

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To require, on an emergency basis, the Department of Consumer and Regulatory Affairs to mandate the licensing of Appraisal Management Companies in the District of Columbia and require an annual registration fee to be paid.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Appraisal Management Company Regulation Emergency Act of 2019”.

**TITLE I. APPRAISAL MANAGEMENT COMPANY REGULATIONS**

Sec. 101. Definitions.

For purposes of this act, the term:

(1) “Affiliate” means any company that controls, is controlled by, or is under common control of another company.

(2) “AMC National Registry” means the registry of state-registered Appraisal Management Companies and Federally regulated Appraisal Management Companies maintained by the Appraisal Subcommittee.

(3) “Appraisal Foundation” means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

32 (4) “Appraisal management company” means a person, not including a  
33 department or division of an entity that provides appraisal management services only to that  
34 entity, that:

35 (A)(i) Provides appraisal management services to creditors or to secondary  
36 mortgage market participants, including affiliates; or

37 (ii) Provides such services in connection with valuing a consumer's  
38 principal dwelling as security for a consumer credit transaction or incorporating such  
39 transactions into securitizations; and

40 (B) Within a 12-month calendar year, beginning October 1 of each year  
41 and ending on September 30 of the following year, oversees an appraiser panel of more than 15  
42 state-certified or state-licensed appraisers in a state or 25 or more state-certified or state-licensed  
43 appraisers in two or more states, as described in section 103(a).

44 (5) “Appraisal management services” means one or more of the following:

45 (A) Recruiting, selecting, and retaining appraisers;

46 (B) Contracting with state-certified or state-licensed appraisers to perform  
47 appraisal assignments;

48 (C) Managing the process of having an appraisal performed, including  
49 providing administrative services such as receiving appraisal orders and appraisal reports,  
50 submitting completed appraisal reports to creditors and secondary market participants, collecting  
51 fees from creditors and secondary market participants for services provided, and paying  
52 appraisers for services performed; and

53 (D) Reviewing and verifying the work of appraisers.

54 (6) “Appraisal panel” means a network, list, or roster of licensed or certified  
55 appraisers approved by an appraisal management company to perform appraisals as independent  
56 contractors for the appraisal management company. Appraisers on an appraiser panel include  
57 both appraisers accepted by the appraisal management company for consideration for future  
58 appraisal assignments in covered transactions or for secondary mortgage market participants in  
59 connection with covered transactions, and appraisers engaged by the appraisal management  
60 company to perform one or more appraisals in covered transactions or for secondary mortgage  
61 market participants in connection with covered transactions. An appraiser is an independent  
62 contractor if the appraiser is treated as an independent contractor by the appraisal management  
63 company for purposes of Federal income taxation.

64 (7) “Appraisal review” means the act or process of developing and  
65 communicating an opinion about the quality of another appraiser's work that was performed as  
66 part of an appraisal assignment related to the appraiser's data collection, analysis, opinions,  
67 conclusions, estimate of value, or compliance with the uniform standards of professional  
68 appraisal practice. This term does not include:

69 (A) A general examination for grammatical, typographical, or other  
70 similar errors;

71 (B) A general examination for completeness, including regulatory and/or  
72 client requirements as specified in the agreement process that does not communicate an opinion  
73 of value.

74 (8) “Appraisal subcommittee” means the Appraisal Subcommittee of the Federal  
75 Financial Institutions Examination Council.

76 (9) "Board" means the District of Columbia Board of Real Estate Appraisers  
77 established pursuant to D.C. Official Code § 47-2853.06(g).

78 (10) "Consumer credit" means credit offered or extended to a consumer primarily  
79 for personal, family, or household purposes.

80 (11) "Controlling person" means:

81 (A) An officer, director, or owner of greater than a 10 percent interest of a  
82 corporation, partnership, or other business entity seeking to act as an appraisal management  
83 company in the District of Columbia;

84 (B) An individual employed, appointed or authorized by an appraisal  
85 management company that has the authority to enter a contractual relationship with other persons  
86 for the performance of services requiring registration as an appraisal management company and  
87 has the authority to enter agreements with appraisers for the performance of appraisals; or

88 (C) An individual who possesses, directly or indirectly, the power to direct  
89 or cause the direction of the management of policies of an appraisal management company.

