Testimony of Beth Mellen Harrison  
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Before the Committee on Housing and Neighborhood Revitalization  
Council of the District of Columbia  

Public Roundtable Regarding  
“Certificates of Assurance in Rent Control”  

September 14, 2020

Faced with the District’s rapid gentrification and worsening affordable housing crisis — issues that are only compounded by the current coronavirus pandemic — the Legal Aid Society of the District of Columbia supports policies that preserve the District’s dwindling supply of affordable housing. A key component of this strategy is strengthening and expanding rent control, and we support the package of reforms in the Rent Stabilization Program Reform and Expansion Amendment Act of 2020 (Bill 23-0873), including extending rent control to units built after 1975. Passage of this bill, however, is not sufficient. Certificates of assurance also stand as an obstacle to much-needed change.

Certificates of assurance are contained in a little-known provision in the District’s rent control law, one that apparently has not been used since it was enacted 35 years ago. In essence, the law promises owners of units built after 1985 that if rent control is ever expanded to limit the rents they can charge, those owners will receive a compensating tax credit to guarantee them market-rate income. This provision is a poison pill that unfairly benefits landlords over tenants and attempts to tie the hands of this and other future Councils. Legal Aid urges this Committee to introduce emergency, temporary, and permanent legislation to repeal certificates of assurance, clearing the way for consideration of proposals to expand rent control to newer units.

The District’s Severe and Deepening Affordable Housing Crisis

In a city where the average rent for a one-bedroom apartment now tops $2,000 per month, households with low and moderate incomes — many headed by people of color — are being left
behind. Since 2002, the District has lost over half of its low-cost rental units, those renting for $800 or less. As private market affordable options continue to disappear, subsidized housing remains out of reach for most tenants. The centralized waiting list for subsidized housing maintained by the D.C. Housing Authority (DCHA) has been closed for seven years and still numbers just under 40,000 families.

The result of this deepening affordability crisis is that low-income families are paying far too much of their limited incomes for housing. Nearly two-thirds of extremely low-income households in the District pay half or more of their monthly income towards rent, a threshold that HUD classifies as “severely housing cost burdened”. In fact, nearly half of these families pay 80 percent or more of their monthly income towards rent. And this issue also is one of racial equity; of the approximately 27,000 extremely low-income, severely rent-burdened households, 88 percent are headed by a person of color.

The shortage of affordable housing, and accompanying heavy rent burdens are having devastating effects on Washingtonians with low incomes, particularly black households. A study by the National Community Reinvestment Coalition found that about 40 percent of the District’s lower-income neighborhoods experienced gentrification between 2000 and 2013, giving the city the greatest “intensity of gentrification” of any city across the country for that period. The District also saw the most black residents — more than 20,000 — displaced from neighborhoods, mostly by white, affluent, recent transplants. An updated study covering 2013 to 2017 found that the District “still has a high intensity of gentrification” with displacement continuing.

Against this backdrop, the national economy now is facing what is being described as the worst economic crisis since the Great Depression. In the District, as of September 10, 2020, over

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6 Id.
7 Id. at 1.
9 Id.
143,000 residents had filed for unemployment. The latest survey data from the Census indicate that approximately 30,000 households in the District are not current in their rent payments, and 70,000 households had little or no confidence in their ability to pay September rent. Three-quarters of households in each category are headed by a black resident. As the District emerges from the pandemic and the resulting economic devastation, rent control is one of many tools needed to preserve the city’s dwindling supply of affordable housing.

Rent Control Should Be Expanded to Cover Newer Units

When the Rental Accommodations Act was enacted in 1975, rent control covered approximately 190,000 units across the District. Ten years later, when the current Rental Housing Act of 1985 went into effect, the number had shrunk to 120,000 because of new exemptions. Today only 90,000 units still remain, and this number will continue to shrink as more units fall under existing exemptions or are demolished, discontinued from housing use, or converted to condominiums or cooperatives. Unless rent control is expanded, the program will continue to decline in its reach and effectiveness. Adding properties built after 1975 could add anywhere from 10,000 to 20,000 new units, depending on the scope of the extension.

Studies from across the country show that when rent control works, it helps to preserve existing affordable units, stabilize rents, prevent displacement, and promote stable, diverse neighborhoods. Tenants in rent control units stay in their homes longer and are less likely to be forced to move. In fact, one of the most-cited, recent studies criticizing rent control found that

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16 Peter A. Tatian & Ashley Williams, Urban Institute, *A Rent Control Report for the District of Columbia* 6 (June 2011), available at [https://www.urban.org/research/publication/rent-control-report-district-columbia/view/full_report](https://www.urban.org/research/publication/rent-control-report-district-columbia/view/full_report). The Urban Institute estimates that the District has 11,003 rental units in multifamily properties built in 1976 and 1977, some of which already may fall under rent control because of when the building permit was issued, and 10,131 rental units in multifamily properties built after 1978. This does not include additional single-family units that might be covered, but also includes units that might fall under other rent control exemptions. *Id.* at 9-10.

San Francisco tenants in rent control units were 20 percent more likely to remain in their homes than other tenants. Because it stabilizes rents, rent control also helps to preserve existing affordable units, provide predictability, and slow gentrification and displacement. While rent control protects tenants at various income and rent levels, it disproportionately benefits low-income households headed by people of color, older residents, and women. By keeping more money in the pockets of low-income residents in particular, rent control also helps put money back into the local economy and local businesses and contributes to better employment, health, and educational outcomes for these families.

Legal Aid supports expanding the protections of rent control to more District residents, including by amending the Rental Housing Act to move the exemption year. Under current law, all buildings built after 1975 are exempt from rent control. As a member of the Reclaim Rent Control Coalition, Legal Aid supports provisions in the Rent Stabilization Program Reform and Expansion Amendment Act of 2020 (Bill 23-0873) to move the exemption year to 2005 and to make it dynamic, so that only buildings less than 15 years old are exempt, with more units coming under rent control each year. Exempting units built within the last 15 years will allow owners and investors adequate time to maintain market rental income streams and recoup their initial investments. California and Oregon recently enacted statewide rent control laws with 15-year exemption periods, recognizing this time period as a reasonable benchmark.

This Committee should move forward with considering and approving the rent control expansion provisions in Bill 23-0873. But in order to do so, this Committee also must confront and overcome a potential obstacle — certificates of assurance.

19 Chew & Treuhaft, 27-28; Pastor, Carter, & Abood, 10-12; Montojo, Barton, & Moore, 27.  
20 Chew & Treuhaft, 21-22; Pastor, Carter, & Abood, 19-21.  
21 Chew & Treuhaft, 29-33; Pastor, Carter, & Abood, 17-19.  
22 D.C. Code § 42-3502.05(a)(2). The new construction exemption applies to “Any rental unit in any newly constructed housing accommodation for which the building permit was issued after December 31, 1975, or any newly created rental unit, added to an existing structure or housing accommodation and covered by a certificate of occupancy for housing use issued after January 1, 1980.” Id.  
Certificates of Assurance Serve as an Obstacle to Expansion of Rent Control to Cover Newer Units and Thus Should be Eliminated

The process for obtaining a certificate of assurance and the promised benefits for owners who hold them are set forth in D.C. Code § 42-3502.21. Certificates of assurance may be issued for any building exempt from rent control as new construction (built after 1975) with a building permit dated after July 17, 1985. While the statute provides that the certificate of assurance should be issued concurrently with the building permit, suggesting that an owner must seek both documents at the same time, implementing regulations do not appear to place any time limit on when the application for a certificate of assurance must be filed.

