to be an Unaffordable ADU, then DHCD will provide the ADU Owner with a covenant amendment for signature and recording. Any change to the affordability level of an ADU will not take effect unless and until an amendment to the ADU Covenant is recorded. If an ADU is determined to be Unaffordable and a change is made to the affordability level of that ADU, then the ADU owner will also be entitled to a \$5,000 increase in their maximum resale price.

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<sup>1</sup> To determine benchmark income, multiply the four-person AMI published by the U.S. Department of Housing and Urban Development by 0.7 for one person, 0.8 for two people, 0.9 for three people, 1.1 for five people and 1.2 for six people, and so on. The benchmark household size per unit type is: one person for a studio, two people, for a one bedroom, three people for two bedrooms, and five people for three bedrooms.



For more information regarding Affordable Dwelling Units, go to [www.dhcd.dc.gov](http://www.dhcd.dc.gov), or contact the Housing Regulation Administration at (202) 442-7221. For information on DHCD's other affordable housing programs and services go to [www.dhcd.dc.gov](http://www.dhcd.dc.gov) or call (202) 442-7200.

The District's Affordable Housing Locator lists affordable housing, including Affordable Dwelling Units, and is accessible at [www.dchousingsearch.org](http://www.dchousingsearch.org).

**DISTRICT OF COLUMBIA  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
HOUSING PRODUCTION TRUST FUND ADVISORY BOARD  
FIRST ORGANIZATIONAL MEETING**

The DC Department of Housing and Community Development (DHCD) announces the first organizational meeting of the Housing Production Trust Fund (HPTF) Advisory Board. The meeting will be held on **Thursday, August 15, 2013 at 10 am** at the DHCD Headquarters' Housing Resource Center Conference Room located at 1800 Martin Luther King Jr. Avenue, SE, Washington, DC 20020.

For additional information, please contact Oke Anyaegbunam via e-mail at [Oke.Anyaegbunam@dc.gov](mailto:Oke.Anyaegbunam@dc.gov) or by phone at 202-442-7200.

**DRAFT AGENDA:**

**Introductions**

- Appointees
- Government Team

**Call to Order**

- Office of Boards and Commissions
- Chairman David Bowers

**Open Meeting Review**

- OAG, DHCD – Vonda Orders

**Review of Role of HPTF Advisory Board and Government Support for Board**

- David Bowers, Milton Bailey, Beatrix Fields

**Update on HPTF Status**

- DHCD Staff

**Review of Housing Taskforce Recommendations**

- Bob Pohlman
- Sue Marshall

**Review of Mayor's Objectives**

- Deputy Mayor Hoskins and Deputy Mayor Otero
- OP Presentation – Harriet Tregoning
- Preliminary Production and Preservation Analysis – Polina Bakhtearov
- Preliminary Leveraging Analysis – Milton Bailey, Polina Bakhtearov
- Comprehensive Housing Needs Assessment to Inform Priorities – Milton Bailey
- Use of DC Property Assets (DGS, DHCD, DCHFA, HUD Properties, HUD Subsidized Apartment Listings, and OTR delinquent tax rolls)

**Discussion of Board Priorities**

- Board Members

**Selection of Working Groups**

- Board Members

**Meeting Schedule**

- Quarterly Meetings
- Smaller Committee Meetings

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT****INVITATION FOR LENDERS AND REAL ESTATE AGENTS TO PARTICIPATE IN  
THE INCLUSIONARY ZONING PROGRAM**

The Department of Housing and Community Development (DHCD) is seeking contact information from 1) lenders who wish to provide purchase money for For Sale Inclusionary Units and 2) real estate agents who wish to assist prospective buyers with the purchase of For Sale Inclusionary Units.

For Sale Inclusionary Units are units priced below market and reserved for purchase by low- and moderate-income households through the District's Inclusionary Zoning (IZ) program. More information on IZ can be found on the DHCD website at [dhcd.dc.gov](http://dhcd.dc.gov).

Any lender or real estate agent who wishes to be listed on the DHCD website must first attend an IZ training provided by DHCD. Please contact the Housing Regulation Administration at DHCD at 202-442-9505 for the next available training dates.

Any lender or real estate agent who has already attended the IZ program training and wants to be listed on the DHCD website, may contact Marshall Cusaac at [marshall.cusaac@dc.gov](mailto:marshall.cusaac@dc.gov) to provide their mailing address, phone number, e-mail and website.

Please note that lender and real estate agent information is intended as a general resource for potential homebuyers. It is made available with the understanding that DHCD is not endorsing or suggesting the services of any financial institution or realtor.

**MARY MCLEOD BETHUNE DAY ACADEMY PCS****REQUEST FOR PROPOSALS****Special Education Related Services and Fence Fabrication**

The Mary McLeod Bethune Day Academy Public Charter School will receive Bids until Friday 8/23/2013 at 4:00pm for the following:

1. Delivery special education related occupational health, speech and language, and physical therapy services children enrolled at the school for the 2013-2014 school year with a possible extension (2) one-year renewals. All services must meet, but are not restricted to at a minimum, IDEA related services requirements. The applicant must be licensed by the District of Columbia.
2. Remove existing fence, poles, and railings around playground and basketball court. Fabricate and install a tubular-iron fence to protect the playground, basketball court, field and outdoor learning environment. Install new railings at main entrance.

Specific proposal for bids and all necessary criteria may be obtained from:

1. [www.mmbethune.org/relatedservices.pdf](http://www.mmbethune.org/relatedservices.pdf)
2. [www.mmbethune.org/fencerfp.pdf](http://www.mmbethune.org/fencerfp.pdf)

or

**Mary McLeod Bethune Day Academy PCS**  
**Attn: Marcus McKay**  
**m.mckay@mmbethune.org**  
**1404 Jackson St., N.E. Washington, DC 20017**  
**202-459-4710**

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**  
**RECOMMEND FOR APPOINTMENTS OF NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after September 1, 2013.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on August 9, 2013. Additional copies of this list are available at the above address or the website of the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).

D.C. Office of the Secretary  
 Recommended for appointment as a DC Notaries Public

Effective: September 1, 2013

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Allen	Janet D.	New World Title & Escrow 888 16th Street, Suite 800	20006
Allen	Lori Beth	Diversified Reporting Services, Inc. 1101 Sixteenth Street, NW	20036
Alvarado	Juan	GHA Community Management LLC/ The Essex Condominium 4740 Connecticut Avenue, NW	20008
Ancona	Lois	The National Osteoporosis Foundation 1150 17th Street, NW, Suite 850	20036
Anderson	Camille D.	Office of the Attorney General, Child Support Services Division 441 4th Street, NW, Suite 550North	20001
Argente	Liezl C.	Kass, Mitek & Kass, PLLC 1050 17th Street, NW, Suite 1100	20036
Arrington	Donna L.	The Carlyle Group 1001 Pennsylvania Avenue, NW, Suite 220 South	20004
Asante	Ruby T.	Law Office of Richard R. Klein, Esquire 717 D Street, NW, Suite 300	20018
Backiel	Jessica	National Association of Broadcasters 1771 N Street, NW	20036
Badders	Vincent L.	Capitol Concierge Inc. 1400 Eye Street, NW, Suite 400	20005
Becerra	Diana P.	Wells Fargo Bank 1750 H Street, NW, Suite 400	20006
Benson	Keyana R.	The Richardson Firm, PC 705 8th Street, Suite 300	20003
Bradley	Tina Jai	Pension Benefit Guaranty Corporation, Office of The Chief Counsel 1200 K Street, NW	20005
Brito	Diana C. Godoy	District of Columbia Office of Human Rights 441 4th Street, NW	20001

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Brooks	Nicole	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Brosnan-Sell	Mary	McLeod, Watkinson & Miller One Massachusetts Avenue, NW, Suite 800	20001
Brown	Audrey	District of Columbia Office of the Attorney General 441 4th Street, NW, Suite 1100S	20001
Brown	Georgette D.	National Employment Law Project 1620 Eye Street, NW, Suite 210	20006
Burns	Edie	Laughing Cocktail LLC 28 Rhode Island Avenue, NW	20001
Burrell	Doretha	Judge Stanley Sporkin 1130 Connecticut Avenue, NW, Suite 500	20036
Camacho	Erika	Self (Dual) 1101 3rd Street, SW, Suite 311	20007
Carr	Kevin E.	Diversified Reporting Services 1101 16th Street, NW, 2nd Floor	20036
Casey	Paula M.	National Railroad Passenger Corporation d/b/a Amtrak 40 Massachusetts Avenue, NE, 3W-104	20002
Chiappetta	Angela M.	Amplify Education 500 New Jersey Avenue, NW, 6th Floor	20001
Chinn	Caroline L.	MedStar Georgetown University Hospital 3800 Reservoir Road, NW	20007
Cincotti	Elizabeth	Krooth & Altman, LLP 1850 M Street, NW, Suite 400	20036
Cofer	Sharon A.	Osborne Law Offices, PC 4301 Connecticut Avenue, NW, Suite 108	20008

