

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 to exercise emergency powers to issue rulemakings, 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 2022”.

Sec. 2. (a) On March 11, 2020, the Mayor 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 as the pandemic has ebbed and flowed, but the rise of the Omicron variant has shown the need for emergency authority to remain in place.

(b) Pursuant to the temporary emergency powers granted to the Commissioner of the Department of Insurance, Securities and Banking (“Commissioner”) 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) (“D.C. Law 24-9”) and section 3(n) of the

36 Public Emergency Extension and Eviction and Utility Moratorium Phasing Emergency
37 Amendment Act of 2021, effective July 24, 2021 (Act 24-125; 68 DCR 7432) (“Act 24-125”),
38 the Commissioner has exercised the emergency powers to provide relief to policyholders,
39 including Commissioner’s Order 02-2021 that requires insurance coverage for COVID-19 testing
40 for in-person work and learning.

41 (c) D.C. Law 24-9 established, on a temporary basis, the Commissioner’s emergency
42 powers and predicated the exercise of those emergency powers on the existence of a public
43 health emergency declared by the Mayor. Act 24-125 expanded, on an emergency basis, the
44 Commissioner’s emergency powers by removing the condition of a public health emergency to
45 permit the exercise of the emergency powers through November 5, 2021, which coincided with
46 the then expiration of the Mayor’s public emergency declaration. Pursuant to Mayor’s Order
47 2022-007, the Mayor extended the public emergency in the District until March 17, 2022.

48 (d) On November 2, 2021, the Council passed the Department of Insurance, Securities
49 and Banking Emergency Powers Amendment Act of 2022, effective December 22, 2021 (Act
50 24-256; 68 DCR 012186) (“Act 24-256”). However, Act 24-256 amended section 310 D.C. Law
51 24-9, which expires on February 4, 2022.

52 (e) As February 4, 2022, approaches, it is apparent that many of the protections must be
53 kept in place so long as the Mayor’s public emergency remains in effect, which is currently set to
54 expire March 17, 2022.

55 (f) As stated above, the emergency authority granted to the Commissioner to issue
56 emergency rulemakings, orders, and bulletins under section 5a(a) of the Department of Insurance
57 and Securities Regulation Establishment Act of 1996, effective June 24, 2021 (D.C. Law 24-9;

58 D.C. Official Code § 31-104.01), expires on February 4, 2022, while the Mayor’s public
59 emergency will remain in effect.

60 (e) It is crucial that the Commissioner’s emergency powers be extended to coincide with
61 the duration of the public emergency declared by the Mayor to, among other things, address the
62 immediate need to continue requiring insurers to cover widespread COVID-19 testing for in-
63 person work and learning.

64 Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute
65 emergency circumstances making it necessary that the Department of Insurance and Securities
66 Regulation Establishment Amendment Act of 2022 be adopted after a single reading.

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