Once issued, a valid certificate of assurance confers enormous potential benefits on the landlord. If the District ever chooses to apply rent control to the building, or any other future law limiting the amount of rent a landlord can charge, the landlord is protected. A landlord holding a certificate of assurance has the right “to recover annually from the District of Columbia . . . the difference between the annual fair market rental amount and the annual amount of rent that the owner of the property actually receives from the tenants. . . .” This benefit is guaranteed for all time: “The certificate of assurance shall be an irrevocable agreement in recordable form and constitute a covenant running with the land.” The statute provides that the landlord may recover this money either as a deduction against real property taxes owed or by seeking specific performance and damages in D.C. Superior Court.

As a result of certificates of assurance, the fiscal impact to the District (and thus, by extension, to District taxpayers) of expanding rent control to units built after 1985 could be extraordinarily burdensome. Rent stabilization is only successful if it helps to mitigate market effects, keeping rent increases affordable and stable at times when market increases are inflationary. In the District, average market rents increased by 55 percent between 2010 and 2019, while the annual rent control increases during this same period totaled 40 percent. Compensating landlords for that kind of gap — 15 percent of rents paid — would amount to a costly tax credit. For context,

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24 Certificates of assurance can be issued for any building exempt under D.C. Code § 42-3502.205(a)(2) — the new construction exemption — or exempt under a much less common provision, D.C. Code § 42-3502.205(a)(4), which covers buildings continuously vacant when rent control originally went into effect. D.C. Code § 42-3502.205(a)(2).
25 14 D.C.M.R. § 4218.2.
26 D.C. Code § 42-3502.21(b).
27 Id.
28 Washington Business Journal, D.C. area’s rent increases among the highest in past decade (Dec. 18, 2019), available online at https://www.bizjournals.com/washington/news/2019/12/18/d-c-areas-rent-increases-among-the-highest-in-past.html; D.C. Office of the Tenant Advocate, Historical Comparison of the “Rent Control CPI” and the Social Security Cost of Living Adjustment Through 2019, available at https://ota.dc.gov/sites/default/files/dc/sites/ota/publication/attachments/2019%20OTA%20History%20of%20SS%20COLA%20%26%20RC%20CPI-W.FINAL_.pdf. The 40 percent increase is based on the Consumer Price Index (CPI) plus 2 percent; for tenants who are elderly or have disabilities, the increase during this same period would have been only 17 percent. Id.; see also D.C. Code §§ 42-3502.08(h), 42-3502.24(a).
total rents paid in the District in 2019 totaled $15 billion.\textsuperscript{29} As this Committee noted in calling for today’s roundtable: “If rent stabilization is expanded to more buildings, this provision would cost the District government tens of millions of dollars in property tax credits each year and therefore would effectively destroy the opportunity for any future Council to ever expand rent stabilization, no matter how severe a housing crisis.”

Whatever the total cost would be in the end, it is likely to be so high that satisfying certificates of assurance for any significant number of units built after 1985 would break the budget. The result could be paralysis on this vital tool for expanding affordability protections to tens of thousands of District residents. Legal Aid supports repeal of the certificates of assurance provision because it will clear the way for the Council to expand rent control to more units at a time when the District indeed faces a severe and deepening housing affordability crisis.

**The Certificate of Assurance Provision Is Also Undemocratic and Fundamentally Unfair and Should Be Repealed for that Reason as Well**

Even putting aside the critical policy goal of expanding rent control to cover more units, the certificate of assurance provision warrants repeal because it purports to bind this Council and all future Councils to housing policy choices that favor landlords over tenants. As Councilmember Hilda Mason noted at the time, the certificate of assurance provision “attempts to tie the hands of future legislators” and is of questionable legality.\textsuperscript{30} A supporter of the provision, Councilmember Carol Schwartz, made clear that she viewed certificates of assurance as a “permanent guarantee” of “permanent protection from rent control” that would protect landlord interests. She noted, “While we cannot bar a future rent control law we can cause the city to agree to compensate a developer or owner for a loss caused by that law.”\textsuperscript{31} In other words, while a provision directly barring future expansion was viewed as unlawful, supporters enacted the next best thing — a poison pill that would prevent expansion for all practical purposes and permanently protect owners and developers at the expense of tenants. By locking in a permanent protection for landlords, the provision contradicts the very purposes of the Rental Housing Act: to “protect low- and moderate-income tenants from the erosion of their income from increased housing costs” and “prevent the erosion of moderately priced rental housing while providing housing providers and developers with a reasonable rate of return on their investments.”\textsuperscript{32}

This significant departure was not the result of lengthy discussion and debate. The certificate of assurance provision was introduced by Councilmember Charlene Drew Jarvis in an amendment in the nature of a substitute at the final reading and vote on the Rental Housing Act of 1985 on April 30, 1985. It was one of 26 separate amendments that were adopted with little notice, prior

\textsuperscript{29} Washington Business Journal, *supra*.

\textsuperscript{30} *Extended Remarks of Hilda Howland M. Mason, Member At-Large, Council of the District of Columbia, To Be Entered into the Public Record of the Council’s Action on Final Reading of Bill 6-33, “Rental Housing Act of 1985”* (April 30, 1985), attached as Ex. A.

\textsuperscript{31} *Extended Remarks of Councilmember Carol Schwartz Concerning the Provision of Section 221 of Bill 6-33 Engrossed Version* (Apr. 30, 1985), attached as Ex. B.

\textsuperscript{32} D.C. Code § 42-3501.02.
consideration, or time for debate, only two weeks after the prior vote and a little over a month after a very different version of the bill had been voted favorably out of committee. Thirty-five years later that choice stands as an obstacle to needed change. The good news is that it is not too late. We understand that the Department of Housing & Community Development (DHCD) has reported to this Committee that it has no record of any certificates of assurance having been issued since 1985. But the Council’s consideration of proposals to expand rent control may soon change that — DHCD also apparently is in receipt of some number of applications for certificates of assurance filed just last year, which have not yet been decided.

This Committee should introduce emergency, temporary, and permanent legislation to repeal the certificate of assurance provision permanently and to ensure that no certificates are issued while that repeal is pending before the Council. Failing to reverse course now will contribute to the very same consequences Councilmember Mason warned of so many years ago, “leaving District of Columbia residents with many fewer option for obtaining decent, affordable housing” and “mak[ing] it harder for low-income District residents to remain in the District.”

Conclusion

Thank you for this opportunity to testify. We urge the Committee to move forward with the introduction of emergency, temporary, and permanent legislation to repeal D.C. Code § 42-3502.21, the certificate of assurance provision.

