

COUNCIL OF THE DISTRICT OF COLUMBIA

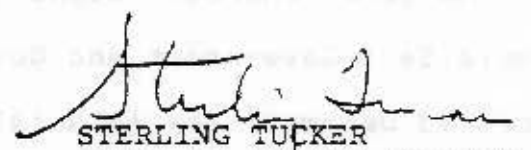
NOTICE

D. C. Law 2-91

"Residential Real Property Transfer
Excise Tax Act of 1978"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 2-101 on first, amended first, second amended first reading, and second readings February 21, 1978, March 7, 1978, March 21, 1978 and April 4, 1978, respectively. Following the signature of the Mayor on April 27, 1978, this legislation was assigned Act 2-189, published in the May 26, 1978, edition of the D.C. Register, and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602 (c) (1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has expired and, therefore, cites the following legislation as D.C. Law 2-91, effective July 13, 1978.


STERLING TUCKER
Chairman of the Council

(Vol. 24, D.C. Register, 9765, May 26, 1978)

D.C. LAW

2-91

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 13, 1978

To establish a Residential Real Property Transfer Excise Tax, to require recordation of transfers of real property, to provide for the licensing of those who deal in residential real property, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Residential Real Property Transfer Excise Tax Act of 1978".

TITLE I

DEFINITIONS

Sec. 101. For the purposes of this act, unless otherwise indicated:

(a) The term "basis" shall have the same meaning as does that term when determining gain or loss under subtitle A, chapter 1, subchapter D, part II of the Internal Revenue Code (68A Stat. 4 et seq.; 26 U.S.C. 1 et seq.).

(b) The term "Charter" means title IV of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 785; D.C. Code, sec. 1-124).

(c) The term "Commission" means the Real Estate Commission of the District of Columbia as established in

section 3 of the Act of August 25, 1937 (50 Stat. 788; D.C. Code, sec. 45-1403).

(d) The term "consideration" means the amount paid or required to be paid, or the value exchanged or required to be exchanged by a transferee to acquire residential real property.

(e) The term "Council" means the Council of the District of Columbia established under section 401 of the Charter.

(f) The term "dealer in residential real property" and the term "dealer" means any person who transfers three (3) or more residential real properties within a period of thirty (30) months. The following transfers of residential real property (as defined by this title) shall not be considered for the purpose of determining whether the transferor is a dealer:

(1) transfers prior to the effective date;

(2) transfers of a transferor's principal residence (as defined by this title);

(3) transfers to or by a District of Columbia non-profit organization which is organized and operated for the purpose of constructing, improving, or renovating residential real property: PROVIDED, That such organization is exempt from federal income taxation under section 501(a)

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and is described in section 501(c)(3) of the Internal Revenue Code. Transfers by such organization must be made in furtherance of the organization's exempt purpose;

(4) transfers to or by the federal government or the government of the District of Columbia, their agencies and instrumentalities, and the first transfer after the transfer by said governments: PROVIDED, That said first transfer after the transfer by said governments is governed by laws and regulations pertaining to a housing or community development program administered by the District or federal government;

(5) transfers in which the transferee neither gives nor is required to give any consideration in any form (including transfers by gift, deeds of correction, deeds which merely change tenancy, and deeds of trust): PROVIDED, That the basis of the property in the hands of the transferee shall be the same as it was in the hands of the transferor;

(6) transfers where the property being transferred was received by the transferor without giving or being required to give any consideration in any form: PROVIDED, That the transferor shall prove by clear and convincing evidence, upon all the facts and circumstances, that the transfer in which the transferor received the property was

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not made for the purpose of excluding the instant transfer from consideration in determining if the transferor is a dealer (as defined by this subsection). It shall be presumed that the transfer in which the transferor received the property without consideration was made for the purpose of excluding the instant transfer from consideration in determining whether the transferor is a dealer. The transferor must include sufficient information on the return, filed pursuant to section 205 of title II of this act, to rebut said presumption. The regulations prescribed by the Mayor shall set forth the information which will be deemed sufficient to rebut said presumption;

(7) transfers by devise, or as a result of intestate succession;

(8) transfers where the property being transferred was received by the transferor by devise or as a result of intestate succession;

(9) transfers executed by persons in their capacity as court-appointed receivers, referees, administrators, executors, conservators, guardians of the estates of minors, and committees of the estates of persons judicially determined to be mentally incompetent;

(10) the first transfer of property, the construction of which was completed after the effective date

(as defined by this title) regardless of when the construction began. The construction of property shall be considered complete at the time such construction is completed to the same extent required for the issuance of a certificate of occupancy, as that term is used in section 10 of the Act of June 20, 1938 (52 Stat. 800; D.C. Code, sec. 5-422) (relating to certificates of occupancy). This paragraph applies only to newly-constructed structures and not to rehabilitated structures;

(11) foreclosure sales, and the first transfer thereafter if said first transfer is made by the mortgagee who instituted the foreclosure proceedings and purchased the property at the foreclosure sale, or obtained title directly from the defaulting party without a foreclosure sale:

PROVIDED, That said mortgagee is licensed in the District of Columbia as a bank or other financial institution;

(12) deeds of release of property where the property was security for a debt or other obligation; and

(13) transfers by a transferor whose holding period (as defined by this title) for the property being transferred was longer than thirty-six (36) months.

(g) The term "deed recordation tax" means the tax imposed by section 303 of the Act of March 2, 1962, as amended (76 Stat. 12; D.C. Code, sec. 45-723).

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(h) The term "deficiency" shall have the same meaning given to that term by section 4 of title I of the Act of July 16, 1947 (61 Stat. 332; D.C. Code, sec. 47-1551c(q)).

(i) The term "effective date" means the date on which this act takes effect according to the provisions of section 602(c)(1) of the Charter.

(j) The term "equitable title" means a right in a party to have the legal title to a residential real property (or real property, solely for purposes of title III of this act) transferred to such party. The term shall also include any right to receive equitable title by means of an option to purchase or otherwise.

(k) The term "gain" means the excess of the consideration received by a transferor over the transferor's basis for the property (as defined by this title) transferred.

