

ENROLLMENT(S)



COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 8-234

"District of Columbia Consumer Protection
Procedures Act Amendment Act of 1990".

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. 8-111 on first and second readings, December 4, 1990, and December 18, 1990, respectively. Following the signature of the Mayor on December 27, 1990, this legislation was assigned Act No. 8-317, published in the January 11, 1991, edition of the D.C. Register, (Vol. 38 page 296) and transmitted to Congress on January 15, 1991 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 this enactment as D.C. Law 8-234, effective March 8, 1991.



JOHN A. WILSON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 15,16,17,18,22,23,24,25,28,29,30,31

February 1,4,5,6,7,19,20,21,22,25,26,27,28

March 1,4,5,6,7

AN ACT

D.C. ACT 8-317

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC. 27, 1990

To amend title 28 of the District of Columbia Code to make the sale or lease of real estate a consumer transaction; to give the Department of Consumer and Regulatory Affairs substantive rulemaking authority in the area of unlawful trade practices; to toll the statute of limitations for filing a civil action in the District of Columbia Superior Court if the civil action involves a matter before the Department of Consumer and Regulatory Affairs; to provide the Corporation Counsel the ability to seek damages and injunctive relief for the consumer; and to make technical amendments to reflect the organizational structure of the Department of Consumer and Regulatory Affairs.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Consumer Protection Procedures Act Amendment Act of 1990".

Sec. 2. Title 28 of the District of Columbia Code is amended as follows:

(a) The table of contents is amended by adding the following phrase to read as follows:

"28-3909. Restraining prohibited acts."

Section
28-3901

(b) Section 28-3901(a) is amended as follows:

(1) Paragraph (4) is amended by striking the word "Office" and inserting the word "Department" in its place.

(2) Paragraph (7) is amended by adding the phrase "real estate transactions," after the phrase "business opportunities".

(3) Paragraph (8) is amended to read as follows:

"(8) "Department" means the Department of Consumer and Regulatory Affairs;"

(4) The following new paragraphs are added to read as follows:

"(9) "Director" means the Director of the Department of Consumer and Regulatory Affairs;"

"(10) "Chief of the Office of Compliance" means the senior administrative officer of the Department's Office of Compliance who is delegated the responsibility of carrying out certain duties specified under section 28-3905;

"(11) "Office of Adjudication" means the Department's Office of Adjudication which is responsible for carrying out certain duties specified under section 28-3905;

"(12) "Office of Consumer Education and Information" means the Department's Office of Consumer Education and Information which is responsible for carrying out the statutory requirements set forth in D.C. Code, section 28-3906; and

"(13) "Committee" means the Advisory Committee on Consumer Protection which is responsible for carrying out the statutory requirements set forth in section 28-3907."

(c) Sections 28-3902 is amended as follows:

Section
28-3902

(1) By striking the phrase "Office of Consumer Protection" wherever it appears and inserting the word "Department" in its place.

(2) By striking the word "Office" wherever it appears and inserting the word "Department" in its place.

(3) By amending subsection (a) to read as follows:

"(a) The Department of Consumer and Regulatory Affairs shall be the principal consumer protection agency of the District of Columbia government and shall carry out the purposes of this chapter."

(4) By repealing subsection (b).

(5) By amending subsection (c) to read as follows:

"(c) The Director of the Department of Consumer and Regulatory Affairs shall exercise the powers set forth in section 28-3905 through the Office of Compliance, and shall appoint a Chief of the Office of Compliance from among active members of the unified District of Columbia Bar. The Chief of the Office of Compliance may carry out investigative, conciliatory, and other duties assigned by the Director."

(6) By repealing subsection (d).

(7) By amending subsection (e) by striking the phrase "Section of Hearings" and inserting the phrase "Office of Adjudication" in its place.

(8) By repealing subsections (f) and (g).

(d) Section 28-3903 is amended as follows:

Section
28-3903

(1) By striking the word "Office" wherever it appears and inserting the word "Department" in its place.

(2) By amending subsection (a) by adding a new paragraph (15) to read as follows:

"(15) issue rules that interpret, define, state general policy, or prescribe requirements to prevent unfair,

deceptive, and unlawful trade practices as set forth in section 28-3904."

(3) By amending subsection (c)(2)(C) by striking the phrase "practitioners of the healing arts".

(e) Section 28-3904 is amended as follows:

Section

(1) By amending subsection (aa) by striking the phrase "sections 5, 6, 7, and 8 of the Employment Services Licensing and Regulation Act of 1984." and inserting the phrase "sections 36-1004, 36-1005, 36-1006, and 36-1007;" in its place.

28-3904

(2) By amending the 2nd subsection (aa) as follows:

(A) By redesignating the subsection as subsection (bb); and

(B) By striking the period and inserting a semicolon in its place.

(3) By amending subsection (cc) by striking the period and inserting the phrase "; and" in its place.

(4) By adding a new subsection (dd) to read as follows:

"(dd) violate any provision of title 16 of the District of Columbia Municipal Regulations."