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34 Extended Remarks of Hilda Howland M. Mason, supra.
Exhibit A

Extended Remarks of Hilda Howland M. Mason, Member At-Large, Council of the District of Columbia, To Be Entered into the Public Record of the Council’s Action on Final Reading of Bill 6-33, “Rental Housing Act of 1985”

(April 30, 1985)
EXTENDED REMARKS OF HILDA HOWLAND M. MASON, MEMBER AT-LARGE, COUNCIL OF THE DISTRICT OF COLUMBIA

TO BE ENTERED INTO THE PUBLIC RECORD OF THE COUNCIL'S ACTION ON FINAL READING OF BILL 6-33, "RENTAL HOUSING ACT OF 1985"

APRIL 30, 1985.

"Although I voted for Bill 6-33, "Rental Housing Act of 1985", in its final amended form, the record of my vote on various amendments proposed, including mine, clearly indicates my belief that passage of Bill 6-33 will leave District of Columbia residents with many fewer options for obtaining decent, affordable housing. This will make it harder for low-income district residents to remain in the District. When low-income families move to the suburbs, they are driven even more deeply into poverty because the systems of support on which they depend, such as public transportation to reach employment, health care, and social services, are considerably less developed than in the District.

"My seven colleagues on the Council who supported the engrossed version of Bill 6-33 with such dogged devotion, impervious to suggested amendments -- including my two amendments to aid tenants and students in the public schools who become displaced due to substantial rehabilitation, demolition, housing discontinuance, or from the decontrol of units due to the operation of the new law -- did so, I am sure, with the unsubstantiated hope that backing away from rent control would produce more rental housing. There is no evidence for this assertion. It is far more likely that elderly people on fixed incomes and low-income families will have been pushed out of the District, and the increased availability of rental housing, if it exists, will benefit a new set of up-and-coming professionals. This is why I draw a comparison between the District under the new rent control law and South Africa, where people are forced away from their homes by forces beyond their control (See Attachment A).

"I believe that this law will chiefly produce more profit for landlords. For the special interests represented by landlords and the real estate industry, the law is a clear victory. But for the needy tenants who make up most of our population, this law is an unmitigated disaster. The phasing out of rent control, and the substitution of a free market, will cause a great increase in rents and lead to a decline in the already shrinking supply of affordable housing. Philosophically I am opposed to earning large profits from providing a necessity for life, such as housing, or food.

"Rent control is not to blame for the district's housing problems. Research shows that cities which do not have rent control, including neighboring jurisdictions, have the same housing problems, or worse ones. Rent control was meant to regulate rental housing costs at a time of rising prices and a shrinkage in our stock of decent, affordable housing, due to the ongoing conversion of rental units to condominiums. To this end, it has been successful.

"Now, more than ever, rent control is needed in the District. There is still a severe shortage of affordable housing; our vacancy rate is a scant 2.4%. Last year, 810 rental units were demolished, discontinued, or converted, and no new ones were built. Yet 41,500 District families pay more than 35% of their income on rent and 17,400 pay more than 60% on rent.

"The three key components of the law -- the decontrol of single family units, the total decontrol of all units if the vacancy rate reaches 6%, and the decontrol of buildings that are 80% vacant -- represents the complete phasing out of rent control.
"The first of these provisions, the decontrol of vacant single family homes, would affect several thousand rental units in the District of Columbia, many of which house large needy families. As a consequence of this provision, certain landlords could increase the rent as much as they choose on single family houses that become vacant.

"When asked why single family homes were chosen for decontrol, rather than other units, none of the seven Councilmembers who supported the provision could give a cogent reply. Councilmember Nadine Winter of Ward 6, a leading proponent of single family housing decontrol, whose ward contains many single family homes, lauded this provision as having a 'stabilizing effect on neighborhoods.' I do not envision this result.

"What will vacancy decontrol mean to the hundreds of families which rent such houses? In many cities, such as New York, vacancy decontrol has resulted in landlords pressuring and even forcing tenants to move out, either by evictions or by neglecting to make needed repairs and improvements in the building.

"The second component would totally decontrol all units in four years if the vacancy rate in the District of Columbia reaches 6%. While some proponents argue that the vacancy rate will never reach 6%, and that the provision is largely symbolic, I believe it creates a dangerous incentive for landlords to withhold units from the market to reach the 6%. Even if a genuine 6% vacancy rate were achieved, there would still be a need for tenant protections.

"The third decontrol provision exempts from rent control buildings that are 80% vacant. This would give landlords incentive to keep their buildings vacant and could result in skyrocketing rents for tenants occupying the remaining 20% of the building. What would prevent landlords from attempting to pressure tenants out, so as to qualify for the exemption?

"Under this law landlords will enjoy a guaranteed rate of return, from 10% to 12%. Under the old rent control law, an increase of 10% in the rate of return to the landlord could result in an average increase in rent for the tenant of 50% to 60%, a more than adequate adjustment for landlords. Now, there is also allowed an increase in rents of 12% on units that become vacant (formerly an increase of 10% was allowed), affecting some 20,000 to 25,000 rental units, out of a total of 120,000, that become vacant each year in the District. A Tenant Assistance Program (TAP), another provision of the law, authorized to appropriate $15 million in fiscal year 1986 to aid needy tenants, would never meet the needs of all the District's tenants who need it, since their number is certain to grow as a result of this bill.

"Not only does this law initiate a course toward total decontrol, but it attempts to tie the hands of future legislators by requiring the District of Columbia government, through a 'Certificate of Assurance', to compensate landlords for any rent loss they suffer as a result of a future re-enactment of rent control.

"This Certificate of Assurance is defined in the law as a 'covenant running with the land'. I question the legality of this provision.

"According to Black's Law Dictionary, a 'covenant running with the land' requires the element of privity. Privity means that both parties to the agreement must have a relationship to the same piece of land (as, for example, an owner of land and the person to whom the owner sells the land).
"Under the Certificate of Assurance, the District Government will have no
privity of estate with present or future landlords who fall under this
provision. Therefore, this Certificate of Assurance is not a valid covenant
running with the land, and it is unenforceable.

"The action of the seven Councilmembers who consistently opposed the
extension of the old rent control law is even more glaring when one considers
that the overwhelming majority of the District's residents (79% including
non-renters) support the maintenance of rent controls, as was indicated in a
recent Howard University Political Science Department survey (see
Attachment B). I also desire the record to reflect that I share the opinions
expressed by the spokesperson for renters in an opinion page article in the Wash,
Post (Attachment C)."

"I intend not to lose sight of the ultimate goal of rent control and of
the Council, that of protecting the housing rights of the overwhelming
majority of our residents. This can only be done through the maintenance of
strong rent control provisions. I see strong rent controls as necessary
because other options are closing out for people of low- and moderate-income,
or, for the very low-income person, have always been closed. I refer to the
government programs which provide aid in one way or another (see Attachment D
for an example). Councilmembers have had the opportunity to hear testimony on
the fact that ownership is not available to many persons, because of current
redlining, and because mortgages are not readily available to minorities.

