

Chairman Phil Mendelson

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To clarify, on an emergency basis, tenant payment plans, commercial rent increases during a public health emergency small business microgrant eligibility, grants for promoting coronavirus awareness, and rules for serving alcohol on expanded outdoor restaurant seating.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Coronavirus Support Clarification Emergency Amendment Act of 2020”.

Sec. 2. The Coronavirus Support Congressional Review Emergency Amendment Act of 2020, effective June XX, 2020 (D.C. Act 23-XXX; 67 DCR XXXX), is amended as follows:

(a) Amendatory section 2316(e)(2) of Section 201(b) is repealed.

(b) Section 402 (D.C. Official Code § 42-3281) is amended as follows:

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

35 (A) Paragraph (1) is amended by striking the phrase “gross rent that comes
36 due during” and inserting the phrase “gross rent and any other amounts that come due under the
37 lease during” in its place.

38 (B) Paragraph (4) is amended by striking the phrase “due to a default on
39 the monetary amounts due during the lease period, provided that the tenant does not default on
40 the terms of” and inserting the phrase “by entering into” in its place.

41 (2) Subsection (d)(1) is amended to read as follows:

42 “(1) Demonstrates to the provider evidence of a financial hardship resulting
43 directly or indirectly from the public health emergency, regardless of an existing delinquency or
44 a future inability to make rental payments established prior to the start of the public health
45 emergency; and”.

46 (3) Subsection (g)(1) is amended to read as follows:

47 “(1) “Eligible tenant” means a tenant that:

48 “(A) Has notified a provider of an inability to pay all or a portion of the
49 rent due as a result of the public health emergency; and

50 “(B) Is not a franchisee unless the franchise is owned by a District
51 resident.; and

52 “(C) Has leased from a provider:

53 “(I) A residential property;

54 “(II) Commercial retail space; or

55 “(III) Commercial space that is less than 6,500 square feet in size
56 and that comprises all or part of a commercial building.”

57 (c) Section 406(b) (D.C. Official Code § 42-3202.01) is amended to read as follows:

58 “(b)(1) Notwithstanding any other provision of law, a rent increase for a commercial
59 property shall be prohibited during a period for which a public health emergency has been
60 declared pursuant to section 5a of the District of Columbia Public Emergency Act of 1980,
61 effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-1875 2304.01), and for 30
62 days thereafter.

63 “(2) For the purposes of this subsection, the term “commercial property” means:

64 “(A) A commercial retail establishment; or

65 “(B) Leased commercial space that is less than 6,500 square feet in size
66 and that comprises all or part of a commercial building.

67 “(3) Any increase of rent on a commercial property made by a landlord between
68 March 11, 2020 and June 9, 2020 shall be null and void and any excess rent paid by a tenant
69 shall be credited to the tenant.”

70 Sec. 3. Section 2316(e)(2) of the Small and Certified Business Enterprise Development
71 and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code §
72 2-218.01), passed on an emergency basis on May 19, 2020 (The Coronavirus Support
73 Congressional Review Emergency Amendment Act of 2020, effective June XX, 2020 (D.C. Act
74 23-XXX; 67 DCR XXXX) is amended to read as follows:

75 “(2) “Eligible small business” means a business enterprise eligible for
76 certification under section 2332, a nonprofit entity, or an independent contractor or self-
77 employed individual determined ineligible for Unemployment Insurance the Director of the
78 Department of Employment Services, unless the independent contractor or self-employed
79 individual is receiving such benefits unrelated to their self-employment or independent
80 contractor work, and is otherwise eligible for the Microgrant program.”.

81 Sec. 4. The District of Columbia Public Emergency Act of 1980, effective March 5, 1981
82 (D.C. Law 3-149; D.C. Official Code § 7-2301 *et seq.*), is amended by adding a new section 5b
83 to read as follows:

84 “Sec. 5b. Public health emergency response grants.

85 “(a) Upon the Mayor’s declaration of a public health emergency pursuant to section 5a,
86 and for a period not exceeding 90 days after the end of the public health emergency, the Mayor
87 may, notwithstanding the Grant Administration Act of 2013, effective December 24, 2013 (D.C.
88 Law 20-61; D.C. Official Code § 1-328.11 *et seq.*), and in the Mayor’s sole discretion, issue a
89 grant or loan to an individual or entity to assist the District in responding to the public health
90 emergency, including a grant or loan for the purpose of:

91 “(1) Increasing awareness and participation in disease investigation and contact
92 tracing;

93 “(2) Purchasing and distributing personal protective equipment;

94 “(3) Promoting and facilitating social distancing measures;

95 “(4) Providing public health awareness outreach; or

96 “(5) Assisting residents with obtaining disease testing, contacting health care
97 providers, and obtaining medical services.

98 “(b) The Mayor may issue one or more grants to a third-party grant-managing entity for
99 the purpose of issuing or administering grants on behalf of the Mayor in accordance with the
100 requirements of this section.

101 “(c) The Mayor, and any third-party entity chosen pursuant to subsection (b) of this
102 section, shall maintain a list of all grants and loans awarded pursuant to this section with respect
103 to each public health emergency for which grants or loans are issued. The list shall identify, for

104 each award, the grant or loan recipient, the date of award, the intended use of the award, and the
105 award amount. The Mayor shall publish the list online no later than 60 days after the first grant
106 or loan is issued under this section with respect to a specific public health emergency and shall
107 publish and updated list online within 30 days after each additional grant or loan, if any, is issued
108 with respect to the specific public health emergency.

109 “(d) The Mayor, pursuant to section 105 of the District of Columbia Administrative
110 Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505), may
111 issue rules to implement the provisions of this section.”.

112 Sec. 5. Title 25 of the D.C. Official Code is amended as follows:

113 (a) Section 25-113(a) is amended by adding a new paragraph (6) to read as follows:

114 “(6)(A) An on-premises retailer’s license, class C/R, C/T, D/R, D/T, C/H, D/H,
115 C/N, D/N, C/X, or D/X, including a multipurpose facility or private club, or a manufacturer’s
116 license, class A or B, with an on-site sales and consumption permit, or a Convention Center food
117 and alcohol business may register with the Board at no cost to sell, serve, and permit the
118 consumption of beer, wine, or spirits on new or expanded temporary ground floor or street level
119 outdoor public or private space not listed on its existing license. Board approval shall not be
120 required to register; provided that the licensee:

121 “(i) Registers with the Board and receives written authorization
122 from ABRA prior to selling, serving, or permitting the consumption of alcoholic beverages on
123 the proposed outdoor public or private space;

124 “(ii) Registers with DDOT prior to operating on any proposed
125 outdoor public space or receives written approval from the property owner prior to utilizing any
126 proposed outdoor private space; and

127 “(iii) Agrees to follow all applicable DCRA, DOH, and DDOT
128 laws and regulations and Mayor’s Orders.

129 “(B) An on-premises retailer’s license, class C or D, or a manufacturer’s
130 license, class A or B, with an on-site sales and consumption permit or a Convention Center food
131 and alcohol business that has registered with the Board to sell, serve, and permit the consumption
132 of beer, wine, and spirits to seated patrons on outdoor public or private space not listed on its
133 existing license in accordance with subparagraph (A) shall:

134 “(i) Place tables on the outdoor public or private space serving
135 separate parties at least 6 feet apart from one another;

136 “(ii) Ensure that all outdoor dining customers are seated and place
137 orders and are served food or alcoholic beverages at tables;

138 “(iii) Prohibit events and activities that would require patrons to
139 cluster or be in close contact with one another, including dancing, playing darts, video games, or
140 other outdoor games;

141 “(iv) Prohibit patrons from bringing their own alcoholic beverages;

142 “(v) Prohibit self-service buffets;

143 “(vi) Have a menu in use containing a minimum of three (3)
144 prepared food items available for purchase by patrons;

145 “(vii) Require the purchase of one or more prepared food items per
146 table;

147 “(viii) Ensure that prepared food items offered for sale or served to
148 patrons are prepared on the licensed premises or off-premises at another licensed entity that has
149 been approved to sell and serve food by DC Health;

150 “(ix) Ensure that the proposed outdoor public or private space is
151 located in a commercial or mixed-use zone as defined in the District’s zoning regulations;

152 “(x) Restrict its operations, excluding carry-out and delivery, and
153 the sale, service, or the consumption of alcoholic beverages outdoors for on-premises
154 consumption to the hours between 8:00 a.m. and midnight, Sunday through Saturday;

155 “(xi) Not have more than six (6) individuals seated at a table or a
156 joined table during Phase I of Washington DC’s reopening;

157 “(xii) Require patrons to wait outside at least 6 feet apart until they
158 are ready to be seated;

159 “(xiii) Not provide live music or entertainment, except for
160 background or recorded music played at a conversational level that is not heard in the homes of
161 District residents;

162 “(xiv) Not serve alcoholic beverages or food to standing patrons;

163 “(xv) Prohibit standing or seating at an outdoor bar provided tables
164 or counter seats that do not line up to a bar may be used for patron seating as long as there is a
165 minimum of six feet between parties;

166 “(xvi) Prohibit the placement of alcohol advertising, excluding
167 non-contact menus, on outdoor public space;

168 “(xvii) Provide and require that wait staff wear masks;

169 “(xviii) Request that patrons wear masks while waiting in line
170 outside of the restaurant or while traveling to use the restroom or until they are seated and eating
171 or drinking;

172 “(xix) Implement a reservation system by phone, on-line, or on-site
173 and consider keeping customer logs to facilitate contact tracing by DC Health;

174 “(xx) Implement sanitization and disinfection protocols including
175 the provision of single use condiment packages; and

176 “(xxi) Have its own clearly delineated outdoor space and shall not
177 share tables and chairs with another business.

178 “(C) Registration under subparagraph (A) of this paragraph shall be valid
179 until October 25, 2020. The Board may fine, suspend, or revoke an on-premises retailer’s
180 license, class C or D, or a manufacturer’s license, class A or B, with an on-site sales and
181 consumption permit, and shall revoke the registration to sell, serve, or permit the consumption of
182 beer, wine, or spirits on outdoor public or private space not listed on the license, if the licensee
183 fails to comply with subparagraph (A) or (B) of this paragraph.

184 “(D)(i) Notwithstanding subsection (B), the Board shall interpret
185 settlement agreement language that restricts sidewalk cafes or summer gardens as applying only
186 to those outdoor spaces that are currently licensed by the Board as sidewalk cafés or summer
187 gardens.

188 “(ii) The Board shall not interpret language that restricts or
189 prohibits sidewalk cafés or summer gardens to apply to new or extended outdoor space now
190 permitted under this subsection on a temporary basis because prior to the Coronavirus pandemic
191 this new registration process was not available to eligible licensees.

192 “(iii) The Board shall not interpret language that restricts or
193 prohibits the operation of permanent outdoor space to mean prohibiting the temporary operation

194 of sidewalk cafes or summer gardens because prior to the Coronavirus pandemic this new
195 registration process was not available to eligible licensees.

196 “(iv) The Board shall require all on-premises retailer licenses, class
197 C or D, or manufacturer licenses, class A or B, with an on-site sales and consumption permit, to
198 delineate or mark currently licensed outdoor space from new or extended outdoor space
199 authorized by DDOT or the property owner.

200 “(v) With regard to existing outdoor public or private space, parties
201 to a settlement agreement shall be permitted to waive provisions of settlement agreements that
202 address currently licensed outdoor space for a period not to exceed 180 days.”.

203 “(E) For purposes of the act, ground floor or street level sidewalk cafés or
204 summer gardens with awnings or tents containing no more than one side shall be considered
205 outdoor space. Retractable glass walls and other forms of operable walls shall be considered
206 indoor dining. Temporary unlicensed rooftops and summer gardens not located on the ground
207 floor or street level are not eligible for registration under subparagraph (A).

208 “(F) A manufacturer’s license, class A or B, with an on-site sales and
209 consumption permit or a retailer’s license class C/T, D/T, C/N, D/N, C/X, or D/X, may partner
210 with a food vendor during its operating hours to satisfy the use of a menu containing a minimum
211 of three prepared food items available to patrons requirement provided patrons are seated when
212 ordering and ordered food is delivered by the licensee or the food vendor to the seated patron.”.

213 (b) Section 25-113a is amended by adding a new subsection (c-1) to read as follows:

214 “(c-1) Notwithstanding § 25-113a(c), an on-premises retailer’s license, class C or D, or
215 manufacturer’s license, class A or B, with an on-site sales and consumption permit may conduct
216 business on ground floor or street level outdoor public or private space, including the sale,

217 service, and consumption alcoholic beverages; provided, the licensee complies with § 25-
218 113(a)(6).”.

219 Sec. 6. Applicability.

220 This act shall apply as of June 9, 2020.

221 Sec. 7. Fiscal impact statement.

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

225 Sec. 8. Effective date.

226 This act shall take effect following approval by the Mayor (or in the event of veto by the
227 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
228 90 days, as provided for emergency acts of the Council of the District of Columbia in section
229 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
230 D.C. Official Code § 1-204.12(a)).