

1 **AMENDMENT IN THE NATURE OF A SUBSTITUTE (MENDELSON)**

2 April 21, 2020

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5 A BILL

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9 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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14 To amend, on an emergency basis, the COVID-19 Response Supplemental Emergency
15 Amendment Act of 2020 to include mortgage lenders as covered entities, require notice
16 of approved deferral applications, and to clarify the amount a landlord may require a
17 tenant to repay following the deferral period; **to prohibit commercial rent increases**
18 **during the public health emergency; to allow nightclubs to deliver food with beer,**
19 **wine or liquor; to clarify provisions in D.C. Act 23-286 pertaining to debt collection**
20 **and civil liability; and to set the budget submission date as May 12, 2020.**

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22 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
23 act may be cited as the “**COVID-19 Supplemental Corrections Mortgage Relief** Emergency
24 Amendment Act of 2020”.

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26 Sec. 2. ~~Section 202 of~~ The COVID-19 Response Supplemental Emergency Amendment
27 Act of 2020, effective April 10, 2020 (D.C. Act 23-286; 66 DCR __), is amended ~~is amended~~ as
28 follows:

29 **(a) Section 202 is amended as follows:**

30 _____ ~~(1a)~~ Strike the term “mortgage servicer” everywhere it appears and insert the term
31 “mortgage lender” in its place.

32 _____ ~~(2b)~~ Subsection (a) is amended as follows:

33 _____ ~~(A1)~~ The lead-in language is amended by striking the phrase “that holds
34 mortgage servicing rights to” and inserting the phrase “that makes **or holds**” in its place.

35 _____ ~~(B2)~~ Paragraph (1) is amended to read as follows:

36 “(1) Grants at least a 90-day interest-free deferment of the monthly payment of
37 principal and interest on a mortgage for borrowers; ~~and;~~”.

38 _____(3e) Subsection (d) is amended by adding a new paragraph (3) to read as follows:

39 “(3)(A) A mortgage lender who approves an application for deferment pursuant to
40 this section shall, on or before May 8, 2020~~within 15 days after the effective date of this act,~~
41 provide to the Commission, notice of all approved applications to the Commissioner on a form
42 prescribed by the Commissioner and such notice shall include the percentage of mortgage
43 deferment approved for and accepted by each borrower. After the initial submission prescribed
44 herein, a mortgage lender who approved an application for deferment pursuant to this section
45 shall provide the Commissioner with a list of all new approvals in 15-day intervals for the
46 duration of the public health emergency and for 60 days thereafter. The Commissioner may
47 request information on the number and nature of approvals between 15-day intervals.

48 “(B) The Commissioner shall maintain a publicly available list of
49 approved commercial mortgage loan deferral applications. The requirement of this subparagraph
50 may be satisfied by posting to the Department of Insurance, Securities, and Banking website.”.

51 _____(4d) Subsection (g) is amended as follows:

52 _____(A1) The lead-in language is amended by striking the phrase “tenant.” ~~and~~
53 ~~inserting the phrase~~ and inserting the phrase “tenant shall, within 5 days of the approval,
54 provide notice of the deferral to all tenants, and:” in its place.

55 _____(B2) Paragraphs (1) and (2) are amended to read as follows:

56 “(1) Shall provide a reduction in the rent charged for the property to any qualified
57 tenant during the period of time in which there is mortgage deferral in place. The amount of the
58 reduction shall be proportional to the deferred mortgage amount paid by the borrower to the

mortgage lender as a percentage of total expenses reported in the borrower's 2019 Income and Expense report provided to the Office of Tax and Revenue; and

“(2) May require the qualified tenant **to** repay the difference in the amount of the rent as stated in the lease and the reduced rent, without interest or fees, within 18 months, or **upon cessation of the tenancy at the end of the lease term**, whichever occurs first; and”

_____ **(C3)** A new paragraph (3) is added to read as follows:

“(3) The borrower shall not report to a credit bureau any delinquency or other derogatory information that occurs as a result of a qualified tenant's **exercise of and compliance with the terms of this repayment pursuant to** subsection ~~(g)(2)~~ **(2) of this section**.”.

_____ **(5e)** Subsection (k) is amended as follows:

_____ **(A1)** The existing text is designated as paragraph (1).

_____ **(B2)** A new paragraph (3) of the newly designated subsection (l) is amended to read as follows:

“(3) “Mortgage lender” means any person makes a mortgage loan to any person or who engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to any other person. A mortgage lender does not include the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association.”.

_____ **(C3)** Paragraph (4) of the newly designated subsection (l) is repealed.

_____ **(6f)** A new subsection (k) is added to read as follows:

“(k) A mortgage lender that violates the provisions of this section shall be subject to penalties prescribed in section 19 of the Mortgage Lender and Broker Act of 1996, effective September 9, 1996 (D.C. Law 11-155; D.C. Official Code § 26-1118).”.

(b) Subsection 203 is amended by adding a new subsection (e) to read as follows:

“(e) Notwithstanding any other provision of law, a rent increase for a commercial property shall be prohibited during a period for which a public health emergency has been declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), and for 30 days thereafter.”

(c) Section 401(b)(1) is repealed:

Sec. 3. Limitation on liability for COVID-19 actions.

Section 5a(d) of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2304.01(d)), is amended as follows:

(a) Paragraph (3) is amended by striking the phrase “; and” and inserting a semicolon in its place.

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

“(3A) Exempt any health-care provider, or first responder, volunteer, donor, or District government contractor or subcontractor providing services arising out of a contract with the District of Columbia from civil liability for damages for actions taken while acting within the scope of their employment or organization’s purpose, voluntary service, or scope of work to implement the provisions of the District of Columbia response plan and of An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408; D.C. Official Code § 7-131 et seq.), except in instances of gross negligence, and solely for actions taken during the public health emergency; and”

Sec. 4. Carry out and delivery.

Section 25-113(a)(3)(C) of the District of Columbia Official Code is amended by striking the phrase “D/H” and inserting the phrase “D/H, C/N, D/N” in its place.

Sec. 5. Debt collection.

Section 28-3814(m) of the D.C. Official Code is amended as follows:

(a) Paragraph (1) is amended by striking the phrase “debtor for the communication” and inserting the phrase “debtor for the communication or is the mailing of monthly statements or payment receipts related to an existing payment plan” in its place.

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

(1) Subparagraph (B) is amended by striking the phrase “; or” and inserting a semicolon in its place.

(2) Subparagraph (C) is amended by striking the phrase “real property.” and inserting the phrase “real property; or” in its place.

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

“(D) Receiving and depositing payments the debtor chooses to make during the public health emergency.”

Sec. 6. Budget submission date.

The Fiscal Year 2021 Budget Submission Requirements Resolution of 2019, effective March 17, 2020 (Res. 23-268; 66 DCR 15372), is amended by striking the phrase “not later than May 6, 2020,” and inserting the phrase “not later than May 12, 2020, unless another date is set by subsequent resolution of the Council” in its place.

Sec. 7. Applicability.

This act shall apply as of March 11, 2020.

Sec. ~~8~~3. Fiscal impact statement.

130 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
131 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
132 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

133 Sec. **94**. Effective date.

134 This act shall take effect following approval by the Mayor (or in the event of veto by the
135 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
136 90 days, as provided for emergency acts of the Council of the District of Columbia in section
137 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
138 D.C. Official Code § 1-204.12(a)).