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Copeland	Morghan P.	Office of the Attorney General, Child Support Services Division 441 4th Street, NW, Suite 550N	20001
Curry	Jana	Capitol Services Management, Inc. 3200 Martin Luther King, Jr. Avenue, SE	20032
Darby	Christopher B.	Counselors Title, LLC 4400 Jenifer Street, NW, Suite 2	20015
DiPietro	Anita	JCR Companies, JCR Realty, Jack Group 1501 11th Street, NW	20001
DiRienzo	Barbara S.	Ballard Spahr LLP 1909 K Street, NW, 12th Floor	20006
Donnelly	Frank P	Frank P. Donnelly Attorney at Law 1025 Connecticut Avenue, NW, Suite 1000	20036
Dorsey	Lahoma	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Dumont	Emily M.	Klamp & Associates, P.C. 2000 P Street, NW, Suite 708	20036
Fagan	Thomas J.	PNC Bank 5252 Wisconsin Avenue, NW	20015
Ford-Gladden	Martha	Self 1505 Kalmia Road, NW	20012
Gaiotti	Hunter	Gain NoSCA 1776 Massachusetts Avenue, NW, Suite 700	20036
Germas	Pamela E.	Kutak Rock LLP 1101 Connecticut Avenue, NW, Suite 1000	20036
Goel	Asha	Goel Services, Inc. 6201 Dix Street, NE	20019



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Green	Angela Marie	Troutman Sanders LLP 401 9th Street, NW	20004
Green	Sharonda	Department of Health and Human Services 200 Independence Avenue, SW	20201
Greene	Linda E.	District of Columbia Department of Corrections 1901 D Street, SE	20003
Grossman	Michele	Michael Rinaldi & Co. LLP 5028 Wisconsin Avenue, Suite 300	20016
Gurevitch	Patricia C.	Self 5442 Chevy Chase Parkway, NW	20015
Hall	Nicole L.	Seraaj Family Homes, Inc. 900 2nd Street, NE, (LL-12)	20002
Hall	Pauletter L.	District of Columbia Department on Disability Services 1125 15th Street, NW	20005
Halloran	Christine	The Carlyle Group 1001 Pennsylvania Avenue, NW, Suite 200	20004
Hamrah	Ruxandra	Plant Depos 1100 Connecticut Avenue, NW, Suite 900	20036
Harrell	Chloe	St. Coletta of Greater Washington, Inc. 1901 Independence Avenue, SE	20003
Hodge	Lincoln Jerome	Family Liquors 710 H Street, NE	20002
Hughes	Sondra Kay	Hughes & Bentzen, PLLC 1100 Connecticut Avenue, NW, Suite 340	20036
Jackson	Siporah	McKissack & McKissack of Washington 1401 New York Avenue, NW, Suite 900	20005

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Jeffcoat	Arlene	Surface Transportation Board 385 E Street, SW	20423
Jones	Denise A.	Powers Pylers Sutter & Verville, PC 1501 M Street, NW, 7th Floor	20005
Jones-Newman	Fern	Wells Fargo Bank 3200 Pennsylvania Avenue, SE	20020
Khan	Geraldine	National Treasury Employees Union 1750 H Street, NW	20006
Lam	Morin	Wells Fargo Bank 1300 Eye Street, NW, Suite 105W	20005
Lee St. Louis	Nancy	Hanley Wood, LLC 1 Thomas Circle, NW	20005
Levy	Alicia Marie	Worldwide Settlements, Inc. 1425 K Street, NW, Suite 350	20005
Luberger	Lauren	TransPerfect 700 6th Street, NW, 5th Floor	20001
Luchs	Barbara B.	Self 3633 Appleton Street, NW	20008
Marquez	Claudia	Rodriguez & Sanabria, PLLC 804 H Street, NE	20002
May	LaRuby Z.	Vision of Victory Community Development Corporation 2498 Alabama Avenue, SE	20020
McCann	Brendan J.	Ballard Spahr LLP 1909 K Street, NW, 12th Floor	20006
McDowell	Marsha A.	District of Columbia Office of the Inspector General 717 14th Street, NW, Suite 500	20005
McGrath	Christina	Bonner Group, Inc. 455 Massachusetts Avenue, NW, Suite 640	20001
Minor	Porsche	CastroHaase, PLLC 1129 20th Street, NW, Suite 300	20036

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Molina	Rossana	Ayuda 6925 B Willow Street, NW	20012
Murphy	Carole G.	Ropes & Gray LLP 700 12th Street, NW, Suite 900	20005
Murphy	Maureen Ruthman	Mid-Atlantic Settlement Services 3000 K Street, NW, Suite 101	20007
Murphy	Patricia A.	BNSF Railway 500 New Jersey Avenue, NW, Suite 550	20001
Myers	Dartesha	District of Columbia Housing Authority 1133 North Capitol Street, NE	20002
Nechrebecki	Meghan	Privia Health 3299 K Street, NW, Suite 200a	20007
Nelson	Alyssa	Bradford Real Estate LLC 4300 Georgia Avenue, NW	20011
Nguyen	Quenie	Bank of America 4301 49th Street, NW	20016
O'Hair	Zoe V.	The Carlyle Group 1001 Pennsylvania Avenue, NW	20004
O'Malley	Conor	Accrediting Council for Independent Colleges and Schools 750 First Street, NE, Suite 980	20002
Oufiero	Arvida	Donovan, Bond Company 2507 Massachusetts Avenue, NW	20008
Parks	Tina	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Paschal	Sharolyn C.	Ballard Spahr LLP 1909 K Street, NW, 12th Floor	20006
Peet	Steven J.	Edvotek, Inc. 1121 5th Street, NW	20001

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Pimentel	Gina	Gaedeke Group, LLC 1310 G Street, NW, Suite 790	20005
Powell	Genester	District of Columbia Department of Corrections 1901 D Street, SE	20003
Pripstein	Heather R.	David M. Schwarz Architects, Inc. 1707 L Street, NW, Suite 400	20036
Robinson	Pamela M.	Self 425 Manor Place, NW	20010
Rosario	Vincent	C R USA, Inc 510 Missouri Avenue, NW	20011
Sarwari	Wais	Worldwide Settlements, Inc. 1425 K Street, NW, Suite 350	20005
Sears	Stephanie L.	Hessel, Aluise and Neun, PC 1100 17th Street, NW, Suite 1100	20036
Short	Tameca	TD Bank 901 7th Street, NW	20001
Smith	Alexandra	Bromberg, Kohler Maya & Maschler, PLLC 2011 Pennsylvania Avenue, NW, 5th Floor	20006
Smith	Margaret H.	Self 3926 17th Place, NE	20018
Smith	Nydia	District of Columbia Office of Police Complaints 1400 I Street, NW	20005
Spriggs	Shernita	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Stevenson	Brian Byrd	Wm. Calomiris Co., LLC 1112 16th Street, NW, Suite 900	20036
Swift	Kelly	Crowell & Moring LLP 1001 Pennsylvania Avenue, NW	20004
Talero	Miguel Angel	Bank of America 3100 14th Street, NW, Suite 101	20010

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Thomas	Terreita	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Treagy	Carrie	Skadden, Arps, Slate, Meagher & Flom LLP 1440 New York Avenue, NW	20005
Tsoi	Carol	Telesis Corporation 1101 30th Street, NW, Suite 400	20007
Turner	Adam	PNC Bank 3300 14th Street, NW	20011
Valencia	Leyla	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Verzella	Yanik	TD Bank 605 14th Street, NW	20005
Waldon	Vivian	District of Columbia Housing Authority 1133 North Capitol Street, NE, Suite 100	20002
Washington	Teresa	District of Columbia Department of Corrections 1901 D Street, SE	20020
West	Whitney N.	Catholic University 620 Michigan Avenue, NE	20064
White	Chani B.	Gallaudet University 800 Florida Avenue, NE	20002
Whitfield	Milton Bailey	Miles & Stockbridge PC 1667 K Street, NW, Suite 800	20006
Wilkerson	Drew	ATG Title & Escrow 1050 17th Street, Suite 600	20036
Williams	Gary Lee	G & G Enterprises 3322 14th Street, NW, Suite 405	20010
Yenchochic	Michelle	Diversified Reporting Services, Inc. 1101 16th Street, NW, 2nd Floor	20036

## DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

## NOTICE OF FUNDING AVAILABILITY

## DC Commercial Clean Team Program:

## 12th Street, NE; Connecticut Avenue, NW; and Minnesota Avenue, NE

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to manage a **DC Commercial Clean Team Program** (“the Program”) in three service areas—12th Street, NE; Connecticut Avenue, NW; Minnesota Avenue, NE.

Through this grant DSLBD will fund clean teams, which will: 1) Improve commercial district appearance to help increase foot traffic, and consequently, opportunity for customer sales; 2) Reduce litter, graffiti, and posters which contributes to the perception of an unsafe commercial area; 3) Maintain a healthy tree canopy and landscape that contributes to the perception of a safe and attractive shopping area; and, 4) Reduce stormwater pollution generated by DC’s commercial districts.