90 (12) "Covered transaction" means any consumer credit transaction secured by the  
91 consumer's principal dwelling.

92 (13) "Creditor" means

93 (A) A person who regularly extends consumer credit that is subject to a  
94 finance charge or is payable by written agreement in more than four installments (not including a  
95 down payment), and to whom the obligation is initially payable, either on the face of the note or  
96 contract, or by agreement when there is no note or contract.

97 (B) A person who regularly extends consumer credit if the person  
98 extended credit (other than credit subject to the requirements of 12 C.F.R. § 1026.32) more than

99 five times for transactions secured by a dwelling in the preceding calendar year. If a person did  
100 not meet these numerical standards in the preceding calendar year, the numerical standards shall  
101 be applied to the current calendar year. A person regularly extends consumer credit if, in any 12-  
102 month period, the person originates more than one credit extension that is subject to the  
103 requirements of 12 C.F.R. 1026.32 or one or more such credit extensions through a mortgage  
104 broker.

105 (14) “Department” means the Department of Consumer and Regulatory Affairs.

106 (15) “District” means the District of Columbia.

107 (16) “Dwelling” means a residential structure that contains one to four units,  
108 whether or not that structure is attached to real property. The term includes an individual  
109 condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence. For  
110 purposes of this act, a consumer may have only one principal dwelling at a time. Thus, a  
111 vacation or other second home would not be a principal dwelling. However, if a consumer buys  
112 or builds a new dwelling that will become the consumer’s principal dwelling within a year or  
113 upon the completion of construction, the new dwelling is considered the principal dwelling for  
114 purposes of this act.

115 (17) “Federally regulated appraisal management company” means an appraisal  
116 management company that is owned and controlled by an insured depository institution, as  
117 defined in 12 U.S.C. § 1813, and regulated by the office of the Comptroller of the Currency, the  
118 Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance  
119 Corporation.

120 (18) “Federally regulated transaction regulations” means regulations established  
121 by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve

122 System, the Federal Deposit Insurance Corporation, or the National Credit Union  
123 Administration, pursuant to sections 1112, 1113, and 1114 of the Financial Institutions Reform,  
124 Recovery, and Enforcement Act of 1989, approved August 9, 1989 (103 Stat. 183; 12 U.S.C. §§  
125 3341-3343).

126 (19) “Federal financial institutions regulatory agency” includes the Consumer  
127 Financial Protection Bureau, the Federal Housing Finance Agency, the Board of Governors of  
128 the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the  
129 Comptroller of the Currency, and the National Credit Union Administration.

130 (20) “Federally related transaction” means any real estate-related financial  
131 transaction that involves an insured depository institution regulated by the Office of the  
132 Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal  
133 Deposit Insurance Corporation, or National Credit Union Administration and that requires the  
134 services of an appraiser under the interagency appraisal rules.

135 (21) “Person” means a natural person or an organization, including a corporation,  
136 partnership, proprietorship, association, cooperative, estate, trust, or government unit.

137 (22) “Principal dwelling” means the primary residence of a consumer. For  
138 purposes of this act, a consumer may only have one principal dwelling. A vacation or other  
139 second home shall not be considered a principal dwelling. However, if a consumer buys or builds  
140 a new dwelling that will become the consumer’s primary residence within a year or upon  
141 completion of the construction, the new residence is considered the principal dwelling for  
142 purposes of this act.

143 (22) “Real estate-related financial transaction” means any transaction involving  
144 the sale, lease, purchase, investment in, or exchange of real property, including interests in

145 property or the financing thereof; the refinancing of real property or interests in real property; or  
146 the use of real property or interests in property as security for a loan or investment, including  
147 mortgage-backed securities.

148 (23) “Secondary mortgage market participant” means a guarantor or insurer of  
149 mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities.

