

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, due to congressional review, the District of Columbia Administrative Procedure Act to exempt from disclosure certain critical infrastructure information.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Critical Infrastructure Freedom of Information Third Congressional Review Emergency Amendment Act of 2014”.

Sec. 2. Title II of the District of Columbia Administrative Procedure Act, effective March 25, 1977 (D.C. Law 1-96; D. C. Official Code § 2-531 *et seq.*), is amended as follows:

(a) Section 204(a) (D.C. Official Code § 2-534(a)) is amended as follows:

(1) Paragraph (13) is amended by striking the word “and”.

(2) Paragraph (14) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (15) is added to read as follows:

“(15) Any critical infrastructure information or plans that contain critical infrastructure information for the critical infrastructures of companies that are regulated by the Public Service Commission of the District of Columbia.”.

(b) The text of section 209 (D.C. Official Code § 2-539) is amended to read as follows:

“(a) For the purposes of this title, the following terms shall have the same meanings as provided in section 102:

- 30 “(1) “Adjudication”;
- 31 “(2) “Agency”;
- 32 “(3) “Council”;
- 33 “(4) “District”;
- 34 “(5) “Mayor”;
- 35 “(6) “Order”;
- 36 “(7) “Party”;
- 37 “(8) “Person”;
- 38 “(9) “Proceedings”;
- 39 “(10) “Public record”;
- 40 “(11) “Relief”;
- 41 “(12) “Rule”; and
- 42 “(13) “Rulemaking”.

43 “(b) For the purposes of this title, the term:

44 “(1) “Critical infrastructure” means existing and proposed infrastructure systems
45 and assets, whether physical or virtual, so vital to the District of Columbia or the United States
46 that the incapacity or destruction of the infrastructure system or asset could jeopardize the
47 physical security, economic security, health, safety, or welfare of the public.

48 “(2) “Critical infrastructure information” means information not customarily in
49 the public domain that is related to the security of critical infrastructure of companies that are
50 regulated by the Public Service Commission of the District of Columbia, including information
51 regarding:

52 “(A) Actual, potential, or threatened interference with, attack on,
53 compromise of, or incapacitation of critical infrastructure or protected systems by either physical
54 or computer-based attack or similar conduct (including the misuse of or unauthorized access to
55 all types of communications and data transmission systems) that violates federal or District of
56 Columbia laws, harms interstate commerce of the United States or the economy of the District of
57 Columbia, or threatens public health or safety;

58 “(B) The ability of any critical infrastructure or protected system to resist
59 such interference, compromise, or incapacitation, including any planned or past assessment,
60 projection, or estimate of the vulnerability of critical infrastructure or a protected system,
61 including security testing, risk evaluation, risk-management planning, or risk audit; or

62 “(C) Any planned or past operational problem or solution regarding
63 critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance,
64 or continuity, to the extent it is related to such interference, compromise, or incapacitation.”.

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66 Sec. 3. Paragraph 32 of section 8 of An Act Making appropriations to provide for the
67 expenses of the government of the District of Columbia for the fiscal year ending June thirtieth,
68 nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 982;
69 Official Code § 34-902), is amended as follows:

70 (a) The existing text is designated as subsection (a).

71 (b) A new subsection (b) is added to read as follows:

72 “(b) The Commission shall publish rules and regulations for the administration of the
73 provisions of section 204(a)(15) of the District of Columbia Administrative Procedure Act,
74 effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-534(a)(15)).”.

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76 Sec. 4. Applicability

77 This act shall apply as of October 3, 2014.

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79 Sec. 5. Fiscal impact statement.

80 The Council adopts the fiscal impact statement in the committee report for the Critical
81 Infrastructure Freedom of Information Amendment Act of 2014, passed on 2nd reading on
82 September 23, 2014 (Enrolled version of Bill 20-505) as the fiscal impact statement required by
83 section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87
84 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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86 Sec. 6. Effective date.

87 This act shall take effect following approval by the Mayor (or in the event of veto by the
88 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
89 90 days, as provided for emergency acts of the Council of the District of Columbia in section
90 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
91 D.C. Official Code § 1-204.12(a)).

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