Eligible applicants are DC-based nonprofit organizations or businesses that are incorporated in the District of Columbia and, have experience with: a) providing clean team services (litter removal, graffiti removal, recycling, weeding, mowing, and reporting public space defects via 311); b) providing job-training services to its employees; c) hiring District residents; and d) providing social support services to its Clean Team employees.

For all service areas, the grant performance period will begin October 23, 2013 and end September 30, 2014. The grant award will be up to \$133,333.33 for each service area. DSLBD will award one grant per service area (i.e., a total of three grants).

DSLBD will select grant recipients through a competitive application process that will assess if the Applicant meets the criteria for: the proposed service delivery plan, costs, and applicant capacity. Applicants may apply for one or more service areas. A separate application must be submitted for each service area. DSLBD will award one grant for each of the five service areas (i.e., a total of five grants)

The **Request for Application** (RFA) comprises the Program Guidelines (RFA Part 1) and online application form (RFA Part 2). The Program Guidelines will include a detailed description of: clean team services; service area boundaries; applicant eligibility requirements; and selection criteria. The RFA will be available online on or before August 23, 2013.

- To view and download RFA Part 1, visit [www.dslbd.dc.gov](http://www.dslbd.dc.gov) (click on the *Retail* tab and then *Current Solicitations and Opportunities*).
- To view and complete RFA Part 2, email an **Expression of Interest** form to DSLBD. To download an Expression of Interest form, visit [www.dslbd.dc.gov](http://www.dslbd.dc.gov), click on the *Retail* tab and then *Current Solicitations and Opportunities*.

DSLBD will host a **Pre-Submission Meeting** on Friday, September 9, 2013 at 10AM. Meeting details will be provided to Expression of Interest respondents.

The **deadline to submit applications** online is Friday, September 20, 2013 at 4:00 PM. DSLBD will determine grant award selection by Monday, October 7, 2013.

For more information, contact Camille Nixon at the Department of Small and Local Business Development at (202) 727-3900 or [camille.nixon@dc.gov](mailto:camille.nixon@dc.gov).

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

## DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

## NOTICE OF FUNDING AVAILABILITY

## DC Commercial Clean Team Program:

**Georgia Avenue, NW; Kennedy Street, NW; North Capitol Street;  
Rhode Island Avenue, NE; and Ward 1**

The Department of Small and Local Business Development (DSLBD) is soliciting applications from eligible applicants to manage a **DC Commercial Clean Team Program** (“the Program”) in five service areas—Georgia Avenue, NW; Kennedy Street, NW; North Capitol Street; Rhode Island Avenue, NE; and Ward 1.

Through this grant, DSLBD will fund clean teams, which will: 1) Improve commercial district appearance to help increase foot traffic, and consequently, opportunity for customer sales; 2) Reduce litter, graffiti, and posters which contributes to the perception of an unsafe commercial area; 3) Maintain a healthy tree canopy and landscape that contributes to the perception of a safe and attractive shopping area; and, 4) Reduce stormwater pollution generated by DC’s commercial districts.

Eligible applicants are DC-based nonprofit organizations or businesses that are incorporated in the District of Columbia and, have experience with: providing clean team services (litter removal, graffiti removal, recycling, weeding, mowing, and reporting public space defects via 311).

The period of performance and maximum grant award for each service area are as follows:

- **Georgia Avenue, NW; Kennedy Street, NW; and Ward 1**—The grant performance period for all three areas is October 23, 2013 to September 30, 2014. The maximum grant award will be \$100,000 for each service area;
- **North Capitol**—The grant performance period is October 23, 2013 to January 31, 2014. The maximum grant award will be \$24,000; and
- **Rhode Island Avenue, NE**—The grant performance period is October 23, 2013 to June 30, 2014. The maximum grant award will be \$73,000.

DSLBD will select grant recipients through a competitive application process that will assess if the Applicant meets the criteria for: the proposed service delivery plan, costs, and applicant capacity. Applicants may apply for one or more service areas. A separate application must be submitted for each service area. DSLBD will award one grant for each of the five service areas (i.e., a total of five grants).

The **Request for Application** (RFA) comprises the Program Guidelines (RFA Part 1) and online application form (RFA Part 2). The Program Guidelines will include a detailed description of: clean team services; service area boundaries; applicant eligibility requirements; and selection criteria. The RFA will be available online on or before August 23, 2013.



- To view and download RFA Part 1, visit [www.dslbd.dc.gov](http://www.dslbd.dc.gov) (click on the *Retail* tab and then *Current Solicitations and Opportunities*).
- To view and complete RFA Part 2, email an **Expression of Interest** form to DSLBD. To download an Expression of Interest form, visit [www.dslbd.dc.gov](http://www.dslbd.dc.gov), click on the *Retail* tab and then *Current Solicitations and Opportunities*.

DSLBD will host a **Pre-Submission Meeting** on Thursday, August 29, 2013 at 10AM. Meeting details will be provided to Expression of Interest respondents.

The **deadline to submit applications online** is Friday, September 13, 2013 at 4:00 PM. DSLBD will determine grant awards by Monday, September 30, 2013.

For more information, contact Camille Nixon at the Department of Small and Local Business Development at (202) 727-3900 or [camille.nixon@dc.gov](mailto:camille.nixon@dc.gov).

DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.

**THE ARTS & TECHNOLOGY PCS****REQUEST OF PROPOSALS****Security Camera and CCTV upgrades**

The Arts & Technology Academy Public Charter School is soliciting bids for security camera and CCTV upgrades. Requests for an e-mail copy of the RFP can be sent to: [lsmith@dcata.org](mailto:lsmith@dcata.org). You will receive a bid package, which includes project specifications and bidding instructions. A pre-bid conference will be held on August 8, 2013 at 10AM. All responsive bids must be delivered via electronic mail to [lsmith@dcata.org](mailto:lsmith@dcata.org) by 12:00 Noon on Monday, August 19, 2013. No phone calls please.

**THURGOOD MARSHALL ACADEMY PUBLIC CHARTER HIGH SCHOOL****REQUEST FOR PROPOSALS****Bus Service**

Thurgood Marshall Academy—a nonprofit, college-preparatory, public charter high school located in Washington, DC—seeks transportation contractors for student activities.

Interested bus companies should submit a proposal consisting of the following:

1) **Answers to the following questions:**

- a. What is the total cost per bus per trip for each of the following types of service in a standard (44 person) coach, inclusive of all fees and surcharges?
  - i. Round trip from 2427 Martin Luther King, Jr. Ave. SE, Washington, DC 20020 to a destination on K St. NW in Washington, DC?
  - ii. Round trip from 2427 Martin Luther King, Jr. Ave. SE, Washington, DC 20020 to George Mason University in Fairfax, VA?
  - iii. Round Trip from 2427 Martin Luther King, Jr. Ave. SE, Washington, DC 20020 to Spelman College in Atlanta, GA?  
(Note: These are sample trips only; actual orders may or may not include these trips.)
- b. Are there any additional costs or fees?
- c. Are any discounts available (for not-for-profit organizations; volume, etc.)?
- d. What various capacity buses does the company offer, and how do prices vary?
- e. Are standard buses handicap accessible?
- f. Does the company offer specialized handicap bus or van service?
- g. Are there any requirements or restrictions of any kind on the services the company provides?
- h. How are orders placed? (Note: Companies accepting orders via e-mail or a Web site preferred.)
- i. Does the company require payment—in full or in part—prior to service, or will the company submit invoices? (Note: Companies that submit a net-30 invoice after service and require no deposit are preferred.)
- j. What qualifications must drivers have to work for the company?
- k. Does the company conduct criminal background checks of drivers?
- l. Can the bus company offer evidence of a safe driving record among its drivers and vehicles?
- m. Can the bus company offer evidence that its vehicles are well maintained, safe, and rarely if ever break down?
- n. Can the company offer evidence of timely and efficient services—for example, on-time pick up as well as knowledge of routes and alternates to ensure on-time arrival at destinations?
- o. How can the school reach the company when service is underway after business hours? Can the company offer further information/evidence that it communicates effectively with customers during orders and service?

- 2) **References:** Please provide three business references including company name, contact name, telephone number, and email address.
- 3) **Certificate of Insurance** naming Thurgood Marshall Academy as an additional insured
- 4) Copy of a current **operating license** (DC Basic Business License or equivalent)
- 5) **Current IRS Form W-9**
- 6) **Contract** or Letter of Agreement stating that
  - a. The company will provide bus service when ordered by the school from 9/10/2013 – 8/31/2014.
  - b. The agreement will automatically renew but can be terminated by either party upon written notice.
  - c. Any other terms or conditions of service.
- 7) Any **other pertinent information**, such as **DC CBE registration number**, may be included.

Thurgood Marshall Academy may select one or more bidder to provide service.

For **further information** regarding the RFP, contact **David Schlossman, Chief Operating Officer**, at [dschlossman@tmapchs.org](mailto:dschlossman@tmapchs.org) or 202-276-4722. Further information about Thurgood Marshall Academy—including the school’s nondiscrimination policy—may be found at [www.thurgoodmarshallacademy.org](http://www.thurgoodmarshallacademy.org).

