

Chairman Phil Mendelson
at the request of the Mayor

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 section 5a(a) of the Department of Insurance and Securities Regulation Establishment Act of 1996 to authorize the Commissioner of the Department of Insurance, Securities and Banking (“DISB”) to exercise emergency powers to issue rules, orders, or bulletins for the duration of a public emergency declared by the Mayor pursuant to the District of Columbia Public Emergency Act of 1980.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Department of Insurance, Securities and Banking Emergency Powers 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 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 vaccinations have pushed the District’s reopening metrics to Phase 3, and thus the Mayor did not extend the public health emergency beyond July 25, 2021.

(b) Pursuant to the temporary emergency powers granted to the Commissioner of the DISB by the Council in section 310 of the Coronavirus Support Temporary Amendment Act of 2021, effective June 24, 2021 (D.C. Law 24-9; D.C. Official Code § 31-104.01) and section 3(n) of the Public Emergency Extension and Eviction and Utility Moratorium Phasing Emergency Amendment Act of 2021, effective July 24, 2021 (Act 24-125; 68 DCR 7432), the Commissioner has exercised the emergency powers to provide relief to policyholders, including Commissioner's Order 02-2021 that requires insurance coverage for COVID-19 testing for in-person work and learning. D.C. Law 24-9 established, on a temporary basis, the Commissioner's emergency powers and predicated the exercise thereof on the existence of a public health emergency declared by the Mayor. D.C. Act 24-125 expanded, on an emergency basis, the Commissioner's emergency powers by removing the condition of a public health emergency to permit the exercise of the emergency powers through November 5, 2021, which coincided with the then expiration of the Mayor's public emergency declaration. Pursuant to Mayor's Order 2021-119, the Mayor extended the public emergency in the District until January 7, 2022.

(c) As November 5, 2021 approaches, it is apparent that many of the protections must be kept in place so long as the Mayor's public emergency remains in effect, which is currently set to expire January 7, 2022. In particular, the emergency authority granted to the Commissioner of the Department of Insurance, Securities and Banking to issue emergency rules, orders, and bulletins under section 5a(a) of the Department of Insurance and Securities Regulation Establishment Act of 1996, effective June 24, 2021 (D.C. Law 24-9; D.C. Official Code § 31-104.01) will expire on November 5, 2021, while the Mayor's public emergency will remain in effect. It is crucial that the Commissioner's emergency powers be amended to coincide with the public emergency declared by the Mayor to, among other things, address the immediate need to

58 continue requiring insurers to cover widespread COVID-19 testing for in-person work and
59 learning and any similar circumstances giving rise to the existence of a public emergency in the
60 future. Without this authority, the Commissioner will not be able to require insurers to fully
61 cover the cost of COVID-19 testing, which will make testing more costly for individuals and
62 businesses and run the risk of discouraging testing as the winter months approach.

63 Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute
64 emergency circumstances making it necessary that the Department of Insurance and Securities
65 Regulation Establishment Amendment Act of 2021 be adopted after a single reading.

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