The seven Council members who supported phasing out rent control, in
defiance of the majority of the people of the District, will have to answer to
the electorate when the time for re-election arrives. In the meantime,
because I know what will happen to many, many low-income families (and I
borrow this from The Reverend Andrew Jones, of Plymouth Congregational Church):
"Weep for the city."
Exhibit B

Extended Remarks of Councilmember Carol Schwartz Concerning the Provision of Section 221 of Bill 6-33 Engrossed Version

(Apr. 30, 1985)
Council Period VI

Extended Remarks of Councilmember Carol Schwartz
Concerning the Provision of Section 221 of
Bill 6-33 Engrossed Version

April 30, 1985
Tenth Legislative Meeting

Section 221 of this bill provides a much needed incentive to the construction and rehabilitation of rental housing. It is intended to create a permanent guarantee in the nature of a covenant running with the land. The covenant assures any developer who creates new housing units permanent protection from rent control. Yet it does not bar the Council from enacting a future rent control law. The right of the developer runs with the land to any future owner thus, making it perpetual as long as the property is used as housing accommodation. As such any future holder of the land as well as any holder of a mortgage interest in the housing accommodation will know that he holds a permanent enforceable guarantee which acts to protect the holder's investment in new and rehabilitated rental housing.

Our intent is to guarantee to all developers and investors who put their work and capital into housing in our city that their investment will be protected from a change in the law. While we cannot bar a future rent control law we can cause the city to agree to compensate a developer or owner for a loss caused by that law.

Our vote today in favor of that provision is intended as a signal to investors everywhere that the District of Columbia welcomes and will protect your investment in rental housing.
Exhibit C

Statement of Councilmember Charlene Drew Jarvis Re: Amendment in the Nature of a Substitute to Bill 6-33

(Apr. 30, 1985)
STATEMENT OF COUNCILMEMBER  
CHARLENE DREW JARVIS  
RE: AMENDING IN THE NATURE OF A SUBSTITUTE  
TO BILL 6-33  

This morning I am moving an amendment in the nature of a substitute to Bill 6-33, the Rental Housing Act of 1985. As many of you know, the presence of both Bill 6-33, a Bill introduced by Chairman Clarke to continue the current provisions of our rent control law without change, and Bill 6-88, a bill introduced by Councilmember Ray which changes certain aspects of the current rent control law, have brought a variety of issues to the fore. As Chairperson of the Committee on Housing and Economic Development, I had an opportunity to analyze these issues from a unique perspective since I have had a role in planning for the long range housing needs of our residents. I have, therefore, been able to analyze the issue of rent control, not from the perspective of which "side" to take -- that of housing providers or tenants -- but from a perspective of how best to solve the problem of assuring the increased availability of safe, sanitary and affordable rental housing -- especially for those of low or moderate income.

I have heard both sides of the issue; I have heard and read the testimony that was presented before the Committee on Consumer and Regulatory Affairs; I have read the letters from housing providers and tenants; I have monitored the phone calls from housing providers and tenants; and I have followed the community forums.
I have come away from all of that with a keen sense of the form that a strong rent control measure should take. I have formed the firm belief that strong rent control is neither the continuation of our current law entirely unamended, nor immediate vacancy decontrol. Instead, it is the continued control of rent levels coupled with adequate stimuli to assure that the private sector will continue the business of producing housing for our residents. The debate over rent control must serve as a catalyst for encouraging this body to stem what has been a gradual reduction in the number of safe, sanitary and affordable rental units on the market. We have to assure that every individual has the opportunity to exercise his or her right to decent and affordable housing. The document before us allows this body to go on record as creating an example of how housing needs of a city's residents should be met. It is with these views in mind, that the substitute which I am about to describe was drafted. The draft incorporates suggestions from the community, members of the Council and 23 of the 27 amendments submitted by the Executive Branch.

The substitute that I am offering this morning continues and strengthens those provisions which lie at the very heart of our current rent stabilization program, while adding stronger provisions to encourage housing production. Provisions allowing for an Apartment Improvement Program with rent levels agreed upon by housing providers and tenants during the life of the program
will continue unchanged. The roles of the Rental Housing Commission, the Rental Accommodations and Conversion Division of the Department of Consumer and Regulatory Affairs, and the Rent Administrator are continued, with minor changes recommended by the Department. Also continued are provisions which allow annual increases tied to the Consumer Price Index and sections covering rent adjustments based on capital improvements, substantial rehabilitation, and voluntary agreements. Adjustment procedures, (the process by which petitions for, or associated with, rent adjustments under these sections are considered) remain unchanged. Those sections of the current law which prohibit unauthorized evictions and retaliatory action will also continue unchanged. Those which prohibit conversion and demolition of rental housing units, and which provide for relocation assistance for tenants displaced by substantial rehabilitation and housing discontinuance will likewise continue in force.

Therefore, except for the specific changes which I am about to note, this substitute encompasses all of the provisions of the existing law:

1. The law is extended for six and one half years, rather than four years. This approach has been endorsed by the Mayor and a number of tenant spokespersons. This additional period is important to give us ample time to: (1) examine the effectiveness of initiatives set out in the act to generate housing and stabilize marginal housing, (2) assess the overall impact of the rent stabilization program and make recommendations for the future. In addition, this time frame will give us ample opportunity to study recommendations from commissions, such as the Housing Production Commission, which will be examining related issues.

See: Sec. 907, p. 93: "All titles of this act, except titles III [concerning creation and funding of the tenant assistance program] and V [concerning unauthorized evictions retaliatory action, conciliation and arbitration service, and anti-discrimination] shall terminate on December 31, 1991."
2. The definition of "base rent" changes the date from September 1, 1973, to September 1, 1983. Some tenant and housing provider witnesses urged the Council to move the date forward. This change is necessary to improve the administrative process and eliminate the undue hardship imposed upon both tenants and housing providers because records going back for 12 years often have been lost. The 1973 date is another factor making it difficult for a housing provider to borrow money for repairs or renovation. Since the housing provider has to be able to prove to the bank what rent he can legally charge, when the base rent date is set at 1973 and records have been lost, he can't satisfy any lender that the rent is at the legal rate.

See: Sec. 103(2), p. 5: "'Base rent' means that rent legally charged or chargeable on April 30, 1985 for the rental unit, which shall be the sum of rent charged on September 1, 1983, and all rent increases authorized for that rental unit by prior rent control laws or any administrative decision issued thereunder, or any rent increases authorized by a court of competent jurisdiction."

3. (a) A definition of "distressed property" has been added. The definition is the key to the distressed property program which is designed to give some relief to properties which have experienced financial difficulty and are in deplorable condition.

See: Sec. 103(7), p. 7: "'Distressed property' means a housing accommodation that:

*(A) Is experiencing, and has experienced for 2 years, a negative cash flow;

*(B) Has been cited by the Department of Consumer and Regulatory Affairs as being in substantial noncompliance with the housing regulations;

*(C) Has been subject to deferred maintenance as a result of negative cash flow; and

*(D) Has been in arrears on either permanent mortgage loan payments, property tax payments, fuel and utility payments, or water or sewer fee payments."

