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A PROPOSED RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To declare the existence of an emergency, due to congressional review, with respect to the need to amend, on an emergency basis, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to clarify that the Council is an independent entity for personnel purposes and create a new process for Council attorneys to file a certificate of good standing with the Council.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Council Independent Authority Clarification Congressional Review Emergency Declaration Resolution of 2017”.

Sec. 2. (a) On December 17, 2014, the Council passed D.C. Law 20-241, the “District of Columbia Certificate of Good Standing Filing Requirement Amendment Act of 2014,” which clarified that hearing officers and administrative law judges are required to file certificates of good standing if their employment requires that they are members of the District of Columbia Bar. Previously, the law required only attorneys to file such certificates, but it was discovered in 2014 that certain administrative law judges and hearing officers were allegedly presiding over cases without being in good standing with the District of Columbia Bar. In order to close this loophole, the Council passed D.C. Law 20-241.

25 (b) Additionally, D.C. Law 20-241 transferred responsibility of collecting the certificates  
26 of good standing from the District’s Department of Human Resources (DCHR) to the Board of  
27 Ethics and Government Accountability (BEGA). However, enforcement and regulatory  
28 authority remains with the DCHR. Thus, D.C. Law 20-241 creates a bifurcated process in which  
29 one agency, BEGA, acts solely as a repository for the certificates of good standing, but another  
30 agency, DCHR, is responsible for ensuring that attorneys, hearing officers, and administrative  
31 law judges comply with the law and is the agency with rulemaking authority. In order to  
32 streamline the process, it is necessary to transfer collection authority back to DCHR.

33 (c) Further, D.C. Official Code § 1-608.81 requires attorneys employed by an  
34 independent agency to file certificates of good standing with DCHR if they meet the applicable  
35 requirements. The District of Columbia Comprehensive Merit Personnel Act confusingly, and  
36 incorrectly, defines the Council of the District of Columbia as an “independent agency.”

37 (d) To address issues related to the certificate of good standing, the Council adopted  
38 emergency legislation (D.C. Act 21-551) on November 15, 2016, and adopted identical  
39 permanent legislation (D.C. Act 21-616) on final reading December 6, 2016.

40 (e) That underlying legislation also clarified throughout the Comprehensive Merit  
41 Personnel Act that the Council is distinct from independent agencies, and that with respect to a  
42 certificate of good standing, an employee of the Council shall file his or her certificate with the  
43 Council and not DCHR. In order to further aid DCHR and the Council in streamlining this  
44 process, and to reduce the burden on the District of Columbia Court of Appeals, DCHR and the  
45 Council, the underlying legislation allowed DCHR and the Council to verify the good standing  
46 of attorneys, hearing officers, and administrative law judges through electronic means.

47           (e) The emergency legislation adopted by the Council will expired on February 15, 2017.  
48   However, the permanent version is not expected to complete congressional review until April 1,  
49   2017. Therefore, a congressional review emergency act is necessary to prevent a gap in  
50   legislative authority, retroactive to February 15, 2017.

51           Sec. 3. The Council of the District of Columbia determines that the circumstances  
52   enumerated in section 2 constitute emergency circumstances making it necessary that the  
53   “Council Independent Authority Clarification Congressional Review Emergency Amendment  
54   Act of 2017” be adopted after a single reading.

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