By submitting a bid, every bidder affirms that neither the bidder nor its subcontractors (if any) is an excluded party by or disbarred from doing business with/receiving funds from either the US federal government or the government of the District of Columbia.

**Submit proposals** no later than **Friday, August 23, 2013**, via e-mail to [dschlossman@tmapchs.org](mailto:dschlossman@tmapchs.org) (bidders without e-mail must contact Mr. Schlossman no later than 5 pm on Thursday, August 22, 2013, to make alternate arrangements; Thurgood Marshall Academy will not guarantee receipt of bids submitted by methods other than e-mail).

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18551 of Broad Branch Children's House**, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception to continue a child development center (60 children, eight staff) under § 205, and for a variance from the parking requirements under § 2101.1, in the R-1-B District at premises 5608 Broad Branch Road, N.W. (Square 1997, Lot 78).<sup>1</sup>

**HEARING DATES:** May 21, 2013 and July 30, 2013

**DECISION DATE:** July 30, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission ("ANC") 3G, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 3G, which is automatically a party to this application. ANC 3G submitted two reports in support of the application. The ANC's first report was dated April 12, 2013, and indicated that at a duly noticed, regularly scheduled monthly meeting on April 8, 2013, with a quorum present, the ANC voted unanimously (6:0) to approve the application as originally advertised. The second ANC report was dated June 17, 2013, and indicated that at a duly noticed, public meeting on June 10, 2013, with a quorum present, the ANC voted 3:2:1 to support the application, as revised. (Exhibits 25 and 37.) The ANC also testified at the hearing in support.

The Office of Planning ("OP") submitted two timely reports, the first dated May 14, 2013 and the second dated July 23, 2013, recommending approval with conditions of the special exception under § 205, both the original and revised versions, but recommending denial of the variance under § 2101.1. (Exhibits 29 and 42.) In its report of July 23<sup>rd</sup> and at the hearing, OP stated that it believed that two compact parking spaces could be fit onsite for the Center's employees and recommended that the Board require that as a

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<sup>1</sup> The Applicant amended the application from what was advertised by modifying its special exception request for continuation and expansion of the existing child development center (80 children and 12 staff) to one for 60 children and eight staff, thereby not expanding the existing use, as well as to add variance relief from the parking requirements under § 2101.1. (Exhibits 34 and 38.) The caption has been amended accordingly. The use was originally approved in BZA Case No. 17147, approved on May 4, 2004. (Exhibit 10.)

**BZA APPLICATION NO. 18551****PAGE NO. 2**

condition. The District Department of Transportation (“DDOT”) submitted a letter of “no objection” to the record. (Exhibit 26.) The Office of the State Superintendent of Education (“OSSE”) submitted a letter dated June 10, 2013, recommending approval of the application. (Exhibit 35.)

A letter of support was submitted by Edward Hall, the crossing guard assigned to the intersection of Northampton and Broad Branch Roads. (Exhibit 28.)

Letters of opposition were submitted to the record from Jill Schick and Howard Goldstein, 5604 Broad Branch Road (Exhibit 31); Ryan Conroy, 3419 McKinley Street, and Chantal Santelices, 3514 Northampton Street (Exhibit 32); and Vesna Zderic and Shahram Vaezy, 5606 Broad Branch Road (Exhibits 33 and 36 (duplicate).)

The Applicant testified at the hearing on July 30<sup>th</sup> that it had met with the neighbors who opposed the expansion of the Center and also presented the revised application at the ANC meeting where neighbors who had submitted letters in opposition also attended. The Applicant stated that those who opposed expansion who were at the ANC meeting expressed that they were comfortable with the amended application to continue the Center use at the current level and did not object to the application as amended. None of the neighbors in opposition attended the July 30<sup>th</sup> hearing.

Variance Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary under § 3103.2, to establish the case for a variance from the parking requirements under § 2101.1. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR § 3103.2 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to §§ 3104.1 and 205, to allow the continuation of a child development center of 60 children, eight staff in the R-1-B District. No parties appeared

**BZA APPLICATION NO. 18551****PAGE NO. 3**

at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1 and 205, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Approval of the child development center shall be for a period of **TEN (10) YEARS** from the effective date of this order.
2. Center operations shall be Monday through Friday, from 8:00 a.m. to 6:00 p.m.
3. The maximum Center capacity shall be 60 children and eight teachers and staff.
4. Two compact parking spaces shall be provided and appropriately striped and lined onsite for Center employees.
5. Center drop-off and pick-up periods shall not coincide with drop-off and pick-up times at Lafayette Elementary School.
6. Center staff shall assist the children to and from cars during peak drop-off and pick-up periods.
7. The entire rear of the property shall be bordered by a fence six-feet tall made of wood.

**VOTE:**       **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Anthony J. Hood to Approve; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** August 5, 2013

**BZA APPLICATION NO. 18551****PAGE NO. 4**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18581 of Jason W. Maroney**, pursuant to 11 DCMR § 3104.1, for a special exception to allow an addition to the rear of an existing row dwelling under section 223, not meeting the lot occupancy (section 403) and rear yard (section 404) requirements in the CAP/R-4 District at premises 14 5th Street, N.E. (Square 816, Lot 839).

**HEARING DATE:** July 9, 2013, July 30, 2013

**DECISION DATE:** July 30, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6C, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a letter in support of the application. The Department of Transportation submitted a report of no objection to the application. The Office of Planning (“OP”) submitted a report and testified at the hearing in support of the application. The Board received letters from neighbors in support of the application. The Architect of the Capitol submitted a letter stating that the proposed relief is not inconsistent with the intent of the CAP/R-4 zone and would not create any adverse effect on the U.S. Capitol Precinct.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under subsection 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions

BZA APPLICATION NO. 18581

PAGE NO. 2

of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 10 – Plans) be **GRANTED**.

**VOTE:**       **4-0-1** (Lloyd J. Jordan, Anthony J. Hood, S. Kathryn Allen and Jeffrey L. Hinkle to APPROVE. The third Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** August 1, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18590 of District of Columbia Public Library**, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements to permit the reconstruction of a library under § 2101.1, in the C-2-A District at premises 1801 Hamlin Street, N.E. (Square 4210, Lot 825).

**HEARING DATE:** July 30, 2013

**DECISION DATE:** July 30, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission ("ANC") 5C, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 5C, which is automatically a party to this application. ANC 5C submitted a signed copy of its resolution in support of the application, dated June 12, 2013, which indicated that at a duly noticed, regularly scheduled monthly meeting with a quorum present the ANC voted 5:0 to approve the application. (Exhibit 20.)

The Office of Planning ("OP") submitted a timely report dated July 23, 2013, recommending approval of the application. (Exhibit 24.) The District Department of Transportation ("DDOT") submitted a letter of "no objection" subject to two conditions, i.e. to provide transportation information screens and commute alternatives on-site. (Exhibit 23.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary under § 3103.2, to establish the case for a variance from the off-street parking requirements under § 2101.1. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR § 3103.2 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be

**BZA APPLICATION NO. 18590****PAGE NO. 2**

granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 21A AND THE FOLLOWING CONDITIONS:**

1. The Library shall provide real-time arrival/availability information for nearby buses, carshare, and Bikeshare.
2. The Library shall make information about commute alternatives, including Commuter Connection brochures, bus schedules, and Capital Bikeshare brochures, available to library employees.

**VOTE:**       **4-0-1** (Lloyd J. Jordan, Anthony J. Hood<sup>1</sup>, S. Kathryn Allen, and Jeffrey L. Hinkle to Approve; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** August 1, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN

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<sup>1</sup> At the hearing, Mr. Hood disclosed that he resides in the area and is a member of a neighborhood association that participated in this project. There were no objections by any of the other Board members or parties to his participation in the case.

**BZA APPLICATION NO. 18590****PAGE NO. 3**

APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18596 of Community Three Development LLC**, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under § 772, a variance from the rear yard requirements under § 774, a variance from the off-street parking requirements under § 2101.1, and a variance from the parking space size requirements under §§ 2115.2 and 2115.4, to allow the construction of a new mixed-use development in the ARTS/C-3-A District at premises 2200-2202 14th Street, N.W. (Square 202, Lots 33, 827, and 828).

**HEARING DATE:** July 30, 2013

**DECISION DATE:** July 30, 2013

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (the "Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission ("ANC") 1B, and to all owners of property within 200 feet of the property that is the subject to this application. The subject property is located within the jurisdiction of ANC 1B, which is automatically a party to this application. ANC 1B submitted a letter in support of the application, dated April 4, 2013, which indicated that at a duly noticed, regularly scheduled monthly meeting on April 4, 2013, with a quorum present, the ANC voted unanimously to approve the application. (Exhibit 8.)

The Office of Planning ("OP") submitted a timely report dated July 23, 2013, recommending approval of the application. OP indicated in its report that the Meridian Hill Neighborhood voted unanimously in support of the relief on March 19, 2013. (Exhibit 26.) The District Department of Transportation ("DDOT") submitted a letter of "no objection" to the record. (Exhibit 27.)

