[COMMITTEE PRINT]

RENTAL ACCOMMODATIONS ACT OF 1975

(Council Act No. 1–46)

AND

REPORT OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

AS REFERRED TO THE

COMMITTEE ON THE DISTRICT OF COLUMBIA HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

SEPTEMBER 5, 1975

Serial No. S–1

Printed for the use of the Committee on the District of Columbia

U.S. GOVERNMENT PRINTING OFFICE
59–155 WASHINGTON : 1975

COMMITTEE ON THE DISTRICT OF COLUMBIA

CHARLES C. DIGGS, JR., Michigan, *Chairman*

DONALD M. FRASER, Minnesota
W. S. (BILL) STUCKEY, JR., Georgia
RONALD V. DELLUMS, California
THOMAS M. REES, California
WALTER E. FAUNTROY, Delegate, District of Columbia
JAMES R. MANN, South Carolina
ROMANO L. MAZZOLI, Kentucky
HERBERT E. HARRIS II, Virginia
DAN DANIEL, Virginia
JERRY LITTON, Missouri
HELEN S. MEYNER, New Jersey
HENRY J. NOWAK, New York
PHILIP R. SHARP, Indiana
JAMES J. FLORIO, New Jersey

GILBERT GUDE, Maryland
WILLIAM H. HARSHA, Ohio
STEWART B. McKINNEY, Connecticut
EDWARD G. BIESTER, JR., Pennsylvania
TOM RAILSBACK, Illinois
ROBERT W. DANIEL, JR., Virginia
CHARLES W. WHALEN, JR., Ohio

EDWARD C. SYLVESTER, Jr., *Staff Director*
RUBY G. MARTIN, *General Counsel*
MARK MATHIS, *Minority Counsel*

SUBCOMMITTEE ON COMMERCE, HOUSING AND TRANSPORTATION

W. S. (BILL) STUCKEY, JR., Georgia, *Chairman*

DAN DANIELS, Virginia
JERRY LITTON, Missouri
HENRY J. NOWAK, New York
HERBERT E. HARRIS II, Virginia
PHILIP R. SHARP, Indiana

GILBERT GUDE, Maryland
WILLIAM H. HARSHA, Ohio
STEWART B. McKINNEY, Connecticut

LETTER OF TRANSMITTAL

COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, D.C., September 4, 1975.

HON. CARL ALBERT,
Speaker of the House, U.S. House of Representatives,
U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit to you, in accordance with Section 602(c) of the D.C. Self Government and Governmental Reorganization Act, Public Law 93–198, a copy of an act adopted by the Council on July 29, 1975, and signed by the Mayor August 15, 1975. Act 1–46 will stabilize rents in the District of Columbia and establish a Rent Stabilization Commission, and other purposes.

Attached to the act is a docket sheet for signature of the Clerk of the House by the expiration of the 30-day review period. In the event during this period the House adopts a resolution disapproving such act, please so advise the Council on the docket sheet, noting the resolution number and signature of the House Clerk.

To begin the count of the 30-day review by Congress, it would be appreciated if your office would acknowledge receipt of this document on the tissue copy attached.

Sincerely yours,

STERLING TUCKER, *Chairman.*

Enclosures.

Docket for the Bill 1-157

Considered in Council 7/15/75 First vote 7/15/75

RECORD OF COUNCIL VOTE

COUNCIL MEