

1 

2 Councilmember Kenyan McDuffie

3 

4 Councilmember Anita Bonds

5 

6 Councilmember Elissa Silverman

7 

8 Councilmember Brianne K. Nadeau

9 

10 Councilmember Brandon Todd

11 

12 Councilmember Vincent C. Gray

13 

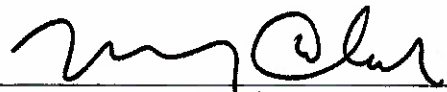
14 Chairman Phil Mendelson

15 

16 Councilmember David Grosso

17 

18 Councilmember Robert C. White, Jr.

19 

20 Councilmember Mary M. Cheh

21 

22 Councilmember Charles Allen

23 

24 Councilmember Trayon White, Sr.

25  
26  
27 A BILL  
28  
29  
30  
31  
32

33 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
34  
35  
36  
37  
38

39 To clarify, on an emergency basis, tenant payment plans, commercial rent increases during a  
40 public health emergency small business microgrant eligibility, grants for promoting  
41 coronavirus awareness, rules for serving alcohol on expanded outdoor restaurant seating,  
42 and COVID-19 leave; and to add provisions related to emergency credit alerts, living  
43 wills, approval of a contract under Council review, and designation of Black Lives Matter  
44 plaza.  
45  
46

47 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
48 act may be cited as the “Coronavirus Support Clarification Emergency Amendment Act of  
49 2020”.

50 Sec. 2. The Coronavirus Support Congressional Review Emergency Amendment Act of  
51 2020, effective June XX, 2020 (D.C. Act 23-XXX; 67 DCR XXXX), is amended as follows:

52 (a) Section 205(d) (D.C. Official Code § 48-641(d)) is amended by striking the phrase “as  
53 a term of a contract or agreement between the platform and the restaurant in connection with the  
54 restaurant’s use of the platform”.

55 (b) Section 402 (D.C. Official Code § 42-3281) is amended as follows:

56 (1) Subsection (a) is amended as follows:

57 (A) Paragraph (1) is amended by striking the phrase “gross rent that comes  
58 due during” and inserting the phrase “gross rent and any other amounts that come due under the  
59 lease during” in its place.

60 (B) Paragraph (4) is amended by striking the phrase “due to a default on  
61 the monetary amounts due during the lease period, provided that the tenant does not default on  
62 the terms of” and inserting the phrase “by entering into” in its place.

63 (2) Subsection (d)(1) is amended to read as follows:

64 “(1) Demonstrates to the provider evidence of a financial hardship resulting  
65 directly or indirectly from the public health emergency, regardless of an existing delinquency or  
66 a future inability to make rental payments established prior to the start of the public health  
67 emergency; and”.

68 (3) Subsection (h)(1) is amended to read as follows:

69 “(1) “Eligible tenant” means a tenant that:

70                           “(A) Has notified a provider of an inability to pay all or a portion of the  
71 rent due as a result of the public health emergency; and

72                           “(B) Is not a franchisee unless the franchise is owned by a District  
73 resident.; and

74                           “(C) Has leased from a provider:

75   “(i) A residential property;

76   “(ii) Commercial retail space; or

77   “(iii) Commercial space that is less than 6,500 square feet in size  
78 and that comprises all or part of a commercial building.”

79                   (c) Section 406(b) (D.C. Official Code § 42-3202.01(b)) is amended to read as follows:

80                           “(b)(1) Notwithstanding any other provision of law, a rent increase for a commercial  
81 property shall be prohibited during a period for which a public health emergency has been  
82 declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980,  
83 effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-1875 2304.01), and for 30  
84 days thereafter.

85                           “(2) For the purposes of this subsection, the term “commercial property” means:

86   “(A) A commercial retail establishment; or

87   “(B) Leased commercial space that is less than 6,500 square feet in size  
88 and that comprises all or part of a commercial building.

89                           “(3) Any increase of rent on a commercial property made by a landlord between  
90 March 11, 2020 and June 9, 2020 shall be null and void and any excess rent paid by a tenant  
91 shall be credited to the tenant.”

92           Sec. 3. Section 2316(e)(2) of the Small and Certified Business Enterprise Development  
93 and Assistance Act of 2005, effective June XX, 2020 (D.C. Act 23-XXX; D.C. Official Code §  
94 2-218.16(e)(2)), is amended to read as follows:

95                   “(2) “Eligible small business” means a business enterprise eligible for  
96 certification under section 2332, a nonprofit entity, or an independent contractor or self-  
97 employed individual determined ineligible for Unemployment Insurance by the Director of the  
98 Department of Employment Services, unless the independent contractor or self-employed  
99 individual is eligible for and receiving such benefits unrelated to their self-employment or  
100 independent contractor work, and is otherwise eligible for the a grant pursuant to this  
101 subsection.”.

