

A RESOLUTION

24-214

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

July 13, 2021

To declare the existence of an emergency with respect to the need to amend the District of Columbia Public Emergency Act of 1980 to extend the Mayor’s authority to declare a public emergency; to amend the Coronavirus Support Temporary Amendment Act of 2021 to remove the public health emergency as the trigger for provisions of the act, to provide for a moratorium on utility disconnections for qualified customers, and to repeal provisions establishing accelerated review of grant budget modifications by the Council, to require certain improvements to the Stronger Together by Assisting You program; to amend Title 16 of the District of Columbia Official Code to allow housing providers to file eviction cases in Superior Court when the tenant’s continuing presence is a threat to health and safety or when the tenant has willfully or wantonly caused significant damage to the property, to allow housing providers to file eviction cases in Superior Court for non-payment of rent on October 12, 2021 if 60 days have elapsed since the initiation or submission of an emergency rental assistance program application or the tenant is not eligible, provided, that an application is not pending or under appeal, to allow housing providers to file other eviction cases in Superior Court beginning January 1, 2022, and to require a summons be served 30 days in advance of an initial court hearing and a readable time stamp if the summons was served by posting; to amend section 501 of the Rental Housing Act of 1985 to provide for specific notice requirements for eviction cases involving non-payment of rent and for cases with evictions authorized prior to March 11, 2020; and to repeal outdated provisions of other laws.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Public Emergency Extension and Eviction and Utility Moratorium Phasing Emergency Declaration Resolution of 2021”.

Sec. 2. (a) On March 11, 2020, the Mayor of the District of Columbia issued Mayor’s Orders 2020-045 and 2020-046, declaring a public emergency and a public health emergency in the District due to the imminent threat to the health, safety, and welfare of District residents

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posed by the spread of COVID-19. Additional orders have since been issued since as the pandemic has ebbed and flowed, but strategic reopening measures and widespread vaccination have pushed the District's reopening metrics to Phase 3, with the lowest daily case rates since early March and the lowest positive test rate since the pandemic started. As such, the Mayor will not be extending the public health emergency beyond July 25, 2021. While the indicators are largely positive, the situation may require continued public health guidance and coordinated response, particularly for vulnerable populations such as individuals who have not been fully vaccinated and people who are homeless. As such, it is necessary to extend the Mayor's authority to declare a public emergency until October 8, 2021.

(b) With the expiration of the public health emergency, protections included in provisions of the Coronavirus Support Temporary Amendment Act of 2021, effective June 24, 2021 (D.C. Law 24-9; 68 DCR 4824), and associated legislation, which is currently controlling, will no longer be effective. These protections include the funeral service bill of rights, prohibitions against price gouging and stockpiling, a moratorium on foreclosures, and extensions of public benefit access timelines. To ensure that Council committees have adequate time to address these protections without the need for additional emergency legislation, it is necessary to extend these statutory protections until November 5, 2021, or in rare cases, until December 31, 2021.

(c) In April 2021, the District launched the federally funded STAY DC program which provides funding for up to 12 months of past due rent and up to 3 months of future rent for tenants who meet federal eligibility and income requirements. That program also covers past due utility arrears.

(d) Utility customers entering into authorized payment plans are currently not subject to service disconnection. However, some customers have not entered into payment plans. Under current law adopted at the outset of the pandemic, there is also a blanket disconnection moratorium without regard to whether a customer has been financially impacted by COVID-19. Arrearages for utilities have been rising throughout the pandemic, which is creating consumer debt with District residents who are not paying for whatever reason. It is necessary that the blanket disconnection moratorium, which is in effect during the public health emergency, be modified to only apply to those who are receiving utility assistance from the District or are enrolled in a public assistance program starting October 11, 2021.

(e)(1) The COVID-19 pandemic has resulted in tens of thousands of people losing jobs or getting their hours cut, significantly reducing pay. As a result, the latest data from the Census Bureau's Household Pulse Survey suggests that roughly 15,000 renter-occupied households in the District are not current on their rent. Approximately 60% of those households made less than \$50,000 prior to the pandemic.

(2) The District of Columbia received \$350 million through the Consolidated Appropriations Act, 2021, approved December 27, 2020 (Pub. L. No. 116-260; 134 Stat. 1182), and the American Rescue Plan Act, approved March 11, 2021 (Pub. L. No. 117-2; 135 Stat. 4),

to provide rental and utility assistance to households that are at risk of housing instability or homelessness, have experienced a reduction in income due to the COVID-19 pandemic, have incurred significant costs because of the pandemic, or have experienced other financial hardship directly or indirectly due to the pandemic and have a household income of 80% AMI or less.

(3) To ensure that 65% of the emergency rental assistance funding is allocated before September 30, 2021, it is necessary to require improvements to the STAY DC program, including allowing housing providers to submit applications on behalf of their tenants through the application portal with the tenant's electronic signature.

(4) To ensure improvements to STAY DC are in place before eviction filings for non-payment of rent can proceed, it is necessary to prohibit such filings until October 12, 2021, at the earliest, after which point housing providers may file for non-payment of rent if they follow specific requirements of the law.

(5) To avoid a predicted "tsunami" of eviction filings for non-payment of rent, it also is necessary to amend Title 16 of the District of Columbia Official Code to phase out the eviction moratorium and to provide for additional protections, including:

(A) Allowing housing providers to issue past due rent notices as soon as the public health emergency expires. These notices must meet specific requirements in section 501(b-1)(2) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3505.01(b-1)(2)), including attachment of a ledger and information on emergency rental assistance programs in the District, so tenants know well in advance of potential filings what they owe and how they can receive assistance to pay the arrearage;

(B) Requiring housing providers to provide a court summons to the tenant 30 days before the initial court hearing date, as opposed to 7 days before trial;

(C) Requiring housing providers to apply for emergency rental assistance on behalf of the tenant or to initiate the application on behalf of the tenant, notify the tenant of the application in writing, and to allow 60 days to elapse unless a eligibility determination is received sooner; and requiring housing providers to give notice to the tenant that meets requirements of District law, including section 501(b-1)(2) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3505.01(b-1)(2)); and

(D) Requiring housing providers to demonstrate that a tenant is not eligible for emergency rental assistance or that the tenant has not completed the tenant's portion of the application, and that 60 days have elapsed at the time of filing.

(6) To ensure that the District of Columbia Superior Court is not overwhelmed by eviction cases after October 12, 2021, it is also necessary to prohibit eviction filings for cases not subject to an exemption under D.C. Official Code 16-1501(c) until January 1, 2022.

(7) Currently, housing providers may only file and evict tenants for specific public safety concerns. This exception was adopted by the Council on April 6, 2021, and was narrowly tailored to ensure it would not negatively impact public health at a time when

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occupancy and operating restrictions on businesses were still in place, only 23% of residents were fully or partially vaccinated, and the daily case rate of COVID-19 was above 15 per 100,000. Occupancy and operating restrictions on businesses are now lifted, over 60% of residents are fully or partially vaccinated, and the current case rate is below 2 per 100,000. Given these positive indicators, it is necessary to give housing providers additional relief with respect to eviction filings by allowing filings when a tenant has willfully or wantonly caused significant damage to the unit, premises, or property of the housing provider.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Public Emergency Extension and Eviction and Utility Moratorium Phasing Emergency Amendment Act of 2021 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.