(l) The term "fair market value" means the price at which a willing seller and a willing buyer will trade or the price which would in all probability have been arrived at between a willing seller and a willing buyer.

(m) The term "holding period" shall have the same meaning as does that term for purposes of section 1223 of the Internal Revenue Code.

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(n) The term "Internal Revenue Code" means the Internal Revenue Code of 1954 (68 Stat. 4 et seq.; 26 U.S.C.1 et seq.) and any amendments thereto.

(o) The term "legal holiday" means any District of Columbia public holiday, including Saturday and Sunday, as designated by the Act of August 30, 1964, as amended (78 Stat. 671; D.C. Code, sec. 28-2701).

(p) The term "legal title" means complete and perfect title to residential real property (or real property, solely for purposes of title III of this act) in the party to whom such title belongs so far as regards the apparent right of ownership and possession of the residential real property (or real property, solely for purposes of title III of this act) but which carries no beneficial interest in the property, another person being equitably entitled thereto.

(q) The term "major appliances" shall include the following appliances if a transferor transfers such appliances when transferring residential real property: refrigerator, cooking range, oven, dishwasher, garbage disposal, trash compactor, and washer and dryer.

(r) The term "Mayor" means the Mayor of the District of Columbia established under section 421 of the Charter.

(s) The term "person" means any individual, firm, partnership, copartnership, joint venture, association,

corporation (domestic or foreign), trust, trustee of any estate, or court appointed receiver.

(t) The term "principal residence" shall have the same meaning as does that term for purposes of section 1034 of the Internal Revenue Code: EXCEPT, That in determining whether a residential real property is the principal residence of a transferor, in addition to consideration of all the facts and circumstances as provided by section 1034 of the Internal Revenue Code, the property must have been the principal residence of the transferor for the one hundred and eighty (180) day period immediately preceding the transfer.

(u) The term "real covenant" means an agreement between two (2) or more persons relating to a property, the terms of which shall be binding on any heir or assign of the promisor under the agreement and which shall be enforceable by the person holding legal title to said property.

(v) The term "real property" means improved as well as unimproved land in the District of Columbia.

(w) The term "residential real property" or "property" means improved real property in the District of Columbia which at any time during the twelve (12) months immediately preceding its transfer contained not more than four (4) dwelling units. The term "dwelling unit" shall have the

same meaning as given to that term in the Zoning Regulations of the District of Columbia (chapter I, article 12, section 1202, page 5, as amended through May 11, 1977).

(x) The term "solicitation" means any act which would cause a person to come within the definition of solicitor of residential real property.

(y) The term "solicitor of residential real property" means a person who, without prior invitation from the holder of legal title to a residential real property, offers to purchase or expresses a desire to purchase such property, or in any other way attempts to persuade or induce such holder to sell or otherwise transfer such title.

(z) The term "tax", "excise" or "excise tax" means the tax imposed by this act.

(aa) The term "third party" means all persons who are not parties to a contract, agreement, or instrument of writing by which their interest in the thing conveyed is sought to be effected.

(bb) The term "transfer" means a transaction by which residential real property (or real property, solely for purposes of title III of this act), or any title or right to receive any title thereto, or any portion thereof, or any interest therein (except a proprietary lease and a rental lease, unless such rental lease includes an option or right

to buy) is either directly or indirectly conveyed, vested, granted, devised, bargained, sold, exchanged or assigned by any document, instrument, writing, agreement, or by any means whatsoever.

(cc) The term "transferee" means the person (or persons) to whom a transfer of residential real property (or real property, solely for purposes of title III of this act) is made.

(dd) The term "transferor" means the person (or persons) who makes a transfer of residential real property (or real property, solely for purposes of title III of this act).

(ee) The term "vacant" means not occupied by the person having legal title or other title to the property and without other lawful occupants.

TITLE II

RESIDENTIAL REAL PROPERTY TRANSFER EXCISE TAX

Sec. 201. Imposition of Excise Tax

(a) Except as provided under subsections (b) and (d) of this section and section 202 of this title, there is hereby imposed, in addition to all other taxes, an excise tax on the transfer of residential real property. The transferor shall be liable for payment of the excise.

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(b) If a transferor transfers both equitable title and legal title to a residential real property, then the tax imposed in subsection (a) of this section shall apply only to the transfer of the legal title to the property.

(c) Where two (2) or more transferors jointly transfer property, each transferor shall be jointly and severally liable for the excise tax imposed in subsection (a).

(d) The tax imposed by subsection (a) of this section shall be applied only during the three (3) year period after the effective date.

Sec. 202. Exempt Transfers

The following transfers of property are exempt from the excise tax imposed by this title:

(a)(1) transfers of property which the transferor warrants in writing that the property is fit for occupancy and use and against defective structure, materials and workmanship for a period of two (2) years from the date of the transfer. Said two (2) year warranty shall apply to the cost of labor, materials, and any related costs for at least the following: roof; guttering and downspout; heating system (including furnace); electrical system; plumbing system; hot water heater and tank; dry basement and air-conditioning system;

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(2) transfers of property which the transferor warrants in writing that the major appliances, as defined in title I of this act, transferred with the property are fit for the purpose for which they were made and against defective materials and workmanship, for a period of one (1) year from the date of the transfer, not to exceed the period of coverage of any manufacturer's warranty on any major appliance. Said one (1) year warranty shall apply to the cost of labor, materials and any related costs for such appliances. The warranties set forth in paragraphs (1) and (2) of this subsection shall be real covenants during the period of their duration and shall not include the cost of labor, materials, and any related costs for damage intentionally or negligently caused by the transferee nor shall they include maintenance work resulting from normal wear and tear; and

(3) transfers of property which are certified by a District of Columbia agency designated by the Mayor that the property meets the standards required by the applicable articles of chapters 1 and 2 of the Housing Regulations of the District of Columbia as of the date of the transfer. A transferor claiming an exemption under this subsection shall submit a written request to the agency designated by the Mayor requesting an inspection of the property. Such agency

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shall within twenty (20) calendar days after receipt of such request, issue in writing a statement setting forth the street address and the lot and square number of the property inspected, the date of inspection, the name of the inspector and whether the property meets the standards required by the applicable articles of chapters 1 and 2 of the Housing Regulations of the District of Columbia. If such agency, after inspection, determines that the property does not meet the standards required by the applicable articles of chapters 1 and 2 of the Housing Regulations of the District of Columbia, the statement issued by the agency shall set forth the reasons for such determination.