150 Secondary mortgage market participant only includes an individual investor in a mortgage-  
151 backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or  
152 issuer for the mortgage-backed security.

153 (24) “Uniform Standards of Professional Appraisal Practice” or “USPAP” means  
154 the appraisal standards as promulgated by the Appraisal Standards Board of the Appraisal  
155 Foundation.

156 Sec. 102. Administration.

157 (a) The Department of Consumer and Regulatory Affairs shall charge appraisal  
158 management companies operating in the District of Columbia reasonable fees to administer this  
159 act. The Department's fees shall be established by rule.

160 (b) The Board shall have the authority to adopt rules that are reasonably necessary to  
161 establish an appraisal management company licensing program and implement, administer, and  
162 enforce the provisions set forth under this act.

163 (c) The Board shall perform the following functions:

164 (1) Review and approve or deny an appraisal management company’s application  
165 for initial registration;

166 (2) Review and renew or review and deny an appraisal management company’s  
167 registration periodically;

168 (3) Examine the books and records of an appraisal management company  
169 operating in the District of Columbia and require the appraisal management company to submit  
170 reports, information, and documents;

171 (4) Verify that the appraisers on the appraisal management company's appraiser  
172 panel hold valid District of Columbia certifications or licenses, as applicable;

173 (5) Conduct investigations of appraisal management companies operating in the  
174 District of Columbia to assess potential violations of applicable appraisal-related laws,  
175 regulations, or orders; and

176 (6) Report an appraisal management company's violation of applicable appraisal-  
177 related laws, regulations, or orders, as well as disciplinary and enforcement actions and other  
178 relevant information about the operations of an appraisal management company operating in the  
179 District of Columbia.

180 (d) The Board shall impose requirements on appraisal management companies operating  
181 in the District of Columbia that are not owned and controlled by an insured depository institution  
182 and not regulated by a Federal financial institutions regulatory agency to:

183 (1) Register with and be subject to supervision by the Board;

184 (2) Engage only state-certified or state-licensed appraisers for Federally related  
185 transactions in conformity with any Federally related transaction regulations;

186 (3) Establish and comply with processes and controls reasonably designed to  
187 ensure that the appraisal management company, in engaging an appraiser, selects an appraiser  
188 who is independent of the transaction and who has the requisite education, expertise, and  
189 experience necessary to competently complete the appraisal assignment for the particular market  
190 and property type;

191 (4) Direct appraisers to perform assignments in accordance with Uniform  
192 Standards of Professional Appraisal Practices; and

193 (5) Establish and comply with processes and controls reasonably designed to  
194 ensure that the appraisal management company conducts its appraisal management services in  
195 accordance with the requirements of section 129E(a)-(i) of the Truth in Lending Act, approved  
196 July 21, 2010 (124 Stat. 2187; 15 U.S.C. § 1639e(a)-(i)), and regulations thereunder.

197 (e) The Department of Consumer and Regulatory Affairs shall issue a unique registration  
198 number to each appraisal management company that is registered in the District of Columbia.

199 (f) The Board shall maintain a list of the appraisal management companies that are  
200 registered with the Department of Consumer and Regulatory Affairs.

201 (g) The Board shall require an appraisal management company registered in the District  
202 of Columbia to place its registration number on engagement documents utilized by the appraisal  
203 management company to procure appraisal services in the District of Columbia.

204 Sec. 103. Appraisal size and calculation.

205 (a) For purposes of determining whether a person is an appraisal management company  
206 within the meaning of section 101(4), and specifically whether, within a 12-month calendar year,  
207 beginning October 1 of each year and ending on September 30 of the following year, a person  
208 oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in a state  
209 or 25 or more state-certified or state-licensed appraisers in two or more states:

210 (1) An appraiser is deemed part of an appraiser panel as of the earliest date on  
211 which the person overseeing the appraisal panel:

212 (A) Accepts the appraiser for consideration for future appraisal  
213 assignments in covered transactions or for secondary mortgage market participants in connection  
214 with covered transactions; or

215 (B) Engages the appraiser to perform one or more appraisals on behalf of a  
216 creditor for covered transactions or secondary mortgage market participant in connection with  
217 covered transactions.

218 (b) An appraiser who is deemed part of an appraiser panel pursuant to  
219 subsection (a) of this section is deemed to remain on the panel until the date on which the person  
220 overseeing the appraisal panel:

221 (1) Sends written notice to the appraiser removing the appraiser from the  
222 appraiser panel, with an explanation of its action; or

223 (2) Receives written notice from the appraiser asking to be removed from the  
224 appraiser panel or notice of the death or incapacity of the appraiser.

225 (c) If an appraiser is removed from an appraiser panel pursuant to subsection (b)(2) of  
226 this section, but the person overseeing the appraisal panel subsequently accepts the appraiser for  
227 consideration for future assignments or engages the appraiser at any time during the 12 months  
228 after the appraiser's removal, the removal will be deemed not to have occurred, and the appraiser  
229 will be deemed to have been part of the appraiser panel without interruption.

230 Sec. 104. Registration.

231 (a) It shall be unlawful for a person to directly or indirectly engage or to attempt to  
232 engage in business as an appraisal management company in the District of Columbia, to directly  
233 or indirectly perform or to attempt to perform appraisal management services in the District of

234 Columbia, or to advertise or hold itself out as engaging in or conducting business as an appraisal  
235 management company in the District of Columbia without first obtaining a registration  
236 issued by the Board.

237 (b) An applicant for registration as an appraisal management company in the District of  
238 Columbia shall submit to the Board an application on forms prescribed by the Board and pay a  
239 fee established by the Department of Consumer and Regulatory Affairs. The forms shall require  
240 information necessary to determine eligibility for registration.

241 (c) Upon registration of an appraisal management company in the District of Columbia,  
242 the Department of Consumer and Regulatory Affairs may require a surety bond of not more than  
243 \$25,000.

244 Sec. 105. Reporting requirements.

245 (a) The Department of Consumer and Regulatory Affairs shall collect from each appraisal  
246 management company registered or seeking to be registered in the District of Columbia the  
247 information and fees that the Board requires to be submitted to it pursuant to regulations or  
248 guidance promulgated by the Board.

249 (b) A federally regulated appraisal management company operating in the District must  
250 report to the Board the information required to be submitted by the District to the Appraisal  
251 Subcommittee, pursuant to the Appraisal Subcommittee's policies regarding the determination of  
252 the AMC National Registry fee. These reporting requirements will be set forth by the Board by  
253 rule, and will include:

254 (1) A report to the Board on a form prescribed by the Board of intent to operate in  
255 in the District of Columbia;

256 (2) Information related to whether the AMC is owned in whole or in part, directly  
257 or indirectly, by any person who has had an appraiser license or certificate refused, denied,  
258 canceled, surrendered in lieu of revocation, or revoked in any state for a substantive cause, as  
259 determined by the ASC; and

260 (3) If such a person has had such action taken on his or her appraisal license, the  
261 Board shall collect information related to whether the license was revoked for a substantive  
262 cause and if it has been reinstated by the state or states in which the appraiser was licensed or  
263 certified.

264 Sec. 106. Appraisal management company requirements.

265 (a) An Appraisal Management Company shall maintain the following requirements at all  
266 times:

267 (1) An appraisal management company applying for a registration or for renewal  
268 of a registration in the District of Columbia shall designate one controlling person that shall  
269 serve as the main contact for all communication between the board and the company. The  
270 controlling person shall:

271 (A) Remain in good standing in the District of Columbia and in any other  
272 state that has at any time issued the controlling person an appraiser license or certification:  
273 however, nothing in this Chapter shall require that a designated controlling person hold or  
274 continue to hold an appraiser license or certification in any jurisdiction;

275 (B) Have never had an appraiser license or certification in the District of  
276 Columbia or any other state refused, denied, canceled, revoked or surrendered in lieu of a  
277 pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted;

278 (C) Be of good moral character; and

279 (D) Submit to a criminal background investigation for an initial  
280 application or as required by the Board.