(b) A provision has also been added exempting distressed property which is accepted into the Distressed Properties Improvement Program from the rent stabilization program. Distressed properties would be exempt as long as they are in the improvement program. When the improvements are complete and the property comes out of the program, the property again would be covered by rent control. The Department of Consumer and Regulatory Affairs requested this exemption.

See: Sec. 205(a)(6), p. 23: "[Sections 205(d) through 218, except Section 214 (concerning voluntary agreements) shall apply to each rental unit in the District EXCEPT:]"
(6) "Housing accommodations for which a Distressed Property Improvement Plan has been developed pursuant to title VIII of this act, but only during the duration of the Plan."

(c) A Distressed Properties Improvement Program is created under a new Title VIII of the substitute. The purpose of the program is to prevent further erosion and abandonment of rental properties that are in poor financial and physical condition. The program is designed to bring together the building owners, the tenants, and the mortgagees in a collective effort to develop a sound plan for bringing the building up to code and saving it for the present tenants. The tenants would have priority for financial assistance from the Tenant Assistance Program, which will be discussed later.

See: Secs. 804 and 805, pps. 88-90:

"Sec. 804. Distressed Properties Improvement Program.

(A) The Mayor may establish and administer a distressed property improvement program to assist those housing accommodations which meet the requirements of section 103(7) [which defines the term "distressed property"] of this act.

(B) The Distressed Property Improvement Program may include any or all of the following:

(1) A 5-year deferral or moratorium on real property taxes;

(2) Deferral or forgiveness of water and sewer charges in arrears;

(3) Deferral or forgiveness of tax liens;

(4) Deferral or forgiveness of any indebtedness owed to the District;

(5) Low interest or no interest loans; and

(6) Financial grants.

(C) Nothing in subsection (B) or this title shall be construed as creating a right or entitlement for any housing provider or other person.

(D) Distressed properties shall have priority over other properties for participation in the Tenant Assistance Program so long as the tenants who reside in distressed property and who receive assistance from the Tenant Assistance Program are doing so consistent with the provision of section 303(c)."

"Sec. 805. Distressed Property Improvement Plan.

(A) Upon petition by the housing provider, the Mayor may initiate the development of a distressed property improvement plan utilizing
any or all of the mechanisms in section 804(b) of this title. The development of the plan shall involve the participation of the housing provider, the tenants or tenants' association and may include the mortgagee.

"(B) A distressed property improvement plan may include, but not be limited to:

"(1) A schedule of repairs and capital improvements;
"(2) A schedule of services and facilities;
"(3) A schedule of rents and rent increases;
"(4) A schedule of mortgage payments which may reflect additional long-term loans to the housing provider for the housing accommodation;
"(5) A schedule of additional capital investment in the housing accommodation by the housing provider;
"(6) A schedule of property tax payments, which may also reflect moratoria or deferrals on property tax payments and the abatement or deferral of up to 100% of any tax outstanding on the housing accommodation; and
"(7) A long-term lease agreement at a mutually agreed reduced rent between the housing provider and tenants based on the provision of repair services by the tenants.

"(C) In the development of the distressed property improvement plan, the Mayor may consider:

"(1) The interests of tenants in achieving decent, safe and sanitary housing at affordable rents;
"(2) The long-term interest of the housing provider in achieving a sound investment and a reasonable return on the housing provider's investment;
"(3) The long-term interest of the mortgagor in achieving a financially secure mortgage; and
"(4) The long-term interest of the District in achieving a decent, safe, and sanitary housing accommodation which is fiscally sound and which generates and pays its fair property tax assessment."

4. The term "housing provider" is substituted for "landlord", and is defined accordingly. It is important that the law use terms without the negative
connotations that the word "landlord" has acquired. This is one step to help bring some degree of harmony and cooperation to the relationship between tenants and housing providers.

See: Sec. 103(13), p. 8: "Housing provider" means a landlord, an owner, lessor, sublessor, assignee, any agent thereof, or any other person receiving or entitled to receive rents or benefits for the use or occupancy of any rental unit within a housing accommodation within the District.

5. The term of office for members of the Rental Housing Commission is fixed at 3 years, rather than the life of the law (See Sec. 201(a)). All Commission members must be attorneys, rather than 2 attorneys and one accountant (See Sec. 201(b)). At the request of DCRA, a procedure is also established for filling vacancies (See Sec. 201 (d)). Those sections in the current law which required the Rent Administrator to prepare the budget for the Commission as well as provide the Commission with staff have been deleted because Reorganization Plan No. 1 brought both the Commission and the Rent Administrator under the Department of Consumer and Regulatory Affairs. The Department has the budget and staff responsibilities for all the offices and commissions under its jurisdiction.

Sec. 201(a), p. 13

"(A) the Rental Housing Commission established by section 202 of the Rental Housing Act of 1980, effective March 4, 1981 (D.C. Law 3-131; D.C. Code, sec. 45-1512), is continued and shall be composed of 3 members appointed by the Mayor with the advice and consent of the Council. The members' terms shall not exceed 3 years. Members may be appointed for successive terms. The terms of members of the Rental Housing Commission appointed under the Rental Housing Act of 1980 shall expire 90 days after the effective date of this act, and the Mayor shall appoint the new members within 30 days of the effective date of this act. The Mayor shall designate 1 member of the Rental Housing Commission as the chairperson and administrative head."

Sec. 201(b), p. 14:

"(B) The Rental Housing Commission shall be composed of 3 persons admitted to practice before the District of Columbia court of appeals. All members of the Rental Housing Commission shall be residents of the District. No member shall be either a housing provider or a tenant."

Sec. 201(d), p. 14:

"(D) Any person appointed to fill a vacancy on the Commission shall be appointed only for the unexpired term of the member whose vacancy is being filled."

5. At the request of DCRA, certain aspects of the Rent Administrator's duties have been broadened. He or his designee may attend all policy meetings of the
Rental Housing Commission (See Sec. 204(e)); he is required to establish a relationship with the Landlord/Tenant Branch of the D.C. Superior Court (See Sec. 204(f)); and he is authorized to issue advisory opinions (See Sec. 204(g)).

Sec. 204(e), p. 18:

"(e) The Rent Administrator or a designee may attend all policy meetings of the Rental Housing Commission."

Sec. 204(f), p. 18:

"(f) The Rent Administrator shall establish and maintain a formal relationship with the Landlord/Tenant Branch of the D.C. Superior Court and the Metropolitan Police Department."

Sec. 204(g), p. 18:

"(g) The Rent Administrator may issue at the request of any person an advisory opinion on issues of first impression under the Act."

7. In that section of the law which addresses exemptions, the word "rental" has been inserted before the word "units" to make clear that the exemption for four or fewer units applies to buildings with four or fewer rental units. The Department requested the change because the present language creates uncertainty about whether some buildings are exempt or not.