(4) If such agency fails within said twenty (20) calendar day period to complete the inspection and issue a written statement, as set forth in paragraph (3), indicating whether the property meets the standards required by the applicable articles of chapters 1 and 2 of the Housing Regulations of the District of Columbia, then in lieu thereof the transferor may under the following preconditions certify that the property meets said articles of the Housing Regulations of the District of Columbia:

(A) a person selected by or approved in writing by the transferee inspects the property;

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(B) that the person selected is a professional engineer (i.e., electrical, structural, mechanical, or civil) or a contractor licensed by the District of Columbia government;

(C) the person inspecting the property states in writing, item by item, whether the property meets the standards required by the applicable articles of chapters 1 and 2 of the Housing Regulations of the District of Columbia;

(D) such inspector's written itemized statement is provided to the transferor and a copy provided to the transferee; and

(E) any costs incurred for the inspection are borne by the transferor only.

Within thirty (30) days from the effective date, the Mayor shall develop such forms and procedures as are necessary to carry out the provisions of this subsection. The warranties set forth in paragraphs (1) and (2) of this subsection and the certification set forth in paragraph (3) and (4) of this subsection, whichever is applicable, shall be executed only on the forms developed by the Mayor, and shall be executed under oath and fully acknowledged. The transferor giving the warranties set forth in this subsection shall provide a copy to the transferee and file a copy with the Mayor in a

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manner prescribed by the Mayor. A copy of the certification as provided by paragraph (3) and (4) of this subsection, whichever is applicable, shall be provided to the transferor and the transferee and a copy shall be filed with the Mayor in a manner prescribed by the Mayor. The warranties and certification filed with the Mayor shall be listed on a public record determined by the Mayor;

(b) transfers of a transferor's principal residence;

(c) transfers by an employee of the United States government whose principal residence is outside of the Washington, D.C. Standard Metropolitan Statistical Area: PROVIDED, That the transferor resided in the property for the six (6) month period immediately preceding the transfer;

(d) the first transfer, during the first six (6) months after the effective date, of residential real property which was vacant on or before July 1, 1977 and which has been vacant since that date;

(e) transfers to or by the federal government or the government of the District of Columbia, their agencies and instrumentalities, and the first transfer after the transfer by said governments: PROVIDED, That said first transfer after the transfer by said governments is governed by laws and regulations pertaining to a housing or community

development program administered by the District or federal government;

{f} transfers to or by a District of Columbia non-profit organization which is organized and operated for the purpose of constructing, improving, or renovating residential real property: PROVIDED, That such organization is exempt from federal income taxation under section 501(a) and is described in section 501(c)(3) of the Internal Revenue Code. Transfers by such organization must be made in furtherance of the organization's exempt purpose;

{g} transfers in which the transferee neither gives nor is required to give any consideration, in any form (including transfers by gift, deeds of correction, deeds which merely change tenancy, and deeds of trust): PROVIDED, That the basis of the property in the hands of the transferee shall be the same as it was in the hands of the transferor;

{h} the first transfer of property, the construction of which was completed after the effective date, regardless of when construction began. The construction of property shall be considered complete at the time such construction is completed to the same extent required for the issuance of a certificate of occupancy, as that term is used in section 10 of the Act of June 20, 1938 (52 Stat. 800; D.C. Code, sec.

5-422) (relating to certificates of occupancy). This subsection shall apply only to newly-constructed structures and not to rehabilitated structures;

(i) foreclosure sales, and the first transfer thereafter if said first transfer is made by the mortgagee who instituted the foreclosure proceedings and purchased the property at the foreclosure sale, or obtained title directly from the defaulting party without a foreclosure sale: PROVIDED, That said mortgagee is licensed in the District of Columbia as a bank or other financial institution;

(j) deeds of release of property where the property was security for a debt or other obligation;

(k) transfers by devise, or as a result of intestate succession;

(l) transfers where the property being transferred was received by devise or as a result of intestate succession;

(m) transfers executed by persons in their capacity as court-appointed receivers, referees, administrators, executors, conservators, guardians of the estates of minors, and committees of the estates of persons judicially determined to be mentally incompetent;

(n) transfers pursuant to a valid and binding separation agreement and by court order pursuant to a separation or divorce decree;

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(o) transfers by involuntary conversion as defined in section 1033 of the Internal Revenue Code; and

(p)(1) transfers of residential real property in exchange solely for residential real property of a like kind (as defined in section 1031 of the Internal Revenue Code): PROVIDED, That each party to such exchange shall keep the same basis in the property received as that party had in the property transferred.

(2) If an exchange would be exempt under paragraph (1) of this subsection if it were not for the fact that the exchange consisted not only of property of a like kind but also of money or other consideration, then the exchange shall be taxable under section 201 of this title. Each party to the exchange shall be treated as a transferor of the property exchanged by that party. The consideration received by each transferor shall be the fair market value of the property received plus the amount of any money or other consideration received. Each transferor shall have a basis in the property received equal to the fair market value of the property exchanged by that transferor plus any money or other consideration given by that transferor and minus any money or other consideration received by that transferor.

Sec. 203. Determination of Excise Tax

The excise imposed by this title is determined as follows:

- (a) compute the transferor's gain as defined in section 101 of this act;
- (b) compute the percentage of gain by expressing gain as a percentage of basis;
- (c) determine the applicable tax rate by matching the percentage of gain with the appropriate holding period in the table in section 204 of this title;
- (d) determine the tax liability by multiplying the applicable tax rate by the transferor's gain.

