



2018 SEP 17 AM 9:50
OFFICE OF THE
ATTORNEY GENERAL

MURIEL BOWSER
MAYOR SEP 17 2018

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Ave., NW, Suite 506
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is a bill entitled the "Landlord Accountability through Expedited Receivership Amendment Act of 2018."

This bill amends D.C. Official Code § 42-3651.01, et seq., the Tenant Receivership Act, by strengthening and expediting the rent receivership process to hold landlords accountable for living conditions that pose serious threats to the health, safety, or security of tenants. The measures contained in this bill will empower the District, to act more quickly, more accountably, and with tougher enforcement tools to improve the lives of the District's most vulnerable tenant populations.

The proposed legislation:

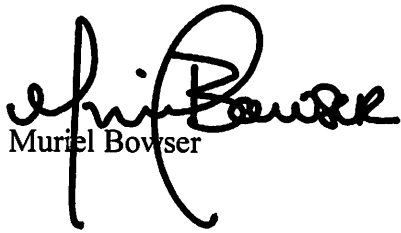
- Creates a permissive statutory mechanism whereby the Mayor may submit a written request asking the Office of the Attorney General (OAG) to petition the Superior Court to appoint a receiver, giving the OAG has 5 business days to either file a petition for receivership, or notify the Mayor that OAG is declining to file a petition;
- Shortens the statutory time for the Court hearing on the petition from 30 days to 10;
- Eliminates the 14-day expiration date for an order of receivership entered *ex parte*;
- Requires the Court to retain and monitor all cases, including those where the Court accepts the landlord's abatement plan, until all conditions are abated;
- Permits the Court to order any "owner" to contribute funds in excess of the rents received, to fund the abatement, reimburse the District, relocate tenants, and to operate and maintain the building while in receivership;
- Defines an "owner" as any person or entity with "charge, care, or control of the subject rental accommodation, whether as owner or member, in whole or in part, of the legally titled owner;" and
- Requires that all expenses associated with the District's abatement, and all fines, infractions, or penalties from code violations, be paid in full before a receivership can be terminated.

As learned from recent, high-profile receivership proceedings, the current process takes too long, petitioners encounter too many obstacles, and landlords know how to maneuver the current system to their advantage in Superior Court. The proposed amendments will disarm these landlords from hiding behind LLCs and other corporate structures, hold them more immediately and more directly accountable, and will incent them to abate violations proactively.


I urge prompt consideration and scheduling of a public hearing on this legislation, and look forward to working with the Council to adopt these urgently needed amendments to the tenant receivership process.

If you have any questions on this matter, please contact Melinda Bolling, Director, Department of Consumer and Regulatory Affairs, at (202) 442-8935.

Sincerely,



Muriel Bowser


Chairman Phil Mendelson
at the request of the Mayor

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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 create an expedited timetable for the appointment of a receiver for a rental housing accommodation if conditions seriously threaten the tenants' health, safety, or security; to create a mechanism for the Mayor to submit a written request to the Office of the Attorney General of the District of Columbia to petition the Superior Court to appoint a rent receiver; to permit the Court to, *ex parte*, issue an order appointing a receiver without expiration; 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, and debts of the building while in receivership; and 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.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this act may be cited as the "Landlord Accountability through Expedited Receivership Amendment Act of 2018".

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” in its place.

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

60 “(b-1) Notwithstanding the availability of any other remedy, the Mayor may,
61 based on the grounds set forth in § 42-3651.02, submit a written request to the Office of the
62 Attorney General for the District of Columbia to petition the Court to appoint a receiver of the
63 rents or payments for use and occupancy of the affected rental housing accommodation. The
64 written request shall be accompanied by any inspection reports, notices of violations, notices of
65 infractions, other written evidence, and other physical and testimonial evidence relied upon by
66 the Mayor to support the request for receivership. Within 5 business days after receiving such a
67 request from the Mayor, the Attorney General shall review and investigate the allegations and
68 the materials in support of a receivership and:

69 “(1) File a petition to the Court to appoint a receiver; or

70 “(2) Advise the Mayor that the Attorney General’s review is complete and
71 the he or she is declining to file a petition for the appointment of a receiver.”.

72 (3) Subsection (c) is amended by striking the number “30” and inserting the
73 phrase “10 business” in its place.

74 (c) Section 504 (D.C. Official Code § 42-3651.04) is amended as follows:

75 (1) Subsection (a)(1) is amended by striking the sentence “The order shall include
76 a notice that the Court will consider, in addition to the grounds for receivership set forth in § 42-
77 3651.02, a plan submitted by the respondent to abate the conditions alleged in the petition.”

