



**MURIEL BOWSER**  
**MAYOR**

June 29, 2023

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

Dear Chairman Mendelson:

Enclosed for consideration and enactment by the Council of the District of Columbia are the "Floodplain Review Authority Amendment Act of 2023," the "Floodplain Review Authority Temporary Amendment Act of 2023," and the "Floodplain Review Authority Emergency Amendment Act of 2023," along with an accompanying emergency declaration resolution.

The legislation would repeal section 6B of the District of Columbia Applications Insurance Implementation Act, effective April 5, 2021 (D.C. Law 23-269; D.C. Official Code § 6-507), to allow the Mayor to continue to delegate the functions of that act to the Director of the Department of Energy and Environment ("DOEE"). DOEE has historically exercised the authority of the Applications Insurance Act to implement regulations relating to flood hazards and safety in the District, and DOEE has been identified by the Mayor as the District coordination agency for the National Flood Insurance Program ("NFIP"), as required by the Federal Emergency Management Agency. Repeal of section 6B will ensure that the District continues to maintain, and thus obtain the benefits of, its membership in the NFIP.

I urge the Council to take prompt and favorable action on the enclosed legislation.

Sincerely,

A handwritten signature in black ink that reads "Muriel Bowser".

Muriel Bowser



Chairman Phil Mendelson  
at the request of the Mayor

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6 A BILL  
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9 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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14 To amend, on a temporary basis, the District of Columbia Applications Insurance  
15 Implementation Act to repeal the direction to the Mayor that the functions of the act be  
16 delegated to the Director of the Department of Buildings.  
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18 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
19 act may be cited as the “Floodplain Review Authority Temporary Amendment Act of 2023”.

20 Sec. 2. Section 6B of the District of Columbia Applications Insurance Implementation  
21 Act, effective April 5, 2021 (D.C. Law 23-269; D.C. Official Code § 6-507), is repealed.

22 Sec. 3. Fiscal impact statement.

23 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal  
24 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
25 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

26 Sec. 4. Effective date.

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

(b) This act shall expire after 225 days of its having taken effect.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL

BRIAN L. SCHWALB  
ATTORNEY GENERAL



PRIVILEGED AND CONFIDENTIAL  
ATTORNEY-CLIENT COMMUNICATION

LEGAL COUNSEL DIVISION

MEMORANDUM

**TO:** Dan Emerine  
Legislative Director  
Department of Energy and Environment

**FROM:** Megan D. Browder *MDB*  
Deputy Attorney General  
Legal Counsel Division

**DATE:** June 27, 2023

**SUBJECT:** Legal Sufficiency Review – Draft “Floodplain Review Authority Emergency Amendment Act of 2023,” “Floodplain Review Authority Temporary Amendment Act of 2023,” “Floodplain Review Authority Emergency Declaration Resolution of 2023,” and “Floodplain Review Authority Amendment Act of 2023” (AE-23-423 B)

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This legislation would repeal a recent addition to the District of Columbia Applications Insurance Implementation Act (“Insurance Act”).<sup>1</sup> That act requires the review of building permit applications, subdivision proposals, sewage systems, and more for potential flood hazards.<sup>2</sup> The Mayor has delegated administration of the Insurance Act to your Department,<sup>3</sup> but the Council recently directed the Mayor to move that delegation to the new Department of Buildings.<sup>4</sup> This legislation would repeal that direction. It is legally sufficient.<sup>5</sup>

If you have any questions regarding this memorandum, please contact Joshua Turner, Assistant Attorney General, Legal Counsel Division, at (202) 442-9834, or me at (202) 724-5524.

MDB/jat

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<sup>1</sup> Effective May 26, 1976 (D.C. Law 1-64; D.C. Official Code § 6-501 *et seq.*).

<sup>2</sup> See D.C. Official Code §§ 6-501—6-504.

<sup>3</sup> See, e.g., Mayor’s Order 2007-61, dated June 14, 2006.

<sup>4</sup> Department of Buildings Establishment Act of 2020, § 501(b), effective Apr. 5, 2021 (D.C. Law 23-269; 68 DCR 4174).

<sup>5</sup> The repeal of this direction would also make it unnecessary for us to resolve whether that direction impermissibly abridged the Mayor’s delegation authority under the Charter. See D.C. Official Code § 1-204.22(6) (authorizing the Mayor to delegate her functions to “any director of an executive department”).

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL

BRIAN L. SCHWALB  
ATTORNEY GENERAL



PRIVILEGED AND CONFIDENTIAL  
ATTORNEY-CLIENT COMMUNICATION

LEGAL COUNSEL DIVISION

MEMORANDUM

**TO:** Tommy Wells  
Director  
Office of Policy and Legislative Affairs

**FROM:** Megan D. Browder  
Deputy Attorney General  
Legal Counsel Division

**DATE:** June 27, 2023

**SUBJECT:** Legal Sufficiency Review – Draft “Floodplain Review Authority Emergency Amendment Act of 2023,” “Floodplain Review Authority Temporary Amendment Act of 2023,” “Floodplain Review Authority Emergency Declaration Resolution of 2023,” and “Floodplain Review Authority Amendment Act of 2023” (AE-23-423 B)

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**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 (202) 724-5524.

A handwritten signature in black ink that reads "Megan D. Browder".

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Megan D. Browder