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Sec. 204. Excise Tax Table

TAX SCHEDULE

Holding Period (in months or fractions thereof)

Remainder as percentage of prior consideration	0-6	7-12	13-18	19-24	25-30	31-36
11	10	0%	0%	0%	0%	0%
12	17	0	0	0	0	0
13	24	0	0	0	0	0
14	29	0	0	0	0	0
15	34	0	0	0	0	0
16	38	5	0	0	0	0
17	42	18	0	0	0	0
18	45	22	0	0	0	0
19	48	26	0	0	0	0
20	50	30	0	0	0	0
21-22	55	33	10	0	0	0
23-24	59	39	17	0	0	0
25-26	62	48	24	0	0	0
27-28	65	52	30	0	0	0
29-30	67	55	34	7	0	0
31-32	69	58	39	16	0	0
33-34	71	61	42	21	0	0
35-36	73	63	46	26	3	0
37-38	74	65	49	30	8	0

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Remainder as percentage of prior consideration	0-6	7-12	13-18	19-24	25-30	31-36
39-40	75	67	51	33	15	0
41-43	77	68	54	37	20	0
44-46	79	70	57	41	25	0
47-49	80	72	60	45	34	6
50-55	82	76	64	50	38	14
56-59	84	79	68	55	45	27
60-65	85	80	70	58	48	32
66-70	86	82	71	62	53	38
71-75	87	83	73	65	56	42
76-80	88	84	75	67	59	46
81-90	89	85	77	69	62	49
91-99	90	87	79	73	66	55
100-109	91	89	82	76	70	61
110-119	92	90	84	78	73	65
120-134	93	91	85	80	75	68
135-149	94	92	87	82	78	71
150-174	95	93	88	84	80	74
175-199	95	94	90	86	83	78
200-249	96	95	92	89	85	82
250-299	97	96	93	91	88	85
300+	97	97	95	93	90	88

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Sec. 205. Mayor Authorized to Develop Tax Return Form

The Mayor shall develop no later than thirty (30) days after the effective date the following:

- (a) a residential real property transfer tax return form or forms; and
- (b) regulations and procedures governing the filing of returns on a quarterly basis for transferors claiming any exemption under section 202 of this title whose volume of exempt transfers is such that it would be unduly burdensome to require the filing of a separate return for each such transfer. All returns required under this title shall be filed on the forms and in the manner prescribed by the Mayor.

Sec. 206. Payment of Tax

(a) Except as provided in section 201(b) and section 205(b) of this title, within thirty (30) days after the execution of a deed or other document by which legal title to a property is transferred (unless the thirtieth (30th) day is a legal holiday, in which case the first day thereafter which is not a legal holiday), all transferors of legal title and all transferors of equitable title to such property, including all transferors claiming any exemption under section 202 of this title, shall:

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(1) file with the Mayor a completed residential real property transfer tax return and any other information the Mayor requires; and

(2) pay into a depository designated by the Mayor the full amount of the tax due under this title, if any.

(b) Where a transfer qualifies under section 453 of the Internal Revenue Code (relating to the installment method), and where the tax imposed under this title is five hundred dollars (\$500) or greater, the Mayor shall prescribe procedures and regulations providing for the payment of the tax in installments: EXCEPT, That the tax must be paid in full within three (3) years from the date of the transfer.

Sec. 207. Tax Return

(a) In the case of a transfer described in subsection (p)(2) of section 202 of this title, each transferor shall include in the return required by section 205 of this title, the current one hundred (100) percent assessed market value, as of the date of the like kind exchange. Whenever a return contains insufficient information as to the one hundred (100) percent assessed market value, the Mayor is authorized to make a reasonable determination thereof from the best information available.

(b) Where the property being transferred was received by the transferor by gift, the transferor's return must

include the amount and kind of consideration given by the transferor's donor in acquiring such property, and said donor's basis for such property as of the date of the gift. If such information is not available, the Mayor shall make a determination thereof from the best information available.

(c) Where a transfer is exempt from the tax, the transferor's return shall only need to include sufficient information to establish the exemption claimed. The Mayor by regulation shall set forth what information is to be deemed sufficient to establish the exemption claimed.

(d) A transferor shall maintain documentation to support the information in the return for three (3) years after the date of the transfer.

Sec. 208. Return; Assessment and Collection; Time of Payment; Penalties and Interest; Appeal

To the extent applicable to the provisions and purposes of this title, the following sections and titles of article I of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 331; D.C. Code, sec. 47-1551 et seq.) shall apply for purposes of administration of this title: section 3 of title V (61 Stat. 342; D.C. Code, sec. 47-1564b(b)); title XII (61 Stat. 352; D.C. Code, sec. 47-1586); and title XIII (61 Stat. 356;

D.C. Code, sec. 47-1589); and section 1 of title XV (61 Stat. 359; D.C. Code, sec. 47-1593).

Sec. 209. Willful Breach of Warranty

(a) If the Mayor or a court of competent jurisdiction in the District of Columbia determines that any warranty provided under section 202(a) of this title has been willfully breached or intentionally dishonored and but for such warranty the transfer would have been subject to the tax, then the tax and any additions thereto that would have been due from the transferor shall become due and payable in the same manner as if such warranty never existed. The Mayor by regulation shall set forth the standards and administrative process to be followed for the determination by the Mayor that a warranty has been willfully breached or intentionally dishonored.

(b) If the Mayor determines that a warranty has been willfully breached or intentionally dishonored, in addition to any other penalties, the Mayor shall order the warrantor to do either of the following, at the option of the warrantee:

(1) make the repairs, which form the basis of the breach, to the satisfaction of the warrantee; or

(2) pay to the warrantee, after the receipt of two (2) estimates in writing from the warrantee, the full amount

necessary to have the repairs made by some person other than the warrantor.

Where the transferor certified that the property meets the standards set forth in the applicable articles of chapters 1 and 2 of the Housing Regulations of the District of Columbia as set forth in section 202(a)(4) of this title and where such certification was false or based on false information and the transferor knew or should have known of such falsification or false information, then the Mayor shall determine that the warranty, as provided by section 202(a)(1), has been willfully breached and the provisions of this subsection shall apply.