See: Sec. 205(a)(3), p. 20:

"(3) Any rental unit in any housing accommodation of 4 or fewer rental units, including any aggregate of 4 units whether within the same structure or not, provided:

"(A) The housing accommodation is owned by not more than 4 natural persons;

"(B) None of the housing providers has an interest, either directly or indirectly, in any other rental unit in the District of Columbia; and

"(C) The housing provider of the housing accommodation shall file with the Rent Administrator a claim of exemption statement which shall consist of an oath or affirmation by the housing provider of the valid claim to the exemption. The claim of exemption statement shall also contain the signatures of each person having an interest, direct or indirect, in the housing accommodation. Any change in the operation of the exempted housing accommodation or change in the housing provider's interest in any other housing accommodation which would invalidate the exemption claim must be reported in writing to the Rent Administrator within 30 days of the change;"
The exemption for rental units operated by foreign governments as diplomatic residences remains intact, but has been moved from section 205(a) in the present law to 205(e)(1). The department requested the change to make clear that diplomatic accommodations are exempt from the entire act, not just the rent stabilization program.

The exemption for housing accommodations which have been continuously vacant and without a rental agreement has been changed. The accommodations must have been vacant since January 1, 1985, rather than January 1, 1980, in order to qualify for the exemption.

See: Sec. 205(a)(4), p. 21:

"(4) Any housing accommodation which has been continuously vacant and not subject to a rental agreement since January 1, 1985, provided, that upon rerental, the housing accommodation is in substantial compliance with the housing regulations when offered for rent;"

There is an expansion of the exemption provided by the current law for properties in the Apartment Improvement Program of the Department of Housing and Community Development. Under the exemption, property which is subject to a building improvement plan, agreed to by 70% of the tenants, is exempt from the rent stabilization program. The plan establishes, among other things, the rent ceilings that will be in effect when the plan is completed and the building goes back under rent control. The expansion is to provide the same exemption, under the same requirements, for properties receiving rehabilitation assistance through other DHCD programs. This change was made at the recommendation of the Department of Consumer and Regulatory Affairs.

See: Sec. 205(a)(7), p. 23:

"(7) Housing accommodations for which a building improvement plan has been executed pursuant to the apartment improvement program and housing accommodations which receive rehabilitation assistance pursuant to other multi-family assistance programs administered by the Department of Housing and Community Development, if:

(A) The building improvement plan, accompanied by a certification signed by the tenants of 70% of the occupied units, is filed with the Division at the time of execution;

(B) Upon expiration of the building improvement plan, the exemption provided pursuant to this paragraph shall terminate and the housing accommodation will again be subject to sections 205(d) through 218; and

(C) Upon expiration of the building improvement plan, and notwithstanding the provisions of section 209, the schedule of rent ceilings, services, and facilities established by the building improvement plans shall be deemed the rent ceilings and
service and facility levels established for the purposes of

title II;”

A new paragraph has been added exempting housing accommodations which are
80 per cent vacant on the effective date of this act. But the exemption
applies only on a case-by-case basis, when the Rent Administrator approves
exemption of a specific building as consistent with this act and in the best
interests of the tenants. Title 7, which provides relocation assistance, is
specifically applied to these situations. Most of these buildings are unfit
to live in and ought to be and will be closed down by DCRA as soon as tenants
can be relocated.

See: Sec. 205(a)(8), p. 24:

"(8) Housing accommodations which are 80% vacant at the effective date of
this act if approved by the Rent Administrator as being consistent with
the purposes of this act and in the interest of the remaining tenants.
The provisions of title VII [concerning relocation assistance] shall
remain applicable."

A new section has been added exempting single family housing
accommodations as they become vacant.

See: Sec. 205(a)(9), p. 24:

"(9) Any single family housing accommodation which is vacated voluntarily
or which is vacated as a result of a legal eviction or termination of
tenancy for any lawful reason, provided that upon re-rental, the housing
accommodation is in substantial compliance with the housing regulations."

Section 205(a)(10) is a new provision which would allow rent increases in
units as they become unoccupied. This change would take effect in four years,
on April 30, 1989. but only if two conditions exist on that date: if the
Census Bureau's Annual Housing Survey shows at that time the vacancy rate for
rental housing in the District is at least 6 per cent, and if the Tenant
assistance Program established by Title III is funded and operating.

See: Sec. 205(a)(10), p. 24-25:

"(10)(A) A Rental unit which is vacated voluntarily, or which is vacated
as a result of a legal eviction or termination of tenancy for any lawful
reason, as provided in paragraph (10)(B).

"(B) When the vacancy rate for rental housing accommodations in the
District of Columbia, as determined by the United States Census Bureau's
Annual Housing Survey published nearest to but before January 1, 1989, is
equal to or higher than 6% and the Tenant Assistance Program provided in
title III is funded and operating, as required by this act, then paragraph
(10)(A) shall become effective on April 30, 1989.
Rent may not be increased pursuant to subsection (a)(10) of this section if:

(1) The unit is vacated as a result of eviction or termination to tenancy where the landlord seeks in good faith to recover possession for occupancy by himself or herself or a member of his or her family, or he or she seeks to recover possession in order to permanently remove the unit from rental housing; or

(2) The vacating of a rental unit by a tenant as a result of a housing provider creating an unreasonable interference with the tenant's comfort, safety, or enjoyment of the rental unit or as a result of retaliatory action pursuant to section 502 of this act shall not be deemed a voluntary vacating of the unit.

(D) Notwithstanding paragraphs (C)(1) and (C)(2) of this subsection, the landlord shall be entitled to an exemption pursuant to this subsection whenever the unit is next vacated in accordance with sub-subsections (A) and (B) of this subsection after an intervening loss of the exemption.

At the request of DCRA, subsections of the current law which require that registration statements be numbered have been deleted. DCRA's computerization of the process has made this requirement obsolete.

Provisions concerning the time for filing challenges to rent adjustments have been changed. Tenants must file any challenge to any type of rent adjustment within three years after the adjustment takes effect. In the case of petitions for rent increases based on the rent charged on September 1, 1983, (the new base rent) any tenant challenge must be filed within six months after this act takes effect.

See: Sec. 206(e), p. 30: "A tenant may challenge a rent adjustment pursuant to any section of this act by filing a petition with the Rent Administrator under section 216. No petition may be filed with respect to any rent adjustment more than 3 years after the effective date of the adjustment, except that a tenant must challenge the new base rent as provided in section 103(2) of this act within 6 months from the date the housing provider files his base rent as required by this act."

The section concerning consideration of petitions for rent adjustments based on capital improvements has been changed. As in the current law, a final decision on the petition must be rendered within sixty (60) days after receipt of a completed petition, however, upon failure of the Rental Administrator to render a decision within that time, the housing provider may implement the proposed capital improvement.
See: Sec. 210(e), p. 38:

"(e)(1) A decision by the Rent Administrator on rent adjustment pursuant to this section shall be rendered within sixty (60) days after receipt of a completed petition for capital improvement."