281 (2) Before or at the time of placing an assignment to appraise real property in the  
282 District of Columbia with an appraiser on the appraiser panel of an appraisal management  
283 company, the appraisal management company shall verify that the appraiser receiving the  
284 assignment holds an appraiser license or certification in good standing in the District.

285 (3) Any employee of or independent contractor to an appraisal management  
286 company who performs an appraisal review for a property located in the District of Columbia  
287 must be a certified or licensed appraiser in good standing in the District or any other jurisdiction.

288 (4) An appraisal management company registered in the District of Columbia  
289 shall place its registration number on engagement documents utilized by the appraisal  
290 management company to procure appraisal services in the District of Columbia.

291 (b) An appraisal management company that has a reasonable basis to believe an  
292 appraiser has materially failed to comply with applicable laws or rules or has materially  
293 violated the USP AP shall refer the matter to the Board in conformance with applicable federal  
294 laws and regulations.

295 Sec. 107. Verification of licensure or certification.

296 (a) An appraisal management company registered in the District of Columbia may not  
297 enter any contract or agreement with an appraiser for the performance of appraisals in the  
298 District of Columbia unless the company verifies that the appraiser is licensed or certified in  
299 good standing in the District of Columbia.

300 (b) An appraisal management company seeking to be registered to renew a

301 registration in the District of Columbia shall certify to the Board on a form prescribed by the  
302 Board that the company has a system and process in place to verify that an individual being  
303 added to the appraiser panel of the company for appraisal services holds an appraiser license or  
304 certification in good standing in the District of Columbia.

305           Sec. 108. Retention of records.

306           (a) Each appraisal management company seeking to be registered or to renew an existing  
307 registration in the District of Columbia shall certify to the Board on a form prescribed by the  
308 Board that the company maintains a detailed record of each service request that the company  
309 receives for appraisals of real property located in the District.

310           (b) An appraisal management company registered in the District of Columbia shall retain  
311 all records required to be maintained under this Chapter for at least five (5) years after the file is  
312 submitted to the AMC or at least two (2) years after final disposition of any related judicial  
313 proceeding of which the AMC is provided notice, whichever period expires last.

314           (c) All records required to be maintained by the registered appraisal management  
315 company shall be made available for inspection by the Board on reasonable notice to the  
316 appraisal management company.

317           Sec. 109. Payment to appraisers.

318           (a) An appraisal management company shall, except in bona fide cases of breach of  
319 contract or substandard performance of services, make payment to an independent appraiser for  
320 the completion of an appraisal or valuation assignment within 45 days of the date on which  
321 the appraiser transmits or otherwise provides the completed appraisal or valuation assignment to  
322 the company or its assignee unless a mutually agreed-upon alternate arrangement has been  
323 previously established.

324 (b) An appraisal management company seeking to be registered or to renew an existing  
325 registration in the District of Columbia shall certify that the company will require appraisals to  
326 be conducted independently as required by the appraisal independence standards under section  
327 129E of the Truth in Lending Act, including the requirement that a customary and reasonable fee  
328 be paid to an independent appraiser who completes an appraisal in connection with a consumer  
329 credit transaction secured by the principal dwelling.

330 Sec. 110. Prohibited conduct.

331 (a) A violation of this section may constitute grounds for discipline against an appraisal  
332 management company registered in the District of Columbia. However, nothing in this Chapter  
333 shall prevent an appraisal management company from requesting that an appraiser provide  
334 additional information about the basis for a valuation, correct objective factual errors in an  
335 appraisal report, or consider additional appropriate property information. No employee, director,  
336 officer, agent, independent contractor, or other third party acting on behalf of an appraisal  
337 management company may do any of the following:

338 (1) Procure or attempt to procure a registration or renewal by knowingly making a  
339 false statement, submitting false information, or refusing to provide complete information in  
340 response to a question in an application for registration or renewal.

341 (2) Willfully violate this Act or rules of the Board of Real Estate Appraisers  
342 pertaining to this Act.

