

A RESOLUTION

23-520

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 22, 2020

To declare the existence of an emergency with respect to the need to amend the Rental Housing Act of 1985 to enact a one-year moratorium on applications for and the Mayor's issuance of a Certificate of Assurance

RESOLVED, BY THE COUNCIL DISTRICT OF COLUMBIA, That this resolution may be cited as the "Certificate of Assurance Moratorium Emergency Declaration Resolution of 2020".

Sec. 2. (a) The District's modern rent stabilization laws date from 1973 and were rewritten in 1975, 1977, 1980, and 1985. Over the years, the District has reauthorized rent stabilization with the staunch belief that the availability of affordable housing is critical to neighborhood stability, the maintenance of a diverse population, and a healthy District economy. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*) ("RHA"), generally limits rent stabilized apartments to rental buildings of 5 units or more built before 1976.

(b) Section 221 of the RHA provides that the Mayor shall issue a certificates of assurance for any housing provider exempt from the RHA if any law expanding rent stabilization is passed by a Council at any time thereafter. Possession of a Certificate issued by the Mayor would entitle the affected housing providers to a property tax credit equal to the difference in the stabilized rent that the housing provider actually receives and the rent the housing provider could have received with a market rate rent. This benefit applies as long as the property is used as housing accommodation, defined as a structure or building containing one or more rental units and the land appurtenant thereto.

(c) The legislative history of the Certificate of Assurance provision shows that little, if any, public discussion occurred before the Certificate of Assurance provision became law. This record reveals that the 1985 Council ultimately chose to bind future legislatures to a poorly conceived, loophole-riddled provision that prioritizes the interests of housing providers at the expense of future democratic accountability and the housing security of future residents.

(d) This provision has implications for the District's ability to ever expand rent stabilization because the fiscal impact, should rent stabilization ever be expanded, would be severe. Chief Tenant Advocate Johanna Shreve testified on September 14, 2020, that a \$500 differential between market rate and stabilized rents for the 43 providers that have submitted requests for Certificates of Assurance would cost the District upwards of \$43,000,000 per year

should the District expand rent stabilization without first addressing the Certificate of Assurance provision. Additional requests for certificates will certainly be submitted by housing providers as public awareness of this provision increases and as the Council deliberates legislation that expands rent stabilization. If the Certificate of Assurance provision is not addressed, the estimated cost to the District will increase exponentially.

(e) The Council has recently learned that despite all of the advantages of the Certificate of Assurance to housing providers, no Certificate has ever been issued to a housing provider by the District in the past 35 years. However, because of renewed interest in the Certificate of Assurance, the Department of Housing and Community Development has received 43 new requests for Certificates of Assurance in the past 10 months.

(f) The Certificate of Assurance Moratorium Emergency Amendment Act of 2020 places an emergency moratorium on applications for, and the Mayor's issuance of, Certificates of Assurance.

(g) A moratorium is also necessary because of the COVID-19 public health emergency. The current economic crisis affects both tenants who have experienced a loss of income and are unable to pay their rent in part or in full and housing providers facing decreased rental income. The Council will not be able to consider legislation expanding rent stabilization if it does not institute a moratorium that pauses both applications and issuance of certificates.

(h) The Council requires time to deliberate the wisdom and shortcomings of the Certificate of Assurance provision. With a moratorium in place for a year, the Council will have the opportunity to fully deliberate the wisdom of whether to expand rent stabilization to more housing providers.

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 Certificate of Assurance Moratorium Emergency Amendment Act of 2020 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.