17. The rate of return on equity under a hardship petition has been raised to 12.0 per cent, from the level of 10 per cent in the present law. The rationale is that, in most cases an investor can get an interest rate of 11 to 11 1/2 per cent from any local bank. Even for the utility monopolies, the Public Service Commission allows an average rate of return of 13 1/2 to 14 per cent. Raising the allowable rate of return is another necessary step to encourage housing providers to improve their properties.

See: Sec. 212(a), p. 39:

"(A) where an election has been made pursuant to section 206(c) to seek a rent adjustment through a hardship petition, the Rent Administrator shall, after review of the figures and computations set forth in the housing provider's petition, allow additional increases in rent which would generate no more than a 12% rate of return computed according to subsection (B) of this section."

18. There would be a change to allow a 12% increase in the rent ceiling when an apartment becomes vacant. The current law allows 10 per cent. The level was raised to take into consideration the fact that this act would be in place for six years, rather than four, and to try to ensure that property owners get a fair rate or return. Many witnesses at the hearings, as well as DCRA, said that most owners are unwilling to use the capital improvements and hardship provisions because they are too cumbersome and time-consuming.

See: Sec. 213, p. 42:

"(a) When a tenant vacates a rental unit on his or her own initiative or as a result of a notice to vacate for nonpayment of rent, violation of an obligation of his or her tenancy, or use of the rental unit for illegal purpose or purposes as determined by a court of competent jurisdiction, the rent ceiling may, at the election of the housing provider, be adjusted to either:

"(1) The rent ceiling which would otherwise be applicable to a rental unit under this act plus 12% of the ceiling once per 12-month period; or

"(2) the rent ceiling of a substantially identical rental unit in the same housing accommodation, except that no increase under this section shall be permitted unless the housing accommodation has been registered under section 205(d).

"(b) For the purposes of this section, rental units shall be defined to be 'substantially identical' where they contain essentially the same
square footage, essentially the same floor plan, comparable amenities and equipment, comparable locations with respect to exposure and height, if exposure and height have previously been factors in the amount of rent charged, and in comparable physical condition.

19. The section on voluntary agreements between tenants and housing providers has been clarified and broadened at the recommendation of DCRA to allow voluntary agreements on other services as well as rent ceilings, and to allow the agreements to be binding if approved by the Rent Administrator.

See: Sec. 215, p. 45:

"(A) Seventy percent or more of the tenants of a housing accommodation may enter into a voluntary agreement with the housing provider:

"(1) To establish the rent ceiling;

"(2) To alter levels of related services and facilities; and

"(3) To provide for capital improvements and the eliminations of deferred maintenance (ordinary repair).

"(B) The voluntary agreement must be filed with the Rent Administrator and shall include the signature of each tenant, the number of each tenant's rental unit or apartment, the specific amount of increased rent each tenant will pay, if applicable and a statement that the agreement was entered into voluntarily without any form of coercion on the part of the housing provider. If approval by the Rent Administrator the agreement shall be binding on the housing provider and on all tenants.

"(C) Where the agreement filed with the Rent Administrator is to have the rent ceiling for all rental units in the housing accommodation adjusted by a specified percentage, the Rent Administrator shall immediately certify approval of the increase."

20. A new section has been added which requires the Mayor to deliver to the Council a comprehensive report and analysis on rental housing conditions in the District. The report will be due on October 1, 1988. It must be prepared by an independent consultant, not by the government, to ensure its objectivity. In the committee hearings, we heard extensive evidence about the effects of rent control in other cities. But questions were raised there and in other forums about whether the District could be accurately compared to other cities. This report is intended to give us thorough and up-to-date answers about conditions in the District and the impact of the rent stabilization program, the Tenant Assistance Program, and other factors. The report also must examine various alternatives, including luxury decontrol and income thresholds.

See: Sec. 220, p. 50-51:
"(A) No later than October 1, 1988, the Mayor shall report to the Council on the continued need for the rent stabilization program.

"(B) The report shall be prepared by a person or organization not affiliated with the District government and shall contain:

"(1) The number of new and renovated units which have been placed on the rental housing market since the effective date of this act;

"(2) The number of new and renovated units it is anticipated will be placed on the rental housing market annually until 1996;

"(3) An assessment of the effectiveness of the Tenant Assistance Program; the adequacy of monies appropriated for the program; and the projected costs of the Tenant Assistance Program in the absence of rent stabilization legislation;

"(4) The impact of the rent stabilization program on the cost and supply of rental housing;

"(5) An assessment of the present rent stabilization program in terms of it being understandable, efficient, inexpensive, equitable and flexible;

"(6) The impact of the present rent stabilization program upon small housing providers versus large housing providers.

"(7) The number of District residents living in substandard housing and their locations;

"(8) An assessment of the impact of the proposed civil infraction law on housing code violations, if the law is enacted in a timely manner;

"(9) An assessment of the probable impact on the private rental housing market and the present rent stabilization program of the following individual or combination of factors;

"(A) Vacancy decontrol;

"(B) Luxury decontrol;

"(C) Increasing from 4 units to 10 units the maximum rental units exemption under section 205(a)(3); and

"(D) Tying the rent stabilization program to the amount of family income available for rent; and

"(10) Any other information considered appropriated by the drafters of the report."
A new section has been added which authorizes upon request of a property owner, the issuance of a certificate of assurance that rental property now exempted from the rental stabilization program will not be included at a later date. Should it be included the property owner is provided with certain remedies against the District. This provision is intended to act as an additional incentive to get vacant and new rental property on the market.

See: Sec. 221, pg 51:

"Sec. 221. Certificate of assurance.

(a) Upon the issuance of any building permit for a housing accommodation to which section 205(a)(2) or (4) applies after the effective date of this act, the Mayor shall at the request of the recipient of the building permit issue to the recipient thereof concurrently with such building permit a certificate of assurance containing the terms set forth in this section 221. Within 30 days of written request of the owner of any housing accommodation to which Section 205(a)(2) and (4) applies, the Mayor shall issue to such owner a certificate of assurance containing the terms set forth in this section 221.

(b) The certificate of assurance shall provide that in the event that any rental unit in any housing accommodation then existing or thereafter constructed on the property covered by such certificate is ever made subject to any section 205(f) through 219 of the act, or any future District of Columbia law limiting the amount of rent which a property owner can lawfully demand or receive from a tenant, the owner of the property shall have the right to recover annually from the District of Columbia for so long as the property is used as a housing accommodation, in accordance with subsection (c), the difference between the annual fair market rental amount and the annual amount of rent that the owner of the property actually receives from the tenants in such housing accommodation. The certificate of assurance shall be executed by the Mayor and the recipient thereof and shall obligate the recipient thereof to use his or her best efforts to construct a housing accommodation as expeditiously as possible on the property which is the subject thereof if there does not then exist a housing accommodation on such property. Each certificate of assurance shall provide that it shall become null and void in the event that a housing accommodation is not constructed on the property within five years of the issuance thereof and shall contain the definitions set forth in section 103(37) and (38). The certificate of assurance shall be an irrevocable agreement in recordable form and constitute a covenant running with the land. The Mayor shall review the proposed form of the certificate of assurance with Council's Committee on Consumer and Regulatory Affairs prior to its first use to ensure that such form will be legal, valid and enforceable, contain such terms as are provided for herein, and otherwise further its intended purpose of stimulating the addition of rental units to the District of Columbia's housing stock.