343 (b) Improperly influence or attempt to improperly influence the development,  
344 reporting, result, or a review of an appraisal through intimidation, coercion, extortion, bribery, or  
345 any other manner, including:

346 (1) Withholding payment for appraisal services.

347 (2) Threatening to exclude an appraiser from future work or threatening to demote  
348 or terminate in order to improperly obtain a desired result.

349 (3) Conditioning payment of an appraisal fee upon the opinion, conclusion, or  
350 valuation to be reached.

351 (4) Requesting that an appraiser report a predetermined opinion, conclusion, or  
352 valuation or the desired valuation of any person or entity.

353 (c) Alter, amend, or change an appraisal report submitted by an appraiser without the  
354 appraiser's knowledge and written consent.

355 (d) Except within the first ninety (90) days after an independent appraiser is added to  
356 an appraiser panel, remove an independent appraiser from an appraiser panel without prior  
357 written notice to the appraiser, with the prior written notice including evidence of the following,  
358 if applicable:

359 (1) The appraiser's illegal conduct.

360 (2) A violation of USPAP, this Chapter, or the rules adopted by the Board.

361 (3) Improper or unprofessional conduct.

362 (4) Substandard performance or other substantive deficiencies.

363 (e) Require an appraiser to sign any indemnification agreement that would require the  
364 appraiser to defend and hold harmless the appraisal management company or any of its agents  
365 or employees for any liability, damage, losses, or claims arising out of the services performed  
366 by the appraisal management company or its agents, employees, or independent contractors and  
367 not the services performed by the appraiser.

368 (f) Prohibit lawful communications between the appraiser and any other person who  
369 the appraiser, in the appraiser's professional judgment, believes possesses information that

370 would be relevant.

371 (g) Fail to timely respond to any subpoena or any other request for information.

372 (h) Fail to timely obey an administrative order of the Board.

373 (i) Fail to fully cooperate in any investigation.

374 Sec. 111. Disciplinary proceedings.

375 (a) The Board may deny, suspend, or revoke the registration of an AMC; impose a  
376 monetary penalty of an amount not to exceed \$5,000 per violation; issue a letter of reprimand;  
377 refuse to issue or renew the registration of an AMC; or take other disciplinary action against an  
378 AMC when:

379 (1) The applicant is not of good moral character.

380 (2) The applicant has been the holder of a registration revoked or suspended for  
381 cause, or surrendered in lieu of disciplinary proceedings.

382 (3) The applicant, in the case of an application for renewal of any registration,  
383 would not be eligible for such registration on a first application.

384 (4) The issuance of the registration applied for would result in a violation of any  
385 provision of this Chapter or the rules adopted by the Board.

386 (5) In the conduct of affairs under the registration, the registrant demonstrated  
387 incompetency, or untrustworthiness, or conduct or practices rendering the registrant unfit to  
388 carry on appraisal management services, or making continuance in the business detrimental to  
389 the public interest, or that the licensee is no longer in good faith carrying on appraisal  
390 management services, and for this conduct is found by the Board to be a source of detriment,  
391 injury, or loss to the public.

392 (6) The AMC committed any act in violation of this Chapter.

393 (7) The AMC violated any rule or regulation adopted by the Board in the interest  
394 of the public and consistent with the provisions of this Chapter.

395 (8) The AMC procured a registration or a renewal of a registration for the  
396 appraisal management company or intentionally committed any other act by fraud,  
397 misrepresentation, or deceit.

398 Sec. 112. Criminal history and background checks.

399 (a) The Board shall require each person that owns more than ten percent of an AMC  
400 applying for registration under this Act and the applicant's controlling person or persons to  
401 submit to a criminal history record check. All costs associated with obtaining a background  
402 check are the responsibility of the applicant.”.

403 **TITLE II. FISCAL IMPACT STATEMENT; EFFECTIVE DATE.**

404 Sec. 201. Fiscal impact statement.

405 The Council adopts the fiscal impact statement in the committee report as the fiscal  
406 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
407 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

408 Sec. 202. Effective Date.

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