Sec. 210. Report by Mayor

The Mayor shall report to the Council by February 1st of each year for the preceding fiscal year, the following information for the District of Columbia:

- (a) the number of transactions falling within each exemption provided by section 202 of this title;
- (b) the sales prices for transactions falling within each exemption under section 202 of this title;
- (c) the holding periods for all transactions subject to the tax imposed by this title;
- (d) the sales prices for transactions subject to the tax imposed by this title;

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(e) the average holding period for transactions subject to the tax imposed by this title;

(f) the average gain for transactions subject to the tax imposed by this title;

(g) the number of evictions caused by each transaction, if any; and

(h) the Mayor shall require that the Department of Finance and Revenue provide for this report the following:

(1) the number of unincorporated business tax returns filed by dealers in residential real property, and the states in which the returns were filed including the District of Columbia;

(2) the average number of transfers per return and the total from each jurisdiction; and

(3) the total amount of unincorporated business taxes paid by those engaged in the buying and selling of residential real property, and the average per return.

Sec. 211. Authorization to Promulgate Regulations

The Mayor shall promulgate regulations to carry out the provisions of this title.

TITLE III
COMPULSORY RECORDATION OF TRANSFERS
OF REAL PROPERTY AND AMENDMENTS
TO THE DEED RECORDATION TAX

Sec. 301. Compulsory Recordation

(a) Within thirty (30) days after the execution of a deed or other document by which legal title to a real property is transferred, all transferees of said legal title shall record a fully acknowledged copy of said deed or other document, including the lot and square number of the real property transferred, with the Recorder of Deeds of the District of Columbia. If the thirtieth (30th) day is a legal holiday, the time for recording shall be extended to include the first day after the thirtieth (30th) day which is not a legal holiday.

(b) Whenever any portion of an instrument, which conveys or provides for the conveyance of equitable title to a real property, is transferred by or on behalf of a party to such instrument to a third party, then the party so transferring shall record, at the same time as provided by subsection (a) of this section, a fully acknowledged copy of said instrument, including the lot and square number of the real property transferred, with the Recorder of Deeds of the District of Columbia, and the third party shall record, at

the same time as provided by subsection (a) of this section, with the Recorder of Deeds of the District of Columbia a fully acknowledged instrument, including the lot and square number of the property transferred, evidencing the transfer to himself (or herself or itself as the case may be). All subsequent transfers of equitable title made prior to the transfer of legal title shall be recorded by each subsequent transferee thereto, in the same manner and at the same time as provided in subsection (a) of this section.

Sec. 302. Presumptions and Burden of Proof

For the purpose of proper administration of this title and to prevent evasion of the recordation requirements, the Mayor shall presume that all transfers, as described in section 301 of this title, are required to be recorded. The burden shall be upon the person required to record to prove that a deed or any other document is exempt from the recordation requirement.

Sec. 303. Penalties for Failure to Record

(a) Where a dealer fails to record, as required by section 301 of this title, and such failure is due to negligence, there shall be imposed on said dealer, a penalty of twenty-five dollars (\$25.00) for each month or portion thereof that such failure continues, not to exceed two hundred fifty dollars (\$250.00).

(b) Any dealer who with the intent to evade the tax imposed in title II of this act, knowingly fails to record, as required by section 301, or who knowingly makes a false or misleading statement in connection with such recordation, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than one (1) year, or both, together with costs of prosecution. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel in the name of the District of Columbia. The word "dealer", in addition to the meaning assigned to that term in title I of this act, shall, for purposes of this subsection, include an officer or an employee of a corporation, or a member or an employee of a partnership, who is under a duty to perform the act in respect to which the violation occurs.

(c) Where a person other than a dealer fails to record, as required by section 301 of this title, there shall be imposed on such person a penalty in the amount of ten dollars (\$10.00) for each month or portion thereof that such failure continues, not to exceed fifty dollars (\$50.00). Whenever it is shown by such person that failure to record was due to reasonable cause and was not due to knowing

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omission or neglect, the Mayor may waive part of or all of the penalty fee provided by this subsection. In every case of a partial or total waiver, the reason for the waiver shall be stated clearly on a public record determined by the Mayor.

(d) Any person other than a dealer, who with the intent to evade the tax imposed in title II of this act, knowingly fails to record, as required by section 301, or who knowingly makes a false or misleading statement in connection with such recordation, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than one (1) year, or both, together with cost of prosecution.

(e) The penalty fees provided under this section shall be collected at the same time and in the same manner and as a part of the deed recordation tax. If the transaction is exempt from the deed recordation tax, then the Mayor shall collect the fees in a manner prescribed by the Mayor.

(f) If the Mayor determines that a person has failed to record or has failed to pay any fee as required by this act, the procedures set forth in title III, section 308 of the Act of March 2, 1962 (76 Stat. 13; D.C. Code, sec. 45-728)

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(relating to deficiencies in tax-notice of determination-protests-hearings-time for payment) shall apply.

Sec. 304. Certain Amendments to the Deed Recordation Tax

(a) Section 303(b) of title III of the Act of March 2, 1962 (76 Stat. 12; D.C. Code, sec. 45-723(b)) is amended as follows:

(1) the words "and" through "require" in subsection (b) are hereby deleted.

(2) insert after the word "payable," the words "whether the property to which the deed or document refers is a residential real property as defined in section 101 of the Residential Real Property Transfer Excise Tax Act of 1978, and such other information as the Mayor may require so as to provide an accurate and complete public record of each transfer of residential real property."; and

(b) Section 305 of title III of the Act of March 2, 1962 (76 Stat. 12; D.C. Code, sec. 45-725) is amended by inserting after the words "upon which a tax is imposed," and before the words "is authorized to examine," the words "or for the purposes of ascertaining whether a deed or other document was required to be recorded pursuant to section 301 of the Residential Real Property Transfer Excise Tax Act of 1978.".

OFFICE OF THE CLERK OF THE DISTRICT OF COLUMBIA

TITLE IV
LICENSING OF DEALERS IN
RESIDENTIAL REAL PROPERTY

Sec. 401. Definitions

For the purposes of this title:

(a) The term "real estate broker" or "broker" shall have the same meaning as given the term "real estate broker" in section 2 of the Act of August 25, 1937 (50 Stat. 787; D.C. Code, sec. 45-1402).

(b) The term "real estate salesman" or "salesman" shall have the same meaning as given the term "real estate salesman" in section 2 of the Act of August 25, 1937 (50 Stat. 787; D.C. Code, sec. 45-1402).

(c) The term "firm", unless otherwise indicated, means a partnership, copartnership, association, corporation (foreign or domestic) or unincorporated business.

Sec. 402. Requirement of License

On and after one hundred eighty (180) days from the effective date, it shall be unlawful in the District of Columbia for a dealer to transfer residential real property, other than property which is a dealer's principal residence, without a license issued by the Commission. A dealer's license shall be obtained by a person prior to a transfer which would cause the transferor to be deemed a dealer.

When a person required by this title to be licensed as a dealer fails to acquire a license, but demonstrates to the Mayor that such failure was due to reasonable cause and was not due to knowing omission or neglect, the Mayor may waive part or all of any penalty imposed for failure to acquire a license: PROVIDED, That lack of knowledge as to any provision of this act shall not constitute reasonable cause.

Sec. 403. Application for License

(a) A license to act as a dealer under the provisions of this title shall not be issued to any person who has not applied for the license required by this title or whose license to act as a dealer was revoked in the District of Columbia during the twelve (12) month period immediately preceding the date of the application for said license.

(b) Except as provided in subsection (e) of this section, the application of every firm for a license to be a dealer shall state:

(1) the address or addresses of the principal place or places of business for which the license is desired;

(2) a complete list of all former addresses where the applicant was engaged in any real estate business for a continuous period of at least thirty (30) days;

(3) the name and residence address of each employee, member, officer or associate who participates as a dealer in the applicant's business of dealing in residential real property;

(4) in the case of a corporation, the application shall also state the name and address of each officer, director and registered agent. In the case of a firm other than a corporation, the application shall also state the name and address of each partner, associate, member or employee who is authorized to accept legal notice on behalf of the organization; and

(5) the address, including lot and square number, of each property located in the District of Columbia, which was transferred in whole or in part by or on behalf of the applicant during the twenty-four (24) month period immediately preceding the date of the application.

(c) Except as provided in subsection (e) of this section, the application of each individual associated with a firm for a license to be a dealer shall state:

(1) the full name and residence address of the applicant;

(2) the full name and business address of the firm with which such applicant is associated, the length of time

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such applicant has been so associated, and in what capacity;
and

(3) the period of time, if any, during which said applicant was or has been engaged as a real estate broker, salesman, or dealer, together with a complete list of all former addresses where the applicant was so engaged for a period of thirty (30) days or more preceding the date of application.

(d) Except as provided in subsection (e) of this section, the application of each individual, not affiliated with a firm or other entity, for a license to be a dealer shall state the same information as required in subsection (c) paragraphs (1) and (2) of this section.

(e) Whenever any applicant for a license to be a dealer is licensed as a real estate broker or real estate salesman in the District of Columbia, such applicant shall not be required to repeat on the application for a dealer's license any information that the applicant has provided on an application for a broker's or salesman's license which is currently on file with the Commission.

Sec. 404. Issuance and Display of License

(a) The Commission shall issue a non-transferable license to each dealer qualifying for such under the provisions of this title. A dealer's license shall be in

such form and size as prescribed by the Commission. Every license shall show the name and address of the dealer to whom it is issued, and if applicable, the full name and address of the firm with which said dealer is associated. Each license shall have imprinted thereon the seal of the Commission, and such other matter as shall be prescribed by the Commission. All dealers shall display their licenses conspicuously in their places of business.

(b) No license shall be issued by the Commission to a firm unless every employee, member or officer who participates in such firm as a dealer is licensed as required by this title.

Sec. 405. License Expiration, Fees and Renewals

(a) Every license to be a dealer shall expire on the anniversary date of its issuance.

(b) The fee for the initial dealers license shall be one hundred dollars (\$100).

(c) The annual fee for any renewal of a license shall be one hundred dollars (\$100) in the case of a dealer who transfers twenty (20) or more residential real properties during the twelve (12) months immediately preceding the written request for such renewal; seventy-five dollars (\$75) in the case of a dealer who transfers at least ten (10) but no more than nineteen (19) such properties during said

period; fifty dollars (\$50) in the case of a dealer who transfers at least five (5) but not more than nine (9) such properties during said period; and twenty-five dollars (\$25) in the case of a dealer who transfers four (4) or fewer such properties during said period: PROVIDED, That whenever a person licensed in the District of Columbia as a real estate broker or real estate salesman applies for an initial license to be a dealer or requests renewal thereof, the amount of the fee paid for the broker's or salesman's license shall be applied toward satisfaction of the fee for a dealer's license. In determining the number of transfers by a dealer during the twelve (12) months immediately preceding the transfer, all transfers made by the dealer (except the transfer of the dealer's principal residence) shall be considered, including transfers made by the dealer prior to being deemed as a dealer.

(d) Notwithstanding subsections (b) and (c) of this section, no fee shall be charged for any initial license or renewal thereof issued to any firm where all of the employees, members or officers who actively participate in the firm's business of dealing in residential real property have been issued a dealer's license.

(e) On written request of the applicant, upon receipt of the annual fee and in the absence of any reason

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warranting refusal, the Commission shall renew each dealer's license annually. The causes for suspension and revocation of a dealer's license as set forth in section 408 of this title shall serve as reasons warranting the Commission to refuse to renew a dealer's license. A dealer must also submit all facts necessary to keep all information in the initial application for a dealer's license accurate, complete, and current. An applicant who, on or before the applicable anniversary date, fails to file the written request to renew and to pay the appropriate renewal fee must comply with all the provisions of this title applicable to a person making an initial application for a dealer's license.

