

A RESOLUTION

22-597

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

October 2, 2018

To declare the existence of an emergency, due to congressional review, with respect to the need to clarify that the Office of the Attorney General is authorized to enforce the District of Columbia Consumer Protection Procedures Act against housing providers that violate certain consumer protection laws that protect tenants.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “At-Risk Tenant Protection Clarifying Congressional Review Emergency Declaration Resolution of 2018”.

Sec. 2. (a) By bringing enforcement actions or investigations under the District of Columbia Consumer Protection Procedures Act, D.C. Official Code § 28-3901, *et seq.* (“CPPA”), the District government is increasingly looking to protect tenant-consumers from unscrupulous housing providers that fail to live up to their obligations.

(b) The CPPA provides the Attorney General with flexible enforcement tools to address problem housing providers, including the ability to enjoin bad conduct, recover restitution for tenant-consumers forced to live in substandard conditions, and penalties to deter future violations.

(c) For instance, in one case filed in the Superior Court of the District of Columbia, the Attorney General recently obtained more than \$268,000 in rent refunds that will go to consumers allegedly forced by their housing provider to live in slum-like conditions.

(d) However, there remains the possibility that a District of Columbia court might question whether the District has authority to bring a CPPA enforcement action in the landlord-tenant arena.

(e) This concern is due to language in the CPPA that prevents the Department of Consumer and Regulatory Affairs (“DCRA”) from applying the CPPA to “landlord-tenant relations.” D.C. Official Code § 28-3903(c)(2)(A).

(f) Even though this exclusion, by its express terms, only applies to DCRA, a court might nevertheless wrongly interpret that provision to foreclose an enforcement action brought by the Attorney General under the CPPA.

(g) There are active CPPA enforcement cases and non-public investigations in the landlord-tenant arena that could be jeopardized by a wrong interpretation of the CPPA’s

landlord-tenant exclusion. It is therefore necessary to clarify that the Attorney General may enforce the CPPA in the area of landlord-tenant relations.

(h) Therefore, there exists an immediate need to clarify existing law on an emergency basis so that current District tenants that might be helped by the Attorney General's active enforcement in this area are not potentially robbed of the full protections due them under District law.

(i) This congressional review emergency legislation is necessary because the emergency legislation currently in effect, the At-Risk Tenant Protection Clarifying Emergency Amendment Act of 2018, effective July 16, 2018 (D.C. Act 22-402; 65 DCR 7518), will expire on October 14, 2018, and the temporary legislation is not set to take effect until October 27, 2018. The permanent legislation, the At-Risk Tenant Protection Clarifying Amendment Act of 2018, passed on 1st reading on October 2, 2018 (Engrossed version of Bill 22-170), has not yet been passed on final reading by the Council.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the At-Risk Tenant Protection Clarifying Congressional Review Emergency Amendment Act of 2018 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.