Darrell West, 1407 W Street, N.W., testified as a person in opposition and submitted his statement in opposition to the application on the record. (Exhibit 28.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary under § 3103.2, to establish the case for variances from the lot occupancy requirements under § 772, from the rear yard requirements under § 774, from the off-street parking requirements under § 2101.1, and from the parking space size requirements under §§2115.2 and 2115.4, to allow the construction of a new mix-use development in the ARTS/C-3-A District. No parties

**BZA APPLICATION NO. 18596****PAGE NO. 2**

appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR § 3103.2 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED, SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 25.**

**VOTE:**       **4-0-1** (Lloyd J. Jordan, Anthony J. Hood, S. Kathryn Allen, and Jeffrey L. Hinkle to Approve; one Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** August 2, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

**BZA APPLICATION NO. 18596****PAGE NO. 3**

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18597 of James M. LeSane**, pursuant to 11 DCMR § 3104.1, for a special exception under section 223, to allow an addition to an existing one-family detached dwelling not meeting the side yard (section 405) requirements in the R-1-B District at premises 1515 Jackson Street, N.E. (Square 4014, Lot 803).

**HEARING DATE:** July 30, 2013

**DECISION DATE:** July 30, 2013

**SUMMARY ORDER**

**REVIEW BY THE ZONING ADMINISTRATOR**

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 5B, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5B, which is automatically a party to this application. ANC 5B did not participate in the application. The Office of Planning (“OP”) submitted a report and testified at the hearing in support of the application. The Board received a letter from a neighbor in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under subsection 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions

BZA APPLICATION NO. 18597

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of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 8 – Plans) be **GRANTED**.

**VOTE:**       **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Anthony J. Hood and Jeffrey L. Hinkle to APPROVE. The third Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** August 1, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18607 of Katharine Huffman and John Rusciolelli**, pursuant to 11 DCMR § 3104.1, for a special exception under section 223, to allow a rear deck addition to an existing one-family row dwelling not meeting the lot occupancy (section 403), rear yard (section 404) and nonconforming structure (subsection 2001.3) requirements in the R-4 District at premises 2635 Woodley Place, N.W. (Square 2205, Lot 43).

**DECISION DATE:** July 30, 2013 (Expedited Calendar)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

Pursuant to 11 DCMR § 3181 this application was tentatively placed on the Board's expedited calendar for decision without hearing as a result of the applicant's waiver of their right to a hearing.

The Board provided proper and timely notice of the decision meeting for this application together with the information required by 11 DCMR § 3118.5 by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (ANC) 3C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3C, which is automatically a party to this application. ANC 3C submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application. The Department of Transportation submitted a report having no objection to the application. The Board received letters in support of the application from neighbors.

No objections to expedited calendar consideration were made by any person or entity entitled to do by §§ 2118.6 and 2118.7 and no requests for party status were received. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the

BZA APPLICATION NO. 18607

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general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 9 – Plats) be **GRANTED**.

**VOTE: 4-0-1** (Lloyd J. Jordan, Anthony J. Hood, S. Kathryn Allen and Jeffrey L. Hinkle to APPROVE. The third Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** August 1, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL

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AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 18611 of William P. Lindsay**, pursuant to 11 DCMR § 3104.1, for a special exception under section 223, to allow a rear garage addition serving an existing one-family row dwelling not meeting the lot occupancy (section 403) requirements in the R-3 District at premises 5502 13th Street, N.W. (Square 2801, Lot 75).

**DECISION DATE:** July 30, 2013 (Expedited Calendar)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

Pursuant to 11 DCMR § 3181 this application was tentatively placed on the Board's expedited calendar for decision without hearing as a result of the applicant's waiver of their right to a hearing.

The Board provided proper and timely notice of the decision meeting for this application together with the information required by 11 DCMR § 3118.5 by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (ANC) 4C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 4C, which is automatically a party to this application. ANC 4C submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application. The Department of Transportation submitted a report having no objection to the application. The Board received letters in support of the application from neighbors.

No objections to expedited calendar consideration were made by any person or entity entitled to do by §§ 2118.6 and 2118.7 and no requests for party status were received. The matter was therefore called on the Board's expedited calendar for the date referenced above and the Board voted to grant the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the

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general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 13 – Plats) be **GRANTED**.

**VOTE:**           **4-0-1**           (Lloyd J. Jordan, Anthony J. Hood, S. Kathryn Allen and Jeffrey L. Hinkle to APPROVE. The third Board seat vacant.)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

The majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** August 1, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL

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AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT  
441 4<sup>TH</sup> STREET, N.W.  
SUITE 200-SOUTH  
WASHINGTON, D.C. 20001**

**PUBLIC NOTICE OF CLOSED MEETING**

In accordance with § 405(c) of the Open Meetings Act, D.C. Official Code § 2-575 (c), on 07/30/13, the Board of Zoning Adjustment voted 4-0-1 to hold closed meetings telephonically on Monday, September 9<sup>th</sup>, 16<sup>th</sup> and 23<sup>rd</sup> beginning at 4:00 pm for the purpose of obtaining legal advice from counsel and/or to deliberate upon, but not voting on the cases scheduled to be publicly heard or decided by the Board on the day after each such closed meeting, as those cases are identified on the Board's agendas for September 10<sup>th</sup>, 17<sup>th</sup> and 24<sup>th</sup> 2013.

FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

**LLOYD J. JORDAN, CHAIRMAN, S. KATHRYN ALLEN, JEFFREY L. HINKLE  
AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF  
ZONING ADJUSTMENT, CLIFFORD W. MOY, SECRETARY TO THE BZA,  
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING.**

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 11-17(1)**

**Z.C. CASE NO. 11-17**

**Adams Morgan Church Hotel, LLC**

**(Consolidated Planned Unit Development and Related Zoning Map Amendment for  
Square 2560, Lots 127, 872, and 875)**

**April 18, 2013**

**Order**

At a public meeting held on April 18, 2013, the Zoning Commission for the District of Columbia ("Commission") considered whether to waive its procedural rules and accept Theresa Lopez's motion for rehearing and reconsideration of the Commission's final order in Z.C. Case No. 11-17. For the reasons discussed below, the Commission declined to waive its rules and refused to accept the motion.

By Z.C. Order No. 11-17 in Z.C. Case No. 11-17, the Commission granted the application of Adams Morgan Church Hotel, LLC, (along with successor entity Adams Morgan Hotel Owner, LLC, the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment from the RC/C-2-B and R-5-B Zone Districts to the RC/C-2-B Zone District for properties in Square 2560 known as Lots 127, 872, and 875.

Z.C. Order No. 11-17 was published in the *D.C. Register* on March 15, 2013, and became final and effective upon publication. Pursuant to § 3029.5 of the Commission's Rules of Practice and Procedure, a "motion for reconsideration, rehearing, or re-argument of a final order in a contested case under § 3022 may be filed by a party within ten (10) days of the order having become final." Therefore, any party who wished to file a motion for reconsideration was required to do so by March 25, 2013. A non-party could not file such a motion at all.

On March 25, 2013, Ms. Lopez, whose request for party status was denied by the Commission, filed a document entitled Motion for Rehearing of Relevant Questions and Reconsideration of the Comprehensive Plan Regarding DC Zoning Commission Cases 11-17 and 12-17.<sup>1</sup> Ms. Lopez requested a waiver to submit the motion pursuant to 11 DCMR § 3000.8, which provides:

The Commission may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

Ms. Lopez did not indicate the rule for which a waiver was sought, but the Commission assumed the waiver pertained to the limitation of § 3029.5 that only parties may file motions for reconsideration and rehearing. In support of her request for a waiver Ms. Lopez asserted her

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<sup>1</sup> To the extent the Motion purported to encompass Z.C. Order No. 12-17, which concerned a related rulemaking, the Commission also voted to refuse to accept it. Because the case was a rulemaking, no order pertaining to that decision will be issued.

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“proximity to the proposed project site and the potential adverse impacts [she] will be uniquely facing.”

The Applicant opposed the waiver request.

As noted by the Board of Zoning Adjustment, only the existence of “extraordinary circumstances” would justify the waiver of the requirement that only a party may file a motion for reconsideration, such as when no notice of a hearing is given. *See Application No. 18263-A of Stephanie and John Lester* (2001), citing *Dietrich v. District of Columbia Bd. of Zoning Adjustment*, 293 A.2d 470, 471 n.2 (D.C. 1972). The Commission agrees with the Applicant that Ms. Lopez’s motion states no grounds supporting her request for waiving the requirement that only a party may file a motion for reconsideration or rehearing.

Rather, Ms. Lopez only asserts her disagreement with the Commission’s determination that she did not meet the criteria for being granted party status. The fact that the rules only permit parties to file post-decision motions reflects the Commission’s intent that denial of party status is not subject to further Commission review. Ms. Lopez’s attempt to revisit her party status denial is an attempt to circumvent that prohibition and cannot serve as a basis for permitting her, as a non-party, to submit a motion for reconsideration and rehearing.