(f) Upon a change in the location of the principal place of business of a dealer, said dealer shall give, in writing, notice of such change to the Commission. The Commission shall prescribe the time within which said notice must be received in order that said notice be considered as timely. At the time notice is given, said dealer must surrender the dealer's license to the Commission. Failure to notify the Commission or to return the license automatically cancels the dealer's license. When timely notice is given to the Commission, it may, without additional fee, issue a new dealer's license for the balance

of the year, where applicable: PROVIDED, That said dealer files a written request for such new license.

Sec. 406. Dealer's Place of Business and Nonresident Dealers

(a) Except as provided in subsection (b) of this section, every dealer licensed under the provisions of this title shall maintain a place of business in the District of Columbia. If a dealer maintains more than one place of business within the District of Columbia, a duplicate license shall be issued to such dealer for each additional office maintained. The fee charged for such duplicate license shall not exceed its cost to the District of Columbia.

(b) A nonresident of the District of Columbia may become a dealer by complying with all of the requirements of this title: EXCEPT, That such nonresident need not maintain a place of business within the District of Columbia.

(c) Every nonresident applicant for a dealer's license shall comply with the provisions of section 10 of the Act of August 25, 1937 (30 Stat. 795; D.C. Code, sec. 45-1410(2)) (relating to irrevocable consent to service of process).

Sec. 407. Suspension or Revocation of License

(a) Paragraphs (a), (b), (c), (j), (k), and (p) of section 8 of the Act of August 25, 1937 (50 Stat. 793; D.C.

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Code, sec. 45-1408) (relating to causes for suspension or revocation of licenses) shall be applicable to dealers as causes for suspension or revocation of a dealer's license.

(b) In addition to subsection (a) of this section, the Commission may, upon its own motion, and shall, upon the verified complaint in writing of any person (provided such complaint or such complainant together with evidence, documentary or otherwise, presented in connection therewith, establishes a prima facie case), investigate the conduct of any dealer. Within thirty (30) days after the receipt by the Commission of said verified complaint the Commission shall notify said complainant in writing as to its decision or other action taken with regard to the complaint. The Commission shall have the power at any time to suspend or to revoke a license issued under the provisions of this title: PROVIDED, That in the case of a knowing violation of sections 407(b)(1) and (2), of this act, the Commission shall at minimum suspend the license for not less than one (1) month: PROVIDED FURTHER, That the dealer shall be prohibited from signing any additional contracts for the sale of houses for that period, if the dealer has:

(1) failed to file the return and pay the excise tax as required by title II of this act, or knowingly made any false or misleading statement in connection therewith;

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(2) failed to record a transfer as required by title III of this act, or to pay the deed recordation tax, or has made a false or misleading statement in connection with such recordation or recordation tax;

(3) failed to comply with or honor a warranty given pursuant to sections 202(a)(1) or (a)(2) of this act;

(4) violated any of the Commission's regulations pertaining to dealers;

(5) made a false or misleading statement concerning a certification, given pursuant to paragraphs (3) or (4) of section 202(a) of this act; or

(6) violated any of the provisions of section 408(b) of this title.

Sec. 408. Fraudulent Transfers by Dealers

(a) A contract or agreement for the transfer of property shall be rescindable by the transferee, without penalty, at any time before legal title to the property is transferred, if, at the time of the contract or agreement:

(1) the transferor is a dealer; and

(2) the transferor was not duly licensed as a dealer in the District of Columbia.

(b) A contract or agreement for the transfer of property shall be rescindable by the transferor, without penalty, at any time before legal title to the property is

transferred, if the transferor is not a dealer, if the transferee is a dealer, and if the transferee:

(1) fails to furnish the transferor with a fully executed copy of any contract pertaining to the transfer. The Mayor, within thirty (30) days after the effective date, shall develop procedures governing said contract; or

(2) fails, at the time of the execution of the contract, to furnish a notice to the transferor of his or her right to cancel the contract within a period of time to be determined by the Mayor. The Mayor, within thirty (30) days after the date of enactment, shall develop forms and procedures governing such notice; or

(3) fails, before furnishing copies of such notice of cancellation to the transferor, to fully complete said notice form; or

(4) includes in a contract, a confession of judgment or a waiver of any of the rights to which the transferor is entitled under this section, including specifically his or her right to cancel the transfer; or

(5) misrepresents to the transferor the transferor's right to cancel; or

(6) fails or refuses to honor any valid notice of cancellation.

(c) Section 9 of the Act of August 25, 1937 (50 Stat. 794; D.C. Code, sec. 45-1409) (relating to hearing procedures before suspension or revocation - court review - appeal) shall apply as the procedures for suspension or revocation of a dealer's license.

Sec. 409. Mayor to Notify Commission

Whenever it comes to the attention of the Mayor that a dealer has failed to file a return and pay the excise tax and other amounts related thereto as provided in title II of this act or has failed to record a deed or other document as required by title III of this act or to pay the deed recordation tax, or has made a false or misleading statement in connection with such recordation, recordation tax or excise tax, the Mayor shall, in addition to other enforcement procedures, report such failure to the Commission.

Sec. 410. Report by Commission

The Commission shall report in writing to the Council annually, no later than the first Tuesday in September, on its activities regarding the licensing and disciplining of dealers under the provisions of this title. The report shall include at least the following information for the twelve (12) months immediately preceding the report:

- (a) the number of new applications;

(b) the number of initial dealer licenses granted, and renewals thereof;

(c) the number of dealer licenses suspended or revoked and the reason for such action; and

(d) the number and amount of any recoveries on bonds and the reasons therefor.

Sec. 411. Mayor and Commission to Promulgate Regulations

(a) The Mayor shall promulgate regulations to carry out the purposes of this title.

(b) Within one (1) year from the effective date, the Commission, after notice and hearings, shall issue regulations establishing standards for the conduct of those soliciting residential real property to insure against harassment, nuisance, misrepresentation, and other unwarranted or abusive practices.

(c) For a violation of the regulations promulgated pursuant to subsection (b) of this section, a solicitor of residential property shall, in addition to any other penalties, be penalized as provided in section 16 of the Act of August 25, 1937 (50 Stat. 797; D.C. Code, sec. 45-1416).