102           Sec. 4. The District of Columbia Public Emergency Act of 1980, effective March 5, 1981  
103 (D.C. Law 3-149; D.C. Official Code § 7-2301 *et seq.*), is amended by adding a new section 5b  
104 to read as follows:

105                   “Sec. 5b. Public health emergency response grants.

106                   “(a) Upon the Mayor’s declaration of a public health emergency pursuant to section 5a,  
107 and for a period not exceeding 90 days after the end of the public health emergency, the Mayor  
108 may, notwithstanding the Grant Administration Act of 2013, effective December 24, 2013 (D.C.  
109 Law 20-61; D.C. Official Code § 1-328.11 *et seq.*), and in the Mayor’s sole discretion, issue a  
110 grant or loan to program or organization to assist the District in responding to the public health  
111 emergency, including a grant or loan for the purpose of:

112                           “(1) Increasing awareness and participation in disease investigation and contact  
113 tracing;

114                           “(2) Purchasing and distributing personal protective equipment;

115                   “(3) Promoting and facilitating social distancing measures;  
116                   “(4) Providing public health awareness outreach; or  
117                   “(5) Assisting residents with obtaining disease testing, contacting health care  
118 providers, and obtaining medical services.

119                   “(b) The Mayor may issue one or more grants to a third-party grant-managing entity for  
120 the purpose of issuing or administering grants on behalf of the Mayor in accordance with the  
121 requirements of this section.

122                   “(c) The Mayor, and any third-party entity chosen pursuant to subsection (b) of this  
123 section, shall maintain a list of all grants and loans awarded pursuant to this section with respect  
124 to each public health emergency for which grants or loans are issued. The list shall identify, for  
125 each award, the grant or loan recipient, the date of award, the intended use of the award, and the  
126 award amount. The Mayor shall publish the list online no later than 60 days after the first grant  
127 or loan is issued under this section with respect to a specific public health emergency and shall  
128 publish and updated list online within 30 days after each additional grant or loan, if any, is issued  
129 with respect to the specific public health emergency.

130                   “(d) The Mayor, pursuant to section 105 of the District of Columbia Administrative  
131 Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505), may  
132 issue rules to implement the provisions of this section.”.

133                   Sec. 5. Title 25 of the D.C. Official Code is amended as follows:

134                   (a) Section 25-113(a) is amended by adding a new paragraph (6) to read as follows:

135                   “(6)(A) An on-premises retailer’s licensee, class C/R, C/T, D/R, D/T, C/H, D/H,  
136 C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, or a manufacturer’s  
137 licensee, class A or B, with an on-site sales and consumption permit, or a Convention Center

138 food and alcohol business may register with the Board at no cost to sell, serve, and permit the  
139 consumption of beer, wine, or spirits on new or expanded temporary ground floor or street level  
140 outdoor public or private space not listed on its existing license. Board approval shall not be  
141 required to register; provided that the licensee:

142                                   “(i) Registers with the Board and receives written authorization  
143 from ABRA prior to selling, serving, or permitting the consumption of alcoholic beverages on  
144 the proposed outdoor public or private space;

145                                   “(ii) Registers with DDOT prior to operating on any proposed  
146 outdoor public space or receives written approval from the property owner prior to utilizing any  
147 proposed outdoor private space; and

148                                   “(iii) Agrees to follow all applicable DCRA, DOH, and DDOT  
149 laws and regulations and Mayor’s Orders.

150                                   “(B) An on-premises retailer’s license, class C or D, or a manufacturer’s  
151 license, class A or B, with an on-site sales and consumption permit or a Convention Center food  
152 and alcohol business that has registered with the Board to sell, serve, and permit the consumption  
153 of beer, wine, and spirits to seated patrons on outdoor public or private space not listed on its  
154 existing license in accordance with subparagraph (A) of this paragraph shall:

155                                   “(i) Place tables on the outdoor public or private space serving  
156 separate parties at least 6 feet apart from one another;

157                                   “(ii) Ensure that all outdoor dining customers are seated and place  
158 orders and are served food or alcoholic beverages at tables;

159                                   “(iii) Prohibit events and activities that would require patrons to  
160 cluster or be in close contact with one another, including dancing, playing darts, video games, or  
161 other outdoor games;