For all the reasons stated above, the request filed by Teresa Lopez for waiver by the Commission of its rules to accept the Motion is hereby **DENIED**, and Ms. Lopez’s Motion was not accepted into the record of Z.C. Case Nos. 11-17 and 12-17.

This Order is not subject to further review by the Commission and any request to undertake such a review will not be accepted.

**VOTE:**           **5-0-0** (Peter J. May, Marcie I. Cohen, Anthony J. Hood, Robert E. Miller, and Michael G. Turnbull to deny.)

In accordance with 11 DCMR § 3028.8, this Order is final and effective upon its publication in the *D.C. Register* on August 9, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 11-17(2)**

**Z.C. CASE NO. 11-17**

**Adams Morgan Church Hotel, LLC**

**(Consolidated Planned Unit Development and Related Zoning Map Amendment for  
Square 2560, Lots 127, 872, and 875)**

**April 18, 2013**

**Order**

At a public meeting held on April 18, 2013, the Zoning Commission for the District of Columbia ("Commission") considered whether to waive its procedural rules and accept Blanca Aquino's motion for reconsideration of Z.C. Order No. 11-17. For the reasons discussed below, the Commission refused to accept her reconsideration request.

By Z.C. Order No. 11-17, the Commission granted the application of Adams Morgan Church Hotel, LLC, (along with successor entity Adams Morgan Hotel Owner, LLC, the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment from the RC/C-2-B and R-5-B Zone Districts to the RC/C-2-B Zone District for properties in Square 2560 known as Lots 127, 872, and 875.

Z.C. Order No. 11-17 was published in the *D.C. Register* on March 15, 2013, and became final and effective upon publication. Pursuant to § 3029.5 of the Commission's Rules of Practice and Procedure, a "motion for reconsideration, rehearing, or re-argument of a final order in a contested case under § 3022 may be filed by a party within ten (10) days of the order having become final." Therefore, any party who wished to file a motion for reconsideration was required to do so by March 25, 2013. A non-party could not file such a motion at all.

On March 25, 2013, Ms. Aquino, whose request for party status was denied by the Commission, filed a document entitled "Request for reconsideration; luxury hotel project in Adams Morgan Case No. 11-17 and 12-17."<sup>1</sup> Even though Ms. Aquino was not a party, the Office of Zoning provisionally accepted the document so that it could be translated into English and a determination made as to whether a waiver of the party status requirement was requested. The Request was assigned Exhibit No. 222. The Request, as translated, did not appear to seek a waiver of the requirement that only a party may file a motion for reconsideration. Nevertheless, the Request and its translation were presented to the Commission for its determination as to how to proceed.

On April 18, 2013, the Commission determined that although no request for a waiver of the party status requirement was made, it treated the Request as seeking such a waiver. Pursuant to § 3000.8 of the Commission's Rules of Practice and Procedure the "Commission may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law."

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<sup>1</sup> To the extent the Motion purported to encompass Z.C. Order No. 12-17, which concerned a related rulemaking, the Commission also voted to refuse to accept it. Because the case was a rulemaking, no order pertaining to that decision will be issued.

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As noted by the Board of Zoning Adjustment, only the existence of “extraordinary circumstances” would justify the waiver of the requirement that only a party may file a motion for reconsideration, such as when no notice of a hearing is given. *See Application No. 18263-A of Stephanie and John Lester* (2001), citing *Dietrich v. District of Columbia Bd. of Zoning Adjustment*, 293 A.2d 470, 471 n.2 (D.C. 1972). Ms. Aquino offers no basis whatsoever for granting such a request and none can be reasonably inferred.

For all the reasons stated above, the Request filed by Blanca Aquino for the Commission to accept the Request is hereby **DENIED**, and Ms. Aquino’s Request was not accepted into the record of Z.C. Case Nos. 11-17 and 12-17.

This Order is not subject to further review by the Commission and any request to undertake such a review will not be accepted

**VOTE:**           **5-0-0** (Anthony J. Hood, Peter J. May, Marcie I. Cohen, Robert E. Miller, and Michael G. Turnbull to deny.)

In accordance with 11 DCMR § 3028.8, this Order is final and effective upon its publication in the *D.C. Register* on August 9, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 11-17(3)**

**Z.C. CASE NO. 11-17**

**Adams Morgan Church Hotel, LLC**

**(Consolidated Planned Unit Development and Related Zoning Map Amendment for  
Square 2560, Lots 127, 872, and 875)**

**April 18, 2013**

**Order**

At a public meeting held on April 18, 2013, the Zoning Commission for the District of Columbia ("Commission") considered whether to waive its procedural rules and accept Ronald Gluck's request for reconsideration of the Commission's final order in Z.C. Case No. 11-17. For the reasons discussed below, the Commission declined to waive its rules and refused to accept his reconsideration request.

By Z.C. Order No. 11-17 in Z.C. Case No. 11-17, Commission granted the application of Adams Morgan Church Hotel, LLC, (along with successor entity Adams Morgan Hotel Owner, LLC, the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment from the RC/C-2-B and R-5-B Zone Districts to the RC/C-2-B Zone District for properties in Square 2560 known as Lots 127, 872, and 875.

Z.C. Order No. 11-17 ("Order") was published in the *D.C. Register* on March 15, 2013, and became final and effective upon publication. Pursuant to § 3029.5 of the Commission's Rules of Practice and Procedure, a "motion for reconsideration, rehearing, or re-argument of a final order in a contested case under § 3022 may be filed by a party within ten (10) days of the order having become final." Therefore, any party who wished to file a motion for reconsideration was required to do so by March 25, 2013. A non-party could not file such a motion at all.

On March 25, 2013, Mr. Gluck, who did not request party status, attempted to file a letter requesting reconsideration of the Order. The filing was rejected because Mr. Gluck was not a party. On March 27, 2013, Mr. Gluck filed a Motion for Leave to Accept a Motion/Letter for Reconsideration ("Motion"). The Motion indicated that it was being made pursuant to §§ 3008.8 and 3029.5.

Subsection § 3000.8 provides:

The Commission may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

Mr. Gluck sought a waiver the requirements of § 3029.5 that a motion for reconsideration be filed by a party and that the filing must occur within 10 days after the order became final.

In fact, Mr. Gluck attempted to file the motion within the time prescribed, so the only waiver the Commission needs to consider is the requirement that Mr. Gluck be a party.

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The Applicant opposed the waiver request.

As noted by the Board of Zoning Adjustment, only the existence of “extraordinary circumstances” would justify the waiver of the requirement that only a party may file a motion for reconsideration. *See Application No. 18263-A of Stephanie and John Lester* (2001). The *Lester* order noted that one such extraordinary circumstance is when no notice of a hearing is given. *Id. citing Dietrich v. District of Columbia Bd. of Zoning Adjustment*, 293 A.2d 470, 471 n.2 (D.C. 1972).

Here, Mr. Gluck’s claims that he was not given written notice by mail. This is correct. However, the reason Mr. Gluck did not receive mailed notice was because he was not entitled to any. Subsection § 3025.3 (a) only requires mailed notice to the owners of all property within two hundred feet of the property. Mr. Gluck’s property falls outside the 200 foot boundary according to the adjacent property list prepared by the District’s Office of Tax and Revenue filed as Exhibit 4 of the record. Notice of the hearing was given to Mr. Gluck as a member of the public through the publication and posting requirements of the regulations, and it is clear that he received such notice since he testified at the hearing as a witness of party opponent KCA and provided extensive written evidence into the record.

Mr. Gluck’s other basis for the waiver is the proximity of his property to the subject matter of this application. However, that would have furnished a motivation for him to have requested party status when it was the time to do so. It does not present a basis for waving the limitation that only those who did request and were granted party status may file motions for reconsideration.

For all the reasons stated above, Ronald Gluck’s Motion for Leave to Accept a Motion/Letter for Reconsideration is hereby **DENIED**, and Mr. Gluck’s Request was not accepted into the record of Z.C. Case No. 11-17.

This Order is not subject to further review by the Commission and any request to undertake such a review will not be accepted.

**VOTE:**           **5-0-0** (Marcie I. Cohen, Peter J. May, Anthony J. Hood, Robert E. Miller, and Michael G. Turnbull to deny.)

In accordance with 11 DCMR § 3028.8, this Order is final and effective upon its publication in the *D.C. Register* on August 9, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 11-17(4)**

**Z.C. CASE NO. 11-17**

**Adams Morgan Church Hotel, LLC**

**(Consolidated Planned Unit Development and Related Zoning Map Amendment for  
Square 2560, Lots 127, 872, and 875)**

**April 18, 2013**

**Order**

At a public meeting on April 18, 2013, the Zoning Commission for the District of Columbia ("Commission") considered and denied a motion requesting "reconsideration, re-argument, and/or rehearing" of Z.C. Case No. 11-17 filed by Champlain Street Neighbors: Hotel Study Group ("CSN"). As a preliminary matter to that determination the Commission granted a motion to strike all of the attachments to the CSN motion and denied CSN's request to amend and supplement its original motion. The factual and legal bases for the Commission's determinations follow.