TITLE V

MISCELLANEOUS PROVISIONS

Sec. 501. Report of Costs and Revenues

(a) For the first, second, and third year after the effective date and not later than the date on which the Mayor's budget proposal is transmitted to the Council, the Mayor shall report to the Council the total and the net cost of administering the provisions of this act. The report shall indicate, by department or branch of the District of Columbia government, the cost of administering each title of this act. The report shall also indicate the revenues realized under titles II, III, and IV of this act (including fees, fines, penalties, and excises);

(b) The report required in subsection (a) of this section shall be in addition to any other report or information that is or shall be required.

Sec. 502. Promulgation of Regulations to be Consistent with Administrative Procedure Act

The Mayor shall promulgate regulations necessary to carry out the provisions of this act and to develop necessary forms and procedures. All regulations promulgated by the Mayor pursuant to this act, including those to be promulgated within thirty (30) days after the effective date shall be done so consistent with the District of Columbia

Administrative Procedure Act, approved October 21, 1968 (hereinafter, D.C.A.P.A.), (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.). If compliance with such act would extend promulgation of the regulations beyond thirty (30) days after the effective date then the time for promulgating the regulations shall be extended to thirty (30) days after compliance with the D.C.A.P.A.

Sec. 503. Repeal of Requirement for Property Tax Incentives

Section 431 of the District of Columbia Property Tax Revision Act of 1974 (88 Stat. 1057; D.C. Code, sec. 47-651) is hereby repealed.

Sec. 504. Section 501(b)(5)(D)(2) of the Rental Housing Act of 1977, effective March 16, 1978 (D.C. Law 2-54) is amended by inserting the words "any housing" immediately prior to the first usage of the word "use" and by deleting the words "as a rental accommodation".

TITLE VI

Sec. 601. Severability

(a) The provisions of this act are severable, and if any provision, sentence, clause, section or part is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such holding shall not affect or impair any of the remaining provisions, sentences, clauses,

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sections or parts of the act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this act would have been adopted if such illegal, invalid, inapplicable or unconstitutional provision, sentence, clause, section or part had not been included herein and if the person or circumstances to which the act or any part is inapplicable had been specifically exempted.

(b) The repeal or amendment by this act of any provision of law shall not affect any act done or any right accrued or accruing under such provision of law before the effective date or under any suit or proceeding had or commenced before the effective date; but all rights and liabilities under such law shall continue and may be enforced in the same manner and to the same extent as if the repeal or amendment had not been made.

TITLE VII

Sec. 701. Effective Date

This act shall take effect on the date this act becomes law according to the provisions of section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

RECORD OF OFFICIAL COUNCIL ACTION

Docket No: Bill 2-101

First Reading Action: 2-21-78

VOICE VOTE: Adopted Unanimously (2abs) JMoore and Winter

Robert Williams
Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	ATE	NAY	N.Y.	A.B.	COUNCIL MEMBER	ATE	NAY	N.Y.	A.B.	COUNCIL MEMBER	ATE	NAY	N.Y.	A.B.
TUCKER					MASON					SPAULDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLARK									
DIXON					SACKETT									

2—Indicates Vote A. B.—Absent N. Y.—Not Voting

Secretary to the Council

* Amended First Reading Action: 3-7-78

VOICE VOTE: Adopted Unanimously (2bs) Hardy and Dixon

Robert Williams
Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	ATE	NAY	N.Y.	A.B.	COUNCIL MEMBER	ATE	NAY	N.Y.	A.B.	COUNCIL MEMBER	ATE	NAY	N.Y.	A.B.
TUCKER					MASON					SPAULDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLARK									
DIXON					SACKETT									

2—Indicates Vote A. B.—Absent N. Y.—Not Voting

Secretary to the Council

* See Page 2 for Second Amended First Reading Action

RECORD OF OFFICIAL COUNCIL ACTION (Page 2)

Docket No: Bill 2-101

Second

Amended First Reading Action: 3-21-78

VOICE VOTE: Adopted Unanimously (All present)

Robert Williams
Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	ATE	RAY	NY	ALL	COUNCIL MEMBER	ATE	RAY	NY	ALL	COUNCIL MEMBER	ATE	RAY	NY	ALL
TUCKER					MASON					SPAULDING				
HARRY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLASK									
DECON					SACKETT									

Independent Vote A. L. L. M. Y. For Voting

Secretary to the Council

Final Reading or Emergency Action: 4-4-78

VOICE VOTE: Adopted Unanimously (3abs) Barry, JMoore, DMoore

Robert Williams
Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	ATE	RAY	NY	ALL	COUNCIL MEMBER	ATE	RAY	NY	ALL	COUNCIL MEMBER	ATE	RAY	NY	ALL
TUCKER					MASON					SPAULDING				
HARRY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLASK									
DECON					SACKETT									

Independent Vote A. L. L. M. Y. For Voting

Secretary to the Council

Docket No: Bill 2-101

Presented to the Mayor: APR 13 1978

Robert C. Williams
Secretary to the Council

Action of the Mayor: 27 APR 78

- Approved: Disapproved;
 Disapproved in part --*Reference Document: _____
 - *Budget Actions.

Walter Washington
Mayor of the District of Columbia

27 APR 1978

Returned Without Action

Executive Secretary, D. C.

Enacted without Mayor's Signature _____

Secretary to the Council

Council Reenactment: _____

VOICE VOTE: _____

Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.B.
TUCKER					MASON					SPAULDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, I.					WINTER				
CLARKE					ROLAK									
DEXON					SHACKLETON									

Inclusion Vote A. Enacted N. Not Voted

Secretary to the Council

Presented to the President: _____

Secretary to the Council

Action of the President: _____

- Reenactment Approved
 Mayor's Veto Sustained

President of the U. S.

Submitted to the Congress: 5/8/78

Patricia G. Hines
Secretary to the Council

Senate Action: _____
 Resolution Number: _____

House Action: _____
 Resolution Number: _____

Secretary of the Senate

Clerk of the House

Enacted Without Congressional Action:

D. C. Law No. Effective Date

Secretary to the Council