

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

2019 OCT -1 PM 3:53
OFFICE OF THE
SECRETARY

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

I am writing to transmit the "Abatement and Condemnation of Nuisance Properties Amendment Act of 2019." This legislation will put in place critical safeguards to protect District residents when they are at their most vulnerable. Landlords that neglect their duty to provide healthy and safe housing must be held accountable.

The bill would amend the *Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000* to:

- Clarify the basis for the appointment of a Housing Receiver;
- Authorize the Office of the Attorney General to issue subpoenas for documents and testimony as part of a receivership investigation;
- Require the Court to monitor the execution of a landlord's plan to abate housing code violations;
- Authorize the Court to order an owner, member, or any person with charge, care, or control of the property to contribute funds in excess of the rents to abate violations;
- Relocate displaced tenants, fund up-front receivership costs, and maintain the upkeep, utilities, mortgages, back rent, and debts of the building while in receivership;
- Prohibit the termination of a receivership until the District is reimbursed for all expenses associated with the receivership, all abatement costs, and all fines, infractions, and penalties arising from code violations are paid in full; and
- Clarify that the Court may enjoin the respondents from continuing actions, practices, or patterns of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s).

The Office of the Attorney General looks forward to working with the Council and other stakeholders on this important measure. If you have any questions, your staff may contact Deputy Attorney General for Legislative Affairs, James A. Pittman, at James.Pittman@DC.Gov.

Sincerely,

Karl A. Racine
Attorney General



Chairman Phil Mendelson at the
request of the Attorney General

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000 to clarify the basis for the appointment; to authorize the Office of the Attorney General to issue subpoenas for documents and testimony as part of a receivership investigation, to require the Court to monitor the execution of a landlord's plan to abate housing code violations; to authorize the Court to order an owner, member, or any person with charge, care, or control of the property to contribute funds in excess of the rents to abate violations, reimburse the District, relocate displaced tenants, fund up-front receivership costs, and maintain the upkeep, utilities, mortgages, back rent, and debts of the building while in receivership; to prohibit the termination of a receivership until the District is reimbursed for all expenses associated with the receivership, all abatement costs, and all fines, infractions, and penalties arising from code violations are paid in full, and to clarify that the Court may enjoin the respondents from continuing actions, practices, or patterns of neglect at the rental housing accommodation and at any other rental accommodations owned, managed, or controlled by the respondent(s)."

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this act may be cited as the "Abatement and Condemnation of Nuisance Properties Amendment Act of 2019".

Sec. 2. 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 as follows:

(1) Subsection (b) is amended by striking the sentence "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

37 disrepair, including vermin or rat infestation, filth or contamination, inadequate ventilation,
38 illumination, sanitary, heating or life safety facilities, inoperative fire suppression or warning
39 equipment, or any other condition that constitutes a hazard to its occupants or to the public.”

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

41 “(b)(1) For purposes of this subsection, the term “pattern of neglect” includes all
42 evidence that the owner, agent, lessor, or manager of the rental housing accommodation has
43 maintained the premises in a state of disrepair that constitutes a serious threat to the health,
44 safety, or security of the tenants or to the public.”

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

46 “(c) For purposes of this chapter, the phrase “serious threat to the health, safety,
47 or security of the tenants” includes all violations that involve:

48 (1) Vermin or rat infestation;

49 (2) Filth or contamination;

50 (3) Inadequate ventilation, illumination, sanitary, heating or life safety
51 facilities;

52 (4) Inoperative fire suppression or warning equipment;

53 (5) Inoperative door or window locks; or

54 (6) Any other condition that constitutes a hazard to tenants, occupants or
55 to the public.”

56 (b) Section 503 (D.C. Official Code § 42-3651.03) is amended as follows:

57 (1) Strike the phrase “Corporation Counsel” wherever it appears and insert the
58 phrase “Office of the Attorney General for the District of Columbia”.

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

60 “(a-1) (1) The Attorney General, or his or her designee, shall have the authority to issue
61 subpoenas for (i) the production of documents and materials, (ii) the inspection of premises, (iii)
62 the attendance and testimony of witnesses under oath, and (iv) sworn written responses to
63 questions, related to any investigation necessary to determine whether adequate grounds exist to
64 file a petition to appoint a receiver, or to determine if a person or party subject to a receivership
65 is maintaining other rental accommodations in an state of disrepair that that constitutes a serious
66 threat to the health, safety, or security of the tenants or to the public.

67 “(2) Subpoenas issued pursuant to this subsection shall conform to the procedures
68 established in section 110a of the Attorney General for the District of Columbia Clarification and
69 Elected Term Amendment Act of 2010, effective October 22, 2015 (D.C. Law 21-36; D.C.
70 Official Code § 1-301.88d).”.

