

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, the COVID-19 Response Supplemental Emergency Amendment Act of 2020 to include mortgage lenders as covered entities, and require notice of approved deferral applications, to clarify the amount a landlord may require a tenant to repay following the deferral period, and to prohibit commercial rent increases during the public health emergency; to amend the District of Columbia Public Emergency Act of 1980 to provide that a public health emergency executive order may include exempting specified persons from civil liability; to amend section 25-113 of the District of Columbia Official Code to allow nightclubs to deliver food with beer, wine, or liquor; to amend section 28-3814 of the District of Columbia Official Code to clarify the provisions pertaining to debt collection and civil liability; and to amend the Fiscal Year 2021 Budget Submission Requirements Resolution of 2019 to set the budget submission date as May 12, 2020.

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

Sec. 2. The COVID-19 Response Supplemental Emergency Amendment Act of 2020, effective April 10, 2020 (D.C. Act 23-286; 66 DCR 4178), is amended as follows:

(a) Section 202 is amended as follows:

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

(2) Subsection (a) is amended as follows:

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

(B) Paragraph (1) is amended to read as follows:

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

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

“(3)(A)(i) A mortgage lender who approves an application for deferment pursuant to this section shall, on or before May 8, 2020, provide to the Commissioner, notice of

all approved applications on a form prescribed by the Commissioner and such notice shall include the percentage of mortgage deferment approved for and accepted by each borrower.

“(ii) After the initial submission prescribed in this paragraph, a mortgage lender who approved an application for deferment pursuant to this section shall provide the Commissioner with a list of all new approvals in 15-day intervals for the duration of the public health emergency and for 60 days thereafter.

“(iii) The Commissioner may request information on the number and nature of approvals between 15-day intervals.

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

(4) Subsection (g) is amended as follows:

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

(B) Paragraphs (1) and (2) are amended to read as follows:

“(1) Shall provide a reduction in the rent charged for the property to any qualified tenant during the period of time in which there is mortgage deferral in place. The amount of the 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, whichever occurs first; and”

(C) 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 compliance with the terms of this subsection.”.

(5) Subsection (k) is amended as follows:

(A) The subsection is redesignated as subsection (1).

(B) Paragraph (3) of the newly designated subsection (1) is amended to read as follows:

“(3) “Mortgage lender” means any person that makes a mortgage loan to any person or that 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. The term “mortgage lender” does not include the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association.”.

(C) Paragraph (4) of the newly designated subsection (1) is repealed.

(6) 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 the 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)(A)(i) Exempt from liability in a civil action, a healthcare provider, first responder, or volunteer who renders care or treatment to a potential, suspected, or diagnosed individual with COVID-19 for damages resulting from such care or treatment of COVID-19, or from any act or failure to act in providing or arranging medical treatment for COVID-19 during a declared public-health emergency;

“(ii) Exempt from liability in a civil action, a donor of time, professional services, equipment, or supplies for the benefit of persons or entities providing care or treatment for COVID-19 to a suspected or diagnosed individual with COVID-19, or care for the family members of such individuals for damages resulting from such donation during a declared public-health emergency; or

“(iii) Exempt from liability in a civil action, a contractor or subcontractor on a District government contract that has contracted to provide health care services or human care services (consistent with section 104(37) to the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.04(37)) related to a declared public health emergency related to the District government’s COVID-19 response.

“(B) The limitation on liability provided by subparagraph (A) of this paragraph applies to any healthcare provider, first responder, volunteer, or District government contractor or subcontractor of a District government contractor (“provider”), including a party involved in the healthcare process at the request of a health-care facility or the District government, and acting within the scope of the provider’s employment or organization’s purpose, or contractual or voluntary service, even if outside the provider’s professional scope of practice, state of licensure, or with an expired license, who:

“(i) Prescribes or dispenses medicines for off-label use to attempt to combat the COVID-19 virus, in accordance with the federal Right to Try Act, approved May 30, 2018 (Pub. L. No. 115-176; 132 Stat. 1372);

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“(ii) Provides direct or ancillary health-care services or health-care products, including direct patient care, testing, equipment or supplies, consultations, triage services, resource teams, nutrition services, or physical, mental, and behavioral therapies; or

“(iii) Utilizes equipment or supplies outside of the product’s normal use for medical practice and the provision of health-care services to combat the COVID-19 virus.

“(C) The limitation on liability provided by subparagraph (A) of this paragraph shall not extend to:

“(i) Acts or omissions that constitute a crime, actual fraud, actual malice, recklessness, breach of contract, gross negligence, or willful misconduct; or

“(ii) Acts or omissions unrelated to direct patient care; provided, that a contractor or subcontractor shall not be liable for damages for any act or omission alleged to have caused an individual to contract COVID-19.

“(D) The limitation on liability provided by this paragraph extends to acts, omissions, and donations performed or made during a period of time for which the Mayor has declared a public health emergency 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 to damages that ensue at any time from acts, omissions, and donations made during the emergency.

“(E) The limitation on liability provided by this paragraph does not limit the applicability of other limitations on liability, including qualified and absolute immunity, that may otherwise apply to a person covered by this section; nor does this section limit the authority of the Mayor under section 5a(d) 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(d)).

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 related to an existing payment plan 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 a 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. Fiscal impact statement.

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

Sec. 9. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia