

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend the Coronavirus Support Amendment Act of 2021 to provide for a moratorium on utility disconnections for qualified customers, and to amend DC Code 16-501, 16-502 and Section 501 of the Rental Housing Act of 1985 to provide for additional requirements and phasing of eviction filings and evictions.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “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 Order 2020-45, 2020-46, 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 posed by the spread of COVID-19. Additional orders have since been issued. It is clear that to protect public health the Mayor must continue the public health emergency for the foreseeable future. However, certain provisions of the Coronavirus Support Temporary Amendment Act of 2020 (D.C. Law 23-130) and associated legislation, which is currently controlling, should be amended in light of the ongoing pandemic response.

(b) 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 three months future rent for

37 tenants who meet federal eligibility and income requirements. That program also covers past  
38 due utility arrears.

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

48 (e)(1) The COVID-19 pandemic has resulted in tens of thousands of people losing jobs or  
49 getting their hours cut, significantly reducing pay. As a result, the latest data from the Census  
50 Bureau's Household Pulse Survey suggests that roughly 15,000 renter-occupied households in  
51 the District are not current on their rent. Approximately 60% of those households made less than  
52 \$50,000 prior to the pandemic.

53 (2) The District of Columbia received \$350 million through the Consolidated  
54 Appropriations Act of 2021 (Pub. L. 116-260) and the American Rescue Plan Act () to provide  
55 rental and utility assistance to households that are at risk of housing instability or homeless, or  
56 have experienced a reduction in income due to the COVID-19 pandemic, incurred significant  
57 costs because of the pandemic, or experienced other financial hardship directly or indirectly due  
58 to the pandemic and have a household income of 80% AMI or less.

59 (3) To avoid a predicted “tsunami” of eviction filings for non-payment of rent, it  
60 is necessary to amend Title 16 to phase out the eviction moratorium and provide for additional  
61 protections, including:

62 (A) Requiring improvements to the STAY DC program, including  
63 allowing housing providers to submit applications on behalf of their tenants through the  
64 application portal;

65 (B) Requiring housing providers to apply for emergency rental  
66 assistance on behalf of the tenant, or initiated the application on behalf of the tenant, notify the  
67 tenant of the of the application and writing, and 60 day have elapsed; and

68 (C) Requiring housing providers to give notice to the tenant that  
69 meets requirements of District law, including DC Official Code § 42-3505.01(b-1)(2); or

70 (D) Require housing providers to demonstrate that a tenant is not  
71 eligible for emergency rental assistance or that the tenant has not completed their portion of the  
72 application and 60 days have elapsed at the time of filing.

73 (4) To ensure improvements to STAY DC are in place before eviction filings for  
74 non-payment of rent can proceed, it is necessary to prohibit such filings until October 11, 2021 at  
75 the earliest.

76 (5) To ensure that DC Superior Court is not overwhelmed by eviction cases, it is  
77 also necessary to prohibit eviction filings for cases not already subject to an exemption under DC  
78 Code 16-501(e), or cases not involving non-payment of rent, until January 1, 2022.

79 (6) Currently, housing providers may only file and evict tenants for specific  
80 public safety concerns. This exception was adopted by Council on April 6, 2021 and was  
81 narrowly tailored to ensure it would not negatively impact public health at a time when  
82 occupancy and operating restrictions on businesses were still in place, only 23% of residents

83 were fully or partially vaccinated, and the daily case rate of COVID-19 was above 15 per  
84 100,000. Occupancy and operating restrictions on businesses are now lifted, over 60% of  
85 residents are fully or partially vaccinated, and the current case rate is below 2 per 100,000. Given  
86 these positive indicators, it is necessary to provide housing providers with additional relief with  
87 respect to eviction filings by allowing filings where a tenant has willingly or wantonly caused  
88 significant damage to the unit or property.

89 (6) Due to the increase in joblessness, closure of businesses, and other negative  
90 impacts of the COVID-19 pandemic, some small housing providers have endured severe  
91 financial distress. One survey by the National Leased Housing Association in October 2020  
92 found that operating costs have increased by 14.8% and rental revenue has declined by nearly  
93 12%. To provide relief for these small housing providers, it is necessary to allow eviction filings  
94 where the housing provider owns five units or less, the tenant is not eligible for emergency rental  
95 assistance, and the housing provider can demonstrate that they are experiencing severe financial  
96 distress that will be mitigated or relieved by repossession of the unit.

97 Sec. 4. This resolution shall take effect immediately.