162                                   “(iv) Prohibit patrons from bringing their own alcoholic beverages;

163                                   “(v) Prohibit self-service buffets;

164                                   “(vi) Have a menu in use containing a minimum of 3 prepared food  
165 items available for purchase by patrons;

166                                   “(vii) Require the purchase of one or more prepared food items per  
167 table;

168                                   “(viii) Ensure that prepared food items offered for sale or served to  
169 patrons are prepared on the licensed premises or off-premises at another licensed entity that has  
170 been approved to sell and serve food by the Department of Health;

171                                   “(ix) Ensure that the proposed outdoor public or private space is  
172 located in a commercial or mixed-use zone as defined in the District’s zoning regulations;

173                                   “(x) Restrict its operations, excluding carry-out and delivery, and  
174 the sale, service, or the consumption of alcoholic beverages outdoors for on-premises  
175 consumption to the hours between 8:00 a.m. and midnight, Sunday through Saturday;

176                                   “(xi) Not have more than 6 individuals seated at a table or a joined  
177 table during Phase One of Washington D.C.’s reopening, as that term is utilized in Mayor’s  
178 Order 2020-067, issued on May 27, 2020;

179                                   “(xii) Require patrons to wait outside at least 6 feet apart until they  
180 are ready to be seated;

181 “(xiii) Not provide live music or entertainment, except for  
182 background or recorded music played at a conversational level that is not heard in the homes of  
183 District residents;

184 “(xiv) Not serve alcoholic beverages or food to standing patrons;

185 “(xv) Prohibit standing or seating at an outdoor bar provided tables  
186 or counter seats that do not line up to a bar may be used for patron seating as long as there is a  
187 minimum of 6 feet between parties;

188 “(xvi) Prohibit the placement of alcohol advertising, excluding  
189 non-contact menus, on outdoor public space;

190 “(xvii) Provide and require that wait staff wear masks;

191 “(xviii) Request that patrons wear masks while waiting in line  
192 outside of the restaurant or while traveling to use the restroom or until they are seated and eating  
193 or drinking;

194 “(xix) Implement a reservation system by phone, on-line, or on-site  
195 and consider keeping customer logs to facilitate contact tracing by the Department of Health;

196 “(xx) Implement sanitization and disinfection protocols including  
197 the provision of single use condiment packages; and

198 “(xxi) Have its own clearly delineated outdoor space and not share  
199 tables and chairs with another business.

200 “(C) Registration under subparagraph (A) of this paragraph shall be valid  
201 until October 25, 2020. The Board may fine, suspend, or revoke an on-premises retailer’s  
202 licensee, class C or D, or a manufacturer’s licensee, class A or B, with an on-site sales and  
203 consumption permit, and shall revoke the registration to sell, serve, or permit the consumption of



204 beer, wine, or spirits on outdoor public or private space not listed on the license, if the licensee  
205 fails to comply with subparagraph (A) or (B) of this paragraph.

206                   “(D)(i) Notwithstanding subparagraph (B) of this paragraph, the Board  
207 shall interpret settlement agreement language that restricts sidewalk cafés or summer gardens as  
208 applying only to those outdoor spaces that are currently licensed by the Board as sidewalk cafés  
209 or summer gardens.

210                   “(ii) The Board shall not interpret settlement-agreement language  
211 that restricts or prohibits sidewalk cafés or summer gardens to apply to new or extended outdoor  
212 space, the use of which is now permitted under this paragraph.

213                   “(iii) The Board shall not interpret settlement-agreement language  
214 that restricts or prohibits the operation of permanent outdoor space to mean prohibiting the  
215 temporary operation of sidewalk cafés or summer gardens.

216                   “(iv) The Board shall require all on-premises retailer licenses, class  
217 C or D, or manufacturer licenses, class A or B, with an on-site sales and consumption permit, to  
218 delineate or mark currently licensed outdoor space from new or extended outdoor space  
219 authorized by the District Department of Transportation or the property owner.

220                   “(v) With regard to existing outdoor public or private space, parties  
221 to a settlement agreement shall be permitted to waive provisions of settlement agreements that  
222 address currently licensed outdoor space for a period not to exceed 180 days.

223                   “(E) For purposes of this paragraph, ground floor or street level sidewalk  
224 cafés or summer gardens enclosed by awnings or tents having no more than one side shall be  
225 considered outdoor space. Areas enclosed by retractable glass walls and other forms of operable  
226 walls shall not be considered outdoor dining. Temporary unlicensed rooftops and summer

227 gardens not located on the ground floor or street level are not eligible for registration under  
228 subparagraph (A) of this paragraph.