**Factual background**

By Z.C. Order No. 11-17 in Z.C. Case No. 11-17, the Commission granted the application of Adams Morgan Church Hotel, LLC, (along with successor entity Adams Morgan Hotel Owner, LLC, the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment from the RC/C-2-B and R-5-B Zone Districts to the RC/C-2-B Zone District for properties in Square 2560 known as Lots 127, 872, and 875. The parties to the proceeding were the Applicant, Advisory Neighborhood Commission ("ANC") 1C, the Kalorama Citizens Association ("KCA"), and CSN. The Commission held hearings on the PUD application on September 6, September 13, October 10, and October 22, 2012. The record was closed on February 25, 2013.

Z.C. Order No. 11-17 was published in the *D.C. Register* on March 15, 2013, and became final and effective upon publication. Pursuant to § 3029.5 of the Commission's Rules of Practice and Procedure a "motion for reconsideration, rehearing, or re-argument of a final order in a contested case under § 3022 may be filed by a party within ten (10) days of the order having become final." Therefore, any such motion from CSN was required to be filed on March 25, 2013.

On March 22, 2013, the Commission received a Motion for Extension of Time to File Motion for Reconsideration of Final Order from CSN, requesting an additional 45 days to file such a motion. (Exhibit 218.) The motion referenced both this case and Z.C. Case No. 12-17, which was a related rulemaking. CSN noted that a Spanish language version of Z.C. Order 11-17 had not yet been issued, and that it should be granted sufficient time to review a translated order and prepare a motion.

The Applicant requested that the Commission deny CSN's request to the extent that it purported to seek an extension of time to file a motion to reconsider the rulemaking because § 3029.10 of



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the Commission's rules provide that motions to reconsider rulemaking actions "shall not be accepted or considered." As to this application, the Applicant opposed CSN's request, but did not object to a limited extension of 10-days following the translation of Z.C. Order No. 11-17 into Spanish.

On March 25, 2013 a Spanish language version of Z.C. Order No, 11-17 was provided to the parties. On that same date the Commission issued an Order on Motion (Exhibit 220), in which the Commission ordered that: (1) CSN shall have until April 4, 2013 (i.e., 10 days from the delivery of the translated order) to file any Motion for Reconsideration; and (2) the Office of Zoning shall accept no submissions from any party to this proceeding other than a timely filed motion for reconsideration filed by CSN and any responses thereto filed by the other parties ("Procedural Order"). The Procedural Order only pertained to Z.C. Case No. 11-17, since, as noted, a motion to reconsider a rulemaking may not be accepted or considered.

On April 4, 2013, CSN filed a "Post-Hearing Submission to Zoning Commission", included as Exhibit 227 of the Record. Apparently CSN intended the document to serve as a motion for reconsideration, re-argument, and re-hearing. For the sake of brevity the submission will hereinafter be referred to as CSN's "Motion for Reconsideration." Attached to the Motion for Reconsideration are nearly 200 pages of documentation that purport to provide new information necessary for the Commission's consideration<sup>1</sup>.

On April 5, 2013, CSN filed a "Motion to Amend and Supplement the Request for Reconsideration, Re-Argument, and/or Re-Hearing of Final Order No. 11-17", included as Exhibit 229 of the Record ("Motion to Amend").

The Applicant opposed the Motions for Reconsideration and to Amend by letter dated April 12, 2013. (Exhibit 230.) In its opposition, the Applicant requested that the Commission deny CSN's Motion for Reconsideration as without merit, for failure to substantiate with specificity and claims of error in the Commission's Order and for simply rearguing positions the Commission has already reviewed and considered. Further, the Applicant requested the Commission to strike any and all attachments to CSN's Motion for Reconsideration as violating the Procedural Order's prohibition against the filing of additional submissions. Finally, the Applicant requested that the Commission strike CSN's Motion to Amend for the same reason.

## CONCLUSIONS OF LAW

### 1. Preliminary Matters

#### *Applicant's Request to Strike Attachments to Motion for Reconsideration*

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<sup>1</sup> To the extent the Motion for Reconsideration purported to encompass Z.C. Order No. 12-17, it was considered as not having been accepted pursuant to § 3029.10.

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The Applicant points out in its opposition that the Motion for Reconsideration includes nearly 200 pages of documentation - letters, email correspondence, photos, and excerpts from the Comprehensive Plan that purport to provide new information necessary for the Commission's consideration. The Motion for Reconsideration does not explain why this information was not presented to the Commission while the record was still open. The Commission agrees with the Applicant that these attachments are simply an effort to include evidence in the record that was not submitted before the record was closed. These attachments and exhibits are therefore stricken from the record.

*CSN's Motion to Amend*

One day after filing its Motion for Reconsideration, CSN filed a motion to amend it. According to the motion, the attached amendments included a new edited version of CSN's Motion for Reconsideration, revised attachment sheets, an affidavit as to the trueness of the copies, and a great many statements from various members of the public.

The Procedural Order unequivocally stated that "the Office of Zoning shall accept no submissions from any party to this proceeding other than a timely filed motion for reconsideration filed by CSN and any responses thereto filed by the other parties."<sup>2</sup> The Commission carefully considered CSN's claims that it needed 45 days to file a motion for reconsideration, but agreed with the Applicant that 10 days from the issuance of a Spanish language version of the order would suffice. CSN's motion is nothing more than an attempt to re-litigate that determination. Since no review of this or any other procedural ruling is permitted, the Motion to Amend is denied.

2. The Merits of the Motion for Reconsideration.

The Zoning Regulations permit parties to request reconsideration, re-hearing, or re-argument of a contested case. The Regulations require that such motions state specifically the aspects of the final order claimed to be erroneous, the grounds of the motion, and the relief sought. (11 DCMR § 3029.6.)

The Commission agrees with the Applicant that the Motion for Reconsideration does not point out any specific deficiencies with the Order, but instead re-argues issues that were already raised and considered by the Commission. Further, CSN's motion did not provide a basis for granting a

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<sup>2</sup> The Office of Zoning Staff therefore did not provide the Motion's attachments to the Commission nor enter the attachments into the record. The Commission may not issue any order except upon "the exclusive record". D.C. Official Code § 2-509 (c). As noted by the Supreme Court, "[a]dministrative consideration of evidence... always creates a gap between the time the record is closed and the time the administrative decision is promulgated. *United States v. I. C. C.*, 396 U.S. 491, 521 (1970). Since the record was at this point closed, the Commission could not consider the type of substantive materials attached to the Motion to Amend unless and until it had granted the motion and made the material part of the exclusive record.

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rehearing because the evidence it proposes to introduce could reasonably have been presented at the original hearing. The Commission, therefore, concludes there is no basis for reconsidering re-arguing, or re-hearing its decision in Z.C. Case No. 11-17.

For all the reasons stated above, the request filed by the Applicant to strike all attachments and exhibits to CSN's Post-Hearing Submission to the Commission is hereby **GRANTED**.

This Order is not subject to further review by the Commission and any request to undertake such a review will not be accepted.

**VOTE:**           **5-0-0** (Marcie I. Cohen, Robert E. Miller, Peter J. May, Anthony J. Hood, and Michael G. Turnbull to grant.)

For all the reasons stated above, the Motion to Amend and Supplement the Request for Reconsideration, Re-Argument, and/or Re-Hearing of Final Order No. 11-17 filed by CSN is hereby **DENIED**.

**VOTE:**           **5-0-0** (Peter J. May, Marcie I. Cohen, Anthony J. Hood, Robert E. Miller, and Michael G. Turnbull to deny.)

For all the reasons stated above, the request for “reconsideration, re-argument, and/or rehearing” of Z.C. Case Nos. 11-17 and 12-17 included in CSN's Post-Hearing Submission to Zoning Commission is hereby **DENIED**.

**VOTE:**           **5-0-0** (Peter J. May, Marcie I. Cohen, Anthony J. Hood, Robert E. Miller, and Michael G. Turnbull to deny.)

In accordance with 11 DCMR § 3028.8, this Order is final and effective upon its publication in the *D.C. Register* on August 9, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 11-17(5)**

**Z.C. CASE NO. 11-17**

**Adams Morgan Church Hotel, LLC**

**(Consolidated Planned Unit Development and Related Zoning Map Amendment for  
Square 2560, Lots 127, 872, and 875)**

**April 18, 2013**

**Order**

At a public meeting held on April 29, 2013, the Zoning Commission for the District of Columbia ("Commission") considered whether to waive its procedural rules and accept Mary Jane Owen's motion for reconsideration of the Commission's final order in Z.C. Case No. 11-17. For the reasons discussed below, the Commission declined to waive its rules and refused to accept her reconsideration motion.