(f) Section 28-3905 is amended as follows:

Section 28-3905

(1) By striking the word "Office" wherever it appears and inserting the word "Department" in its place.

(2) By striking the phrase "Section of Hearings" wherever it appears and inserting the phrase "Office of Adjudication" in its place.

(3) By striking the phrase "General Counsel" wherever it appears and inserting the phrase "Chief of the Office of Compliance" in its place.

(4) By amending subsection (a) by adding the following sentence at the end to read as follows:

"The filing of a complaint with the Department shall toll the periods for limitation of time for bringing an action as set out in section 12-301 until the complaint has been resolved through an administrative order, consent decree, or dismissal in accordance with section 28-3905 or until opportunity to arbitrate has been provided in Chapter 13 of Title 40."

(5) By amending subsection (e) to read as follows:

"(e) The Director shall attempt to settle, in accordance with subsection (h) of this section, each case for which reasonable grounds are found in accordance with subsection (d) of this section. Within 180 days of the Director's determination as to whether the complaint is within the Department's jurisdiction, in accordance with subsection (d) of this section, the Director shall, absent

good cause for delay as determined by the Office of Adjudication:

- "(1) effect a consent decree;
- "(2) dismiss the case in accordance with paragraph (2) of this subsection;
- "(3) through the Chief of the Office of Compliance present to the Office of Adjudication, with copies to all parties, a brief and plan statement of each trade practice that occurred in violation of District law, the law the trade practice violates, and the relief sought from the Office of Adjudication for violation; or
- "(4) notify all parties of another action taken, with the reasons therefor stated in detail and supported by fact. Reasons may include:
 - "(A) any reason listed in subsections (d)(1) through (d)(6) of this section; and
 - "(B) that the presentation of a charge to the Office of Adjudication would not serve the purposes of this chapter.
- "(5) Repealed."
- (6) By amending subsection (f) by striking the number "30" and inserting the number "15" in its place.
- (7) By amending subsection (g)(5) by adding the phrase, "including punitive damages, treble damages, or reasonable attorney's fees," after the word "remedies".
- (8) By amending subsection (h)(1)(a) by striking the phrase "paragraphs (2) through (5) of subsection (g)" and inserting the phrase "subsection (g)(2) through (g)(6)" in its place.
- (9) By amending subsection (i)(3) as follows:
 - (A) Subparagraph (B) is amended by adding the following language at the end to read as follows:

"The Court may set aside the final order if the Court determines that the Department of Consumer and Regulatory Affairs lacked jurisdiction over the respondent or that the complaint was frivolous. If, after considering an application to set aside an order of the Department of Consumer and Regulatory Affairs, the Court determines that the application was frivolous or that the Department of Consumer and Regulatory Affairs lacked jurisdiction, the Court shall award reasonable attorney's fees."
 - (B) A new subparagraph (C) is added to read as follows:

"(C) Application to the Court to enforce an order shall be made at no cost to the District of Columbia or the complainant."
- (g) Section 28-3906 is amended as follows:
 - (1) Subsection (a) is amended as follows:

Section
28-3906

(A) By striking the phrase "Section of Consumer Education" and inserting the phrase "Office of Consumer Education and Information" in its place.

(B) By amending paragraph (3) by striking the word "Department" and inserting the word "Office" in its place.

(2) Subsection (b) is amended by striking the phrase "Section Chief" and inserting the phrase "Chief of the Office of Consumer Education and Information" in its place.

(h) A new section 28-3909 is added to read as follows:
"28-3909. Restraining prohibited acts.

"Notwithstanding any provision of law to the contrary, if the Corporation Counsel has reason to believe that any person is using or intends to use any method, act, or practice in violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904, and if it is in the public interest, the Corporation Counsel, in the name of the District of Columbia, may petition the Superior Court of the District of Columbia to issue a temporary or permanent injunction against the use of the method, act, or practice. In any action under this section, the Corporation Counsel shall not be required to prove damages and the injunction shall be issued without bond. The Corporation Counsel, on behalf of any identifiable person, may recover restitution for property lost or damages suffered as a consequence of the unlawful act or practice."

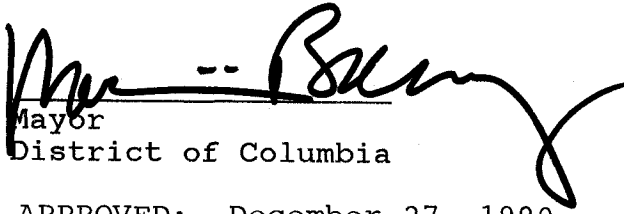
Section
28-3909

Sec. 3. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia

Statutes-at-Large, or the District of Columbia Municipal
Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: December 27, 1990



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Eight

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B8-111

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 12-04-90

VOICE VOTE: Approved

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell G. Smith
 Secretary to the Council

21 December 1990
 Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 12-18-90

VOICE VOTE: Approved

Recorded vote on request

Absent: Wilson

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell G. Smith
 Secretary to the Council

21 December 1990
 Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date