229 “(F) A manufacturer’s licensee, class A or B, with an on-site sales and  
230 consumption permit or a retailer’s licensee class C/T, D/T, C/N, D/N, C/X, or D/X, may partner  
231 with a food vendor during its operating hours to satisfy the requirement of subparagraph (B)(vi)  
232 of this paragraph; provided, that patrons are seated when ordering and ordered food is delivered  
233 by the licensee or the food vendor to the seated patron.”.

234 (b) Section 25-113a is amended by adding a new subsection (c-1) to read as follows:

235 “(c-1) Notwithstanding subsection (c) of this section, an on-premises retailer’s licensee,  
236 class C or D, or manufacturer’s licensee, class A or B, with an on-site sales and consumption  
237 permit may conduct business on ground floor or street level outdoor public or private space,  
238 including the sale, service, and consumption alcoholic beverages; provided, that the licensee  
239 complies with § 25-113(a)(6).”.

240 Sec. 6. Section 3a of the District of Columbia Family and Medical Leave Act of 1990,  
241 effective October 3, 1990 (D.C. Law 8-181; D.C. Official Code § 32-501 *et seq.*), effective June  
242 XX, 2020 (D.C. Act 23-XXX; D.C. Official Code § 32-502.01), to read as follows:

243 “Sec. 3a. COVID-19 leave.

244 “(a) During the COVID-19 public health emergency, an employee shall be entitled to  
245 leave if the employee is unable to work due to:

246 “(1) A recommendation from a health care provider that the employee isolate or  
247 quarantine, including because the employee or an individual with whom the employee shares a  
248 household is at high risk for serious illness from COVID-19;

249                   “(2) A need to care for a family member or an individual with whom the  
250 employee shares a household who is under a government or health care provider’s order to  
251 quarantine or isolate; or

252                   “(3) A need to care for a child whose school or place of care is closed or whose  
253 childcare provider is unavailable to the employee.

254                   “(b)(1) An employee may use no more than 16 weeks of leave pursuant to this section  
255 during the COVID-19 public health emergency.

256                   “(2) The right to leave pursuant to this section expires on the date the COVID-19  
257 public health emergency expires.

258                   “(c) An employer may require reasonable certification of the need for COVID-19 leave  
259 as follows:

260                   “(1) If the leave is necessitated by the recommendation of a health care provider  
261 to the employee, a written, dated statement from a health care provider stating that the employee  
262 has such need and the probable duration of the need for leave;

263                   “(2) If the leave is necessitated by the recommendation of a health care provider  
264 to an employee’s family member or individual with whom the employee shares a household, a  
265 written, dated statement from a health care provider stating that the individual has such need and  
266 the probable duration of the condition.

267                   “(3) If the leave is needed because a school, place of care, or childcare provider is  
268 unavailable, a statement by the head of the agency, company, or childcare provider stating such  
269 closure or unavailability, which may include a printed statement obtained from the institution’s  
270 website.

271           “(d) Notwithstanding section 17, this section shall apply to any employer regardless of  
272 the number of persons in the District that the employer employs.

273           “(e)(1) Except as provided in paragraphs (2) and (3) of this subsection, leave under this  
274 section may consist of unpaid leave.

275           “(2) Any paid leave provided by an employer that the employee elects to use for  
276 leave under this section shall count against the 16 workweeks of allowable leave provided in this  
277 section.

278           “(3) If an employer has a program that allows an employee to use the paid leave  
279 of another employee under certain conditions and the conditions have been met, the employee  
280 may use the paid leave and the leave shall count against the 16 workweeks of leave provided in  
281 this section.

282           “(4) An employee shall not be required, but may elect, to use leave provided  
283 under this section before other leave to which the employee is entitled under federal or District  
284 law or an employer’s policies, unless otherwise barred by District or federal law.

285           “(f) The provisions of section 6 shall apply to an employee who takes leave pursuant to  
286 this section.

287           “(g) An employer who willfully violates subsections (a) through (e) of this section shall  
288 be assessed a civil penalty of \$1,000 for each offense.

289           “(h) The rights provided to an employee under this section may not be diminished by any  
290 collective bargaining agreement or any employment benefit program or plan; except, that this  
291 section shall not supersede any clause on family or medical leave in a collective bargaining  
292 agreement in force on the applicability date of this section for the time that the collective  
293 bargaining agreement is in effect.