By Z.C. Order No. 11-17 in Z.C. Case No. 11-17, the Commission granted the application of Adams Morgan Church Hotel, LLC, (along with successor entity Adams Morgan Hotel Owner, LLC, the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment from the RC/C-2-B and R-5-B Zone Districts to the RC/C-2-B Zone District for properties in Square 2560 known as Lots 127, 872, and 875.

Z.C. Order No. 11-17 was published in the *D.C. Register* on March 15, 2013, and became final and effective upon publication. Pursuant to § 3029.5 of the Commission's Rules of Practice and Procedure, a "motion for reconsideration, rehearing, or re-argument of a final order in a contested case under § 3022 may be filed by a party within ten (10) days of the order having become final." Therefore, any party who wished to file a motion for reconsideration was required to do so by March 25, 2013. A non-party could not file such a motion at all.

Ms. Owens, who was not a party in this proceeding, filed a motion for reconsideration on April 16, 2013. Because she was not a party and the motion was not timely filed, the Office of Zoning refused to accept the motion but instructed her to request a waiver of both preconditions.

On April 23, 2013, the Commission received a letter from Ms. Owen's requesting the waivers pursuant to 11 DCMR § 3000.8. The Applicant opposed the request.

Subsection 3000.8 provides:

The Commission may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

The Commission concludes Ms. Owen failed to show good cause why the Commission should permit her, as a non-party, to file a motion for reconsideration. As noted by the Board of Zoning Adjustment, only the existence of "extraordinary circumstances" would justify the waiver of the

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requirement that only a party may file a motion for reconsideration, such as when no notice of a hearing is given. *See Application No. 18263-A of Stephanie and John Lester* (2001), citing *Dietrich v. District of Columbia Bd. of Zoning Adjustment*, 293 A.2d 470, 471 n.2 (D.C. 1972).

In fact, her waiver request makes no relevant argument in this regard, but concerns unrelated events that occurred on April 18, 2013, when the Commission held a special public meeting to deliberate upon post-decision motions filed in this case by other groups and persons. Apparently, Ms. Owen believed that the meeting would start at 6:30 p.m. when in fact it was scheduled to begin at 6:15 p.m. As a result of this misunderstanding, Ms. Owen was not in the hearing room during the deliberations she had come to witness. Though regrettable, these circumstances do not furnish a basis for waiving the rule permitting only parties to file motions for reconsideration.

For all the reasons stated above, the request filed by Mary Jane Owen to the Commission to accept a late-filed motion for reconsideration filed by a non-party is hereby **DENIED**, and Ms. Owen's motion for reconsideration was not accepted into the record of Z.C. Case No. 11-17.

This Order is not subject to further review by the Commission and any request to undertake such a review will not be accepted.

**VOTE:**           **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Peter J. May, Robert E. Miller, and Michael G. Turnbull to deny.)

In accordance with 11 DCMR § 3028.8, this Order is final and effective upon its publication in the *D.C. Register* on August 9, 2013.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 11-24(1)**  
**Z.C. Case No. 11-24**  
**STANTON-EASTBANC, LLC**  
**(Consolidated Approval of a Planned Unit Development and**  
**Related Zoning Map Amendment @ Square 901, Lot 801)**  
**April 8, 2013**

**Order**

At a public meeting held on April 8, 2013, the Zoning Commission for the District of Columbia ("Commission") denied the requests of Christopher Howell and Wendy Blair to accept their motions to reconsider Z.C. Order No. 11-24. Neither Mr. Howell nor Ms. Blair was a party to this proceeding and Ms. Blair's motion for reconsideration was submitted more than 10 days after Z.C. Order No. 11-24 became final. As a preliminary matter the Commission also declined to accept Mr. Howell's reply to an Opposition to his request. The factual and legal bases for the Commission decision follows:

By Z.C. Order No. 11-24 the Zoning Commission for the District of Columbia ("Commission") granted the application of Stanton-Eastbanc, LLC ("Applicant") requesting a consolidated planned unit development ("PUD"), and related amendment to the zoning map from R-4 to the C-2-B Zone District, for the property known as Square 901, Lot 801 ("Application").

Z.C. Order No. 11-24 was published in the *D.C. Register* on March 8, 2013 and became final and effective upon publication.

Pursuant to § 3029.5 of the Commission's Rules of Practice and Procedure, a "motion for reconsideration, rehearing, or re-argument of a final order in a contested case under § 3022 may be filed by a party within ten (10) days of the order having become final." Therefore, any party who wished to file a motion for reconsideration was required to do so by March 18, 2013. A non-party could not file such a motion at all.

On March 18, 2013, Christopher Howell, who was not a party, filed a "Motion for Leave to File" an attached motion to reconsider Z.C. Order No. 11-24. (Exhibit 488.)

On March 29, 2013, Wendy Blair, who also was not a party, filed a "Motion for Leave of the Zoning Commission to Reconsider" Z.C. Order No. 11-24. Exhibit 491.

Both motions sought a waiver of the portion of § 3029.5 that permits only parties to file for reconsideration. Ms. Blair also requested a waiver from the requirement that such motions be filed within 10 days after the order became final.

Subsection 3000.8 of the Commission's Rules of Practice and Procedure provides:

The Commission may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.

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On March 25, 2013 the Applicant filed an Opposition to both Mr. Howell's motion to file and to his motion for reconsideration. (Exhibit 489.)

On March 29, 2013, Mr. Howell also filed a Motion for Leave to File a Reply to the Opposition. The pleading indicated that Mr. Howell had attempted to file the reply on March 28<sup>th</sup>, but had been advised by the Office of Zoning that the Commission must first grant him permission to do so.

The Applicant did not file an opposition to Ms. Blair's request for leave.

1. The Request to Accept a Reply to the Opposition

The Applicant's Opposition concerned both Mr. Howell's request for leave to file a motion for reconsideration and to the motion for reconsideration itself. Mr. Howell is asking permission to file a reply that addresses both aspects of the Opposition.

As to Mr. Howell's request to waive the requirement of § 3029.5 that he be a party, such requests are allowed by 11 DCMR § 3000.8. That provision does not provide for either an opposition or a reply. However, the Commission has traditionally permitted applicants to oppose waiver requests, since one of the elements is whether a party will be prejudiced by the waiver. In the two instances where the Commission's rules expressly permit parties to respond to a submission, replies are not authorized. *See* § 3024.3 (responses to the submissions of a party) and § 3029.5 (oppositions to motions for reconsideration). The Commission sees no reason to permit a reply to an opposition for a waiver and therefore denies Mr. Howell's request to submit his.

As to Mr. Howell's request to reply to that portion of the Applicant's Opposition that pertained to his Motion for Reconsideration, the Commission's decision not to accept that motion has rendered the Applicant's Opposition moot along with Mr. Howell's wish to reply to it.

2. The Requests for Waivers

*Requests to Permit a Non-Party to File Motion for Reconsideration*

The Commission concludes that neither Mr. Howell nor Ms. Blair has shown good cause for waiver of the prohibition against a non-party filing a motion for reconsideration.

As noted by the Board of Zoning Adjustment, only the existence of "extraordinary circumstances" would justify the waiver of the requirement that only a party may file a motion for reconsideration, such as when no notice of a hearing is given. *See Application No. 18263-A of Stephanie and John Lester* (2001), *citing Dietrich v. District of Columbia Bd. of Zoning Adjustment*, 293 A.2d 470, 471 n.2 (D.C. 1972). Both Mr. Howell and Ms. Blair argue that their motions raise important issues. The Commission does not doubt Mr. Howell's and Ms. Blair's

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belief in the merit of their argument, but the fact that they hold such a belief is hardly “extraordinary” and therefore does not furnish a ground for waiving the party status requirement. Ms. Blair also states that several of the persons supporting her motion were members of groups who were granted party status. That alone does not turn those persons into parties or warrant a waiver of the party status prerequisite.

*Request to File an Untimely Motion for Reconsideration*

Although the Commission’s refusal to waive the party status requirement means that Ms. Blair’s motion will not be accepted, the Commission finds that a separate basis exists for the rejection of the motion; namely that Ms. Blair has not shown good cause why her motion could not be filed within the ten days provided by § 3029.5. Ms. Blair notes that many persons were involved in the decision to file the motion who “required more time to come together to review, discuss, and address documents as long and as technical as ... [Z.C. Order No. 11-24].”

Ms. Blair’s motion was filed 21 days after the Order became effective. This is more than twice the amount of time authorized by the rule. PUD orders are by their nature complex and the 10 days permitted by the rules for the filing of a reconsideration motion takes this into account. The fact that Ms. Blair chose to seek the support of community members does not furnish a basis for extending this time period. There is no requirement that a motion for reconsideration demonstrate the existence of community support, only that it demonstrates an erroneous action by the Commission. Therefore, the justifications offered by Ms. Blair for her delay in filing a motion for reconsideration are without merit.

At its public meeting held on April 8, 2013, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission voted **4-0-1** to **DENY**: (1) the Howell Motion for Leave to File Reconsideration Motion, (2) the Blair Motion for Leave, and (3) the Howell Motion for Leave to File a Reply to the Opposition to the Motion for Leave filed by the Applicant.

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register* on August 9, 2013.



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