(c) The certificate of assurance shall provide that for so long as the property is used as a housing accommodation and is subject of section
205(f) through 219 of the act, or any future District of Columbia law limiting the amount of rent which a housing provider can lawfully demand or receive from a tenant, the annual difference between the annual fair market rental amount and the annual amount of rent that the owner of the property actually receives from the tenants in such housing accommodation shall be recoverable by the owner of the property by (i) taking a credit against any present or future District of Columbia real estate taxes payable by the owner of the property whether on the housing accommodation or other property located in the District of Columbia, or (ii) seeking specific performances of the certificate of assurance against the District of Columbia, or damages for the breach thereof, in the Superior Court of the District of Columbia. If the Mayor considers the credit to be in excess of the amount the owner of the property is entitled to take as a credit hereunder, the Mayor shall notify the owner of the property are unable to agree on the amount of the credit, the Mayor shall have the right to sue the land owner in the Superior Court of the District of Columbia to recover any excess credit together with interest thereon at the rate of 18% per year from the date that the Mayor filed to recover such excess credit. Notwithstanding any other provision of District of Columbia law, the Mayor shall have no resort to any other remedy for non-payment of real estate taxes (to the extent such non-payment arises from a credit claimed hereunder) until a final judgment is rendered in favor of the Mayor in Superior Court of the District of Columbia.

22. Title 3 establishes a Tenant Assistance Program, and although it retains some elements of the rent supplement program in Bill 6-33, it differs in several respects. First, it authorizes an annual appropriation of at least $15 million, beginning in fiscal 1987, and it states as a policy that the amount should increase on a yearly basis as needed and as revenues allow. Second, present law requires that payments must be made directly to the tenants. This has been changed to require the government to make the payments to the housing provider on behalf of the tenant. The purpose of this change is to guarantee that the assistance payments are, indeed, used for rent. Third, the payment formula has been changed to make it much simpler and easier to implement. Eligibility is based on the median income for families of varying sizes, and the procedure for determining the median income is set out in the definition of "lower income family."

See: Sec. 301 (8), p. 56: "Lower income family means a household with a combined annual income in a manner to be determined by the Mayor, whose income does not exceed 80% of the median income for a family in the District, with adjustments for smaller and larger families. The Mayor may refer to income or consumer expenditure data of the United States Census Bureau or the United States Department of Labor to determine median income for the District or Standard Metropolitan Statistical Area (SMSA)."

Families which are determined to be "lower-income" can receive assistance if their rent exceeds 30 per cent of their income, or in the case of senior citizens or handicapped persons, 25 per cent of income.

Fourth, annual adjusted income is used as the basis for determining income, and this tracks the formula used in the federal government assistance
programs. An exclusion from income of $480 for each household member who is under 18 years old who is handicapped or a fulltime student is allowed.

23. The registration fee, for rental units has been increased to $10 per rental unit, from the present $6 per unit.

24. Certain sections have been revised to expand the conciliation service and authorize the DCRA to provide binding arbitration as a voluntary option for tenants and housing providers.

See: Secs. 503 and 504, p. 79:

"(A) there is established a conciliation and arbitration service ("service") within the Division.

"(B) The service shall provide a voluntary, nonadversarial forum for the resolution of disputes arising between housing providers and tenants in the District.

"(C) The staff of the service shall be designated by the Rent Administrator and shall be persons familiar with the problems of the law relating to housing provider and tenant relations and with knowledge of conciliation and arbitration practices.

"(D) Either a housing provider or a tenant may initiate a proceeding before the service.

"(E) No person shall be compelled to attend a session of the service or participate in any proceeding before its staff. The results of any proceeding shall not be binding upon any party, except to the extent provided in section 504. No evidence pertaining to a conciliation or arbitration proceeding shall be admissible in any judicial proceeding under other provisions of law relating to housing provider and tenant disputes."

"Sec. 504. Arbitration.

"(A) By mutual consent, the housing provider and tenant may submit for arbitration any dispute not satisfactorily resolved under section 503.

"(B) A request for arbitration shall be in writing.

"(C) The Rent Administrator shall designate 3 members of the Division's staff, the than those who heard the dispute pursuant to section 503, to serve as a panel of arbitrators.

"(D) The arbitration panel shall issue a written recommendation to resolve the dispute within 10 days of the request.

"(E) Agreements entered into between the housing provider and tenant pursuant to the panel's recommendation shall be approved by the Rent Administrator and shall be binding upon the parties."
25. A provision has been added prohibiting discrimination against elderly tenants and families with children.

See: Sec. 505, p. 80:

"(A) It is unlawful for a housing provider to discriminate against elderly tenants or families with children when renting housing accommodations.

"(B) Any protections provided by subsection (a) of this section, and any penalties provided in section 901 of this act shall be in addition to any other provision of law.

"(C) Allegations by elderly tenants or families with children of violations of this section shall be promptly investigated and handled by the Department of Consumer and Regulatory Affairs, which shall provide the complaining party with a written report upon the conclusion of the investigation."

26. A new title has been added to establish several financial mechanisms to get vacant and boarded-up buildings back on the market and to rescue distressed properties: section 801, on page 86 makes clear that low-interest, tax-exempt bond financing is available for construction and renovation of rental housing; section 802 on page 86 authorizes a six-year phase-in of property taxes on newly constructed or rehabilitated properties; and section 803 on page 87 authorizes the deferral or forgiveness of delinquent water and sewer fees on vacant properties which are being rehabilitated.
Exhibit D

Council of the District of Columbia, Record of Official Council Vote – B 6-33

(May 3, 1985)
COUNCIL OF THE DISTRICT OF COLUMBIA  
Council Period Six — First Session  

RECORD OF OFFICIAL COUNCIL VOTE  
DOCKET NO: B 6-33  

☐ Item on Consent Calendar  
☐ ACTION & DATE: Adopted First Reading, 4-16-85  
☐ VOICE VOTE: Recorded vote on request  
 Absent:  

☐ ROLL CALL VOTE: — RESULT  

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X — Indicates Vote  
A.B. — Absent  
N.V. — Present, not voting  

CERTIFICATION RECORD  

Secretary to the Council  
May 3, 1985  

☐ Item on Consent Calendar  
☐ ACTION & DATE: Adopted Final Reading, 4-30-85  
☐ VOICE VOTE: Unanimous  
 Absent: all present  

☐ ROLL CALL VOTE: — RESULT  

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X — Indicates Vote  
A.B. — Absent  
N.V. — Present, not voting  

CERTIFICATION RECORD  

Secretary to the Council  
May 3, 1985  

☐ Item on Consent Calendar  
☐ ACTION & DATE:  
☐ VOICE VOTE:  
 Recorded vote on request  
 Absent:  

☐ ROLL CALL VOTE: — RESULT  

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