

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To amend An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, to include construction code violations as bases for summary correction of life-or-health threatening conditions and to revise the service of process rules; to amend the Rental Housing Conversion and Sale Act of 1980 to extend relocation and storage expense assistance to displaced tenants while a condemnation proceeding is pending and to set the amount of relocation and storage expenses available to such tenants; to amend the Rental Housing Act of 1985 to clarify the Mayor's right to inspect housing accommodations and to apply for administrative search warrants to gain access where a landlord or tenant fails to cooperate with attempts at authorized inspections; to amend the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000 to add construction code violations as bases for the appointment of a tenant receivership, to remove the 50% limit on the amount of rent available for abatement actions by a receiver, to provide that a receiver may be ordered where a rental housing accommodation is operated in a manner that demonstrates a pattern of neglect for the property for 30 successive days, to provide that service of notices of violation may be effected by posting the notices in or about the property, and to provide that a court may in appropriate circumstances order a respondent to contribute funds in addition to amounts collected as rent for the abatement of housing code violations; and to amend Title 14 of the District of Columbia Municipal Regulations to permit civil and criminal sanctions for housing code violations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Abatement of Nuisance Properties and Tenant Receivership Amendment Act of 2008".

Sec. 2. An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01 *et seq.*), is amended as follows:

ENROLLED ORIGINAL

(a) Section 1(c)(1) (D.C. Official Code § 42-3131.01(c)(1)) is amended by striking the phrase “housing regulation violations” and inserting the phrase “housing regulation violations or violations of the construction codes” in its place.

Amend
§ 42-3131.01

(b) Section 3(3) and (4) (D.C. Official Code § 42-3131.03(3) and (4)) is amended to read as follows:

Amend
§ 42-3131.03

“(3) If no such office can be found in the District by reasonable search, if forwarded by first-class mail to the last-known address of the person to be notified, or the person’s agent, as determined by the tax records, business license records, or business entity registration records, and not returned by the post office authorities;

“(4) If no address be known or can by reasonable diligence be ascertained, or if any notice forwarded as authorized by paragraph (3) of this section shall be returned by the post office authorities, if posted in a conspicuous place in or about the property affected by the notice; or.”

Sec. 3. The Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3401.01 *et seq.*), is amended as follows:

(a) Section 302(b) (D.C. Official Code § 42-3403.02(b)) is amended by striking the phrase “is not required to pay more than \$500 to the tenant” and inserting the phrase “is not required to pay more than \$1,000 to the tenant” in its place.

Amend
§ 42-3403.02

(b) Section 307(b)(2)(B) (D.C. Official Code § 42-3403.07(b)(2)(B)) is amended to read as follows:

Amend
§ 42-3403.07

“(B) For relocation payments for tenants displaced from housing that is subject to proceedings under the provisions of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, approved May 1, 1906 (34 Stat.157; D.C. Official Code § 6-901 *et seq.*); provided, that:

(i) Relocation payments may include payments for 2 months of storage, security deposit, 1st month’s rent, actual moving expenses, and other items incidental to the relocation as approved by the Office of the Tenant Advocate.

“(ii) To receive relocation payments, the tenant shall:

“(I) Be low-income;

“(II) Apply for the assistance; and

“(III) Reside or intend to reside within the District of Columbia after condemnation of the housing accommodation.

“(iii) The amount and method of relocation payments shall be determined by the Office of the Tenant Advocate.”

Sec. 4. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 907 (D.C. Official Code § 42-3509.07) is amended by striking the phrase “except titles III and V” and inserting the phrase “except titles III and V and section 908,” in its place.

(b) A new section 908 is added to read as follows:

“Sec. 908. Inspection of rental housing.

“(a) Notwithstanding any other law or rule to the contrary, for the purpose of determining whether any housing accommodation is in compliance with applicable housing rules or construction code rules, the Mayor may enter upon and into any housing accommodation in the District, during all reasonable hours, to inspect the same; provided, that if a tenant of a housing accommodation does not give permission to inspect that portion of the premises under the tenant’s exclusive control, the Mayor shall not enter that portion of the premises unless the Mayor has:

“(1) A valid administrative search warrant pursuant to subsection (d) of this section which permits the inspection; or

“(2) A reasonable basis to believe that exigent circumstances require immediate entry into that portion of the premises to prevent an imminent danger to the public health or welfare.