294 “(i) For the purposes of this section, the term “COVID-19 public health emergency”  
295 means the emergencies declared in the Declaration of Public Emergency (Mayor’s Order 2020-  
296 045) together with the Declaration of Public Health Emergency (Mayor’s Order 2020-046),  
297 declared on March 11, 2020, including any extension of those declared emergencies.”.

298 Sec. 7. Living will declaration.

299 The Natural Death Act of 1981, effective February 25, 1982 (D.C. Law 4-69; D.C.  
300 Official Code § 7-621 et seq.), is amended as follows:

301 (a) Section 2 (D.C. Official Code § 7–621) is amended by adding new paragraphs (2B)  
302 and (2C) to read as follows:

303 “(2B) “Electronic presence” means when one or more witnesses are in a different  
304 physical location than the declarant but can observe and communicate with the declarant and one  
305 another by using technology having electrical, digital, magnetic, wireless, optical,  
306 electromagnetic, or similar capabilities, to the same extent as if the witnesses and declarant were  
307 physically present with one another.

308 “(2C) “Sign” means with present intent to authenticate or adopt a record, to:

309 “(A) Execute or adopt a tangible symbol; or

310 “(B) Affix to or associate with the record an electronic signature.”.

311 (b) Section 3 (D.C. Official Code § 7–622) is amended as follows:

312 (1) Subsection (a)(4) is amended by striking the phrase “Signed in the presence”  
313 and inserting the phrase “Signed in the presence or, during a period of time for which the Mayor  
314 has declared a public health emergency pursuant to section 5a of the District of Columbia Public  
315 Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-  
316 2304.01), the electronic presence” in its place.

317 (2) A new subsection (d) is added to read as follows:

318 “(d) During a period of time for which the Mayor has declared a public health emergency  
319 pursuant to section 5a of the District of Columbia Public Emergency Act of 1980, effective  
320 October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01), any signature required by  
321 this act may be an electronic signature.”.

322 (c) Section 5(a)(3) (D.C. Official Code § 7-624(a)(3)) is amended by striking the phrase  
323 “in the presence of a witness” and inserting the phrase “in the presence or, during a period of  
324 time for which the Mayor has declared a public health emergency pursuant to section 5a of the  
325 District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-  
326 194; D.C. Official Code § 7-2304.01), electronic presence, of a witness” in its place.

327 Sec. 8. COVID-19 Emergency credit alert.

328 D.C. Official Code § 28-3871 is amended as follows:

329 (a) A new subsection (b-1) is added to read as follows:

330 “(b-1) No user of a credit report shall consider adverse information in a report that was  
331 the result of an action or inaction by a consumer that occurred during, and was directly or  
332 indirectly the result of, the public health emergency declared pursuant to § 7-2304.01 if the credit  
333 report includes a personal statement pursuant to subsection (a) of this section.”

334 (b) A new subsection (h) is added to read as follows:

335 “(h) This section shall not be enforced until July 1, 2020.

336 Sec. 9. Excluded workers contract approval.

337 Pursuant to section 451(c) of the District of Columbia Home Rule Act, approved  
338 December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51(c)), and section 202 of the  
339 District of Columbia Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C.

340 Law 18-371; D.C. Official Code § 2-352.02), the Council approves Contract No. SO-20-002-  
341 0001986 with the Greater Washington Community Foundation for critically needed financial  
342 assistance to workers in the District of Columbia who have been excluded from federal stimulus  
343 efforts and are experiencing financial hardship due to the COVID-19 pandemic, for a contract  
344 term of execution through September 30, 2020, in the not-to-exceed amount of \$5.15 million.

345 Sec. 10. Black lives matter plaza designation.

346 Pursuant to sections 401 and 403a of the Street and Alley Closing and Acquisition  
347 Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-  
348 204.01 and 9-204.03a) (“Act”), and notwithstanding section 423 of the Act (D.C. Law 4-201;  
349 D.C. Official Code § 9-204.23), the Council symbolically designates 16th Street, N.W., between  
350 H Street, N.W., and K Street N.W., in Ward 2, as Black Lives Matter Plaza.

351 Sec. 11. Applicability.

352 This act shall apply as of June 9, 2020.

353 Sec. 12. Fiscal impact statement.

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

357 Sec. 13. Effective date.

358 This act shall take effect following approval by the Mayor (or in the event of veto by the  
359 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than  
360 90 days, as provided for emergency acts of the Council of the District of Columbia in section  
361 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;  
362 D.C. Official Code § 1-204.12(a)).