71 (c) Section 505 (D.C. Official Code § 42-3651.05) is amended as follows:

72 (1) Subsection (a)(1) is amended by adding a new sentence to read as follows:

73 “As part of any order granting a receivership, the Court may also enjoin the respondent(s)
74 from continuing any of the actions, practices, or patterns of neglect at the rental housing
75 accommodation and at any other rental accommodations owned, managed, or controlled by the
76 respondent(s).”

77 (2) Subsection (a)(2) is amended to read as follows:

78 “(a)(2) Upon acceptance of a respondent’s plan, the Court shall retain the case for
79 purposes of monitoring respondent’s execution of the plan. The monitoring shall continue until
80 the Court, on its own motion or that of any party:

81 (A) Dismisses the petition on grounds that all conditions that constituted a
82 serious threat to the health, safety, or security of the tenants have been abated; or

83 (B) Finds the respondent has not made sufficient progress to complete the
84 plan, in which event it may order appointment of a receiver under this section.”

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

86 “(f)(1) As part of any proceeding commenced for the appointment of a receiver,
87 or in any plan for abatement presented by a respondent, the Court shall order that the respondent
88 and/or any owner(s) of the subject rental housing accommodation contribute funds in excess of
89 the rents collected from the rental housing accommodation for any or all of the following
90 purposes:

91 (A) Abating housing code violations;

92 (B) Reimbursing the District of Columbia for any abatements undertaken;

93 (C) Assuring that any conditions that are a serious threat to the health,
94 safety, or security of the occupants or public are corrected;

95 (D) Relocating and maintaining tenants displaced during the
96 implementation of any abatement plan into comparable units including any difference in the rent
97 due to relocation;

98 (E) Satisfying the up-front receivership costs, including posting a bond
99 pursuant to subsection (d) herein, reasonable up-front compensation to the receiver, and any
100 costs associated with obtaining professional studies or evaluations of the property’s condition
101 and abatement needs;

102 (F) Refund prior rents paid of at least one-half (1/2) and up to two-thirds
103 (2/3) of any month’s rent up to three years prior to the date the receivership was granted for any
104 period of time that the District of Columbia presents evidence that the rental housing
105 accommodation suffered from a serious state of disrepair; or

106 (G) For other purposes reasonably necessary in the ordinary course of
107 business of the property, including maintenance and upkeep of the rental housing
108 accommodation, payment of utility bills, mortgages and other debts, and payment of the
109 receiver's fees; or

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

111 "(f)(2) For the purpose of this section, "owner" shall mean any person or entity
112 who, alone or jointly or severally with others, meets either of the following criteria:

113 (A) Has legal title to the subject rental housing accommodation; or

114 (B) Has charge, care, or control of the subject rental accommodation,
115 whether as owner or member, in whole or in part, of the legally titled owner ("owner"), as agent
116 of the owner, or as a fiduciary of the estate of the owner or any officer appointed by the court.

117 (c) Section 506 (D.C. Official Code § 42-3651.06) is amended as follows:

118 (1) Strike the phrase "Corporation Counsel" both times it appears and insert the
119 phrase "Office of the Attorney General for the District of Columbia" in its place.

120 (2)

121 (d) Section 507 (D.C. Official Code § 42-3651.07) is amended as follows:

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

123 "(a)(1) The Court determines that the receivership is no longer necessary because:
124 the grounds on which the appointment of the receiver was based no longer exist; the receiver has
125 received proper compensation for the services provided; the District of Columbia has been
126 reimbursed for all expenses related to the appointment of the receiver; the District of Columbia
127 has been reimbursed for all expenses related to abatements performed by the District or on its
128 behalf by any third-party; and all fines, infractions, and penalties arising from code violations at

129 the property to date have been paid in full to the District of Columbia; or”

130 (2) Subsection (b)(1) is amended by striking the period and inserting the phrase “,
131 for all expenses related to abatements performed by the District or on its behalf by any third-
132 party, and all fines, infractions and penalties arising from code violations at the property to date
133 have been paid in full to the District of Columbia.”

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

135 “(d) As part of any order terminating a receivership, the Court may also permanently
136 enjoin the respondent(s) from continuing any of the actions, practices, or pattern of neglect at the
137 rental housing accommodation and at any other rental accommodations owned, managed, or
138 controlled by the respondent(s).”

139 Sec. 3. Fiscal impact statement.

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

143 Sec. 4. Effective date.

144 This act shall take effect following approval by the Mayor (or in the event of veto by
145 the Mayor, action by the Council to override the veto), a 30-day period of Congressional
146 review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved
147 December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the
148 District of Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM

TO: James Pittman
Deputy Attorney General for Legislative, Intergovernmental, and
Community Engagement
Office of the Attorney General

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: October 1, 2018

SUBJECT: Legal Certification of Draft Legislation, the "Abatement and Condemnation
of Nuisance Properties Amendment Act of 2018"
(AE-18-437)

This is to Certify that this Office has reviewed the above-referenced draft legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

A handwritten signature in blue ink, appearing to read "JMR/a. Robins". The signature is written in a cursive style and is positioned above a horizontal line.

Janet M. Robins