78 (2) Subsection (a)(2) is amended by striking the phrase “the notice and”.

79 (3) Subsection (a)(3)(A) is amended by striking the phrase “Corporation Counsel”
80 both times it appears and inserting the phrase “Attorney General for the District of Columbia” in
81 its place.

82 (4) Subsection (b)(1) is amended to read as follows:

83 “(b)(1) If, upon filing of a petition, the Court finds probable cause to believe a
84 condition or practice in the affected rental housing accommodation poses a serious threat to the
85 health, safety, or security of the tenants, it may, ex parte, issue an order appointing a receiver,
86 setting a hearing date, and direct that the order be served along with a copy of the petition.”.

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

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

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

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

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

96 (2) Subsection (f) is amended to read as follows:

97 “(f)(1) As part of any proceeding commenced for the appointment of a receiver,
98 or in any plan for abatement presented by a respondent, the Court may order that the respondent
99 and/or any owner(s) of the subject rental housing accommodation contribute funds in excess of
100 the rents collected from the rental housing accommodation for any of the following purposes:

101 (A) Abating housing code violations;

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

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

105 (D) Relocating and maintaining displaced tenants into comparable units;

106 (E) Satisfying the up-front receivership costs, including posting a bond
107 pursuant to subsection (d) herein, reasonable up-front compensation to the receiver, and any costs
108 associated with obtaining professional studies or evaluations of the property's condition and
109 abatement needs; or

110 (F) For other purposes reasonably necessary in the ordinary course of
111 business of the property, including maintenance and upkeep of the rental housing
112 accommodation, payment of utility bills, mortgages and other debts, and payment of the
113 receiver's fees."

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

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

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

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

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

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

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

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

126 "(a)(1) The Court determines that the receivership is no longer necessary because:
127 the grounds on which the appointment of the receiver was based no longer exist; the receiver has
128 received proper compensation for the services provided; the District of Columbia has been

129 reimbursed for all expenses related to the appointment of the receiver; the District of Columbia
130 has been reimbursed for all expenses related to abatements performed by the District or on its
131 behalf by any third-party; and all fines, infractions, and penalties arising from code violations at
132 the property to date have been paid in full to the District of Columbia; or”

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

137 (g) A new section 509 is added to read as follows:

138 “Sec. 509. Rules.

139 The Mayor may issue rules to implement this title in accordance with the District of
140 Columbia Administrative Procedure Act.”.

141 Sec. 3. Fiscal impact statement.

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

145 Sec. 4. Effective date.

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

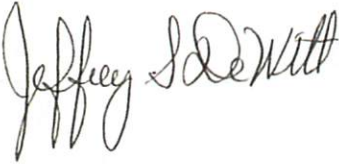
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: August 30, 2018

SUBJECT: Fiscal Impact Statement – Landlord Accountability through Expedited Receivership Amendment Act of 2018

REFERENCE: Draft bill provided to the Office of Revenue Analysis on August 17, 2018

Conclusion

Funds are sufficient in the fiscal year 2018 budget and fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

Under current law the Office of the Attorney General (OAG) may petition a Court to place a rental housing property into receivership, if the property poses a threat to the health, safety, or security of tenants. While under receivership, a third-party receiver manages the property, collecting rent and making improvements to the property to meet health and safety standards.

The bill authorizes the Mayor to request OAG to petition a Court to place a specific property into receivership and outlines a process for such a request. The bill also shortens the timeframe for when a hearing on the petition must be held from 30 days to no more than ten business days.

The bill authorizes the Court to order owners of the subject rental housing property to contribute funds (in addition to normal rent revenue) to abate the property, reimburse the District for any abatements taken, relocate displaced tenants, pay for receivership costs, or pay for any other costs associated with the ordinary business of the property. The Court may not terminate the receivership until the District is reimbursed for all expenses related to abatements, fines, infractions, and penalties.

The Honorable Phil Mendelson

FIS: "Landlord Accountability through Expedited Receivership Amendment Act of 2018," Draft bill provided to the Office of Revenue Analysis on August 17, 2018.

Financial Plan Impact

Funds are sufficient in the fiscal year 2018 budget and fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The changes made to the receivership process do not require any additional resources for the Department of Consumer and Regulatory Affairs (DCRA) or OAG. DCRA already refers cases to OAG. The bill outlines a more specific process but does not change current practice. OAG will still retain its independent ability to determine which cases to pursue within its current resources.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM

TO: Lolita S. Alston
Director
Office of Legislative Support

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

DATE: September 4, 2018

SUBJECT: Legal Certification of Draft Legislation, the "Landlord Accountability through Expedited Receivership Amendment Act of 2018"
(AE-18-444)

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.

Janet M. Robins