“(b) Any person who shall hinder, interfere with, or prevent any inspection authorized by this act shall, upon conviction thereof, be punished by a fine not exceeding \$100, by imprisonment for a period not exceeding 3 months, or both.

“(c) The Mayor may apply to a judge of the District of Columbia for an administrative search warrant to enter any premises to conduct any inspection authorized by subsection (a) of this section.

“(d) A judge may issue the warrant if the judge finds that:

“(1) The applicant is authorized or required by law to make the inspection;

“(2) The applicant has demonstrated that the inspection of the premises is sought as a result of:

“(A) Evidence of an existing violation of the housing regulations, codified in Title 14 of the District of Columbia Municipal Regulations, the construction codes, codified in Title 12 of the District of Columbia Municipal Regulations, or other law; or

“(B) A general and neutral administrative plan to conduct periodic inspections relating to issuance or renewal of housing business licenses or for conducting fire or life safety inspections;

“(3) The owner, tenant, or other individual in charge of the property has denied access to the property, or, after making a reasonable effort, the applicant has been unable to contact any of these individuals; and

“(4) The inspection is sought for health or safety-related purposes.”.

Sec. 5. The Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-281; D.C. Official Code § 42-3651.01 *et seq.*), is amended as follows:

(a) Section 502 (D.C. Official Code § 42-3651.02) is amended to read as follows:

Amend § 42-3651.02

“Sec. 502. Grounds for appointment of a receiver.

“(a)(1) A receiver may be appointed if a rental housing accommodation has been cited by the Department of Consumer and Regulatory Affairs for a violation of chapters 1 through 16 of Title 14 of the District of Columbia Municipal Regulations or Title 12 of the District of Columbia Municipal Regulations, or its equivalent, which violation poses a serious threat to the health, safety, or security of the tenants; and

“(2) The owner, agent, lessor, or manager has been properly notified of the violation but has failed timely to abate the violations; provided, that proper notification shall be deemed to have been effected if a copy of the notice has been served pursuant to applicable law or rule, or as follows:

“(A) By personal service on the property owner, lessor, or manager or the agent thereof;

“(B) By delivering the notice to the last known home or business address of the property owner, lessor, manager, or agent as identified by the tax records, business license records, or business entity registration records, and leaving it with a person over 16 years of age residing or employed therein;

“(C) By mailing the notice, via first-class mail postage prepaid, to the last known home or business address of the property owner, lessor, manager, or agent as identified by the tax records, business license records, or business entity registration records; or

“(D) If the notice is returned as undeliverable by the post office authorities, or if no address is known or can be ascertained from the District’s tax, business license, or business entity registration records, by posting a copy of the notice in a conspicuous place in or about the structure affected by such notice.

“(b) A receiver may also be appointed if a rental housing accommodation has been operated in a manner that demonstrates a pattern of neglect for the property for a period of 30 consecutive days and such neglect poses a serious threat to the health, safety, or security of the tenants. For purposes of this subsection, the term “pattern of neglect” includes all evidence that the owner, agent, lessor, or manager of the rental housing accommodation has maintained the premises in a serious state of disrepair, including vermin or rat infestation, filth or contamination, inadequate ventilation, illumination, sanitary, heating or life safety facilities, inoperative fire suppression or warning equipment, or any other condition that constitutes a hazard to its occupants or to the public.”.

(b) Section 505 (D.C. Official Code § 42-3651.05) is amended by adding a new subsection (e) to read as follows:

Amend § 42-3651.05

“(e) As part of any order appointing a receiver, or in any plan for abatement presented by a respondent, the Court may, in appropriate circumstances, order that the respondent

contribute funds in excess of the rents collected from the rental housing accommodation for the purposes of abating housing code violations and assuring that any conditions that are a serious threat to the health, safety, or security of the occupants or public are corrected.”.

(c) Section 506(c)(1) (D.C. Official Code § 42-3651.06(c)(1)) is amended by striking the phrase “no more than one-half of”.

**Amend
§ 42-3651.06**

Sec. 6. Subsection 102.4 of Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 102.4), is amended to read as follows:

DCMR

“102.4 Civil fines, penalties, and fees may be imposed as additional sanctions for any violation of this chapter or chapters 1 through 14 of this subtitle, pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985. Adjudication of any infraction of this chapter or chapters 2 through 14 of this subtitle, shall be pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985.”.

Sec. 7. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer, dated November 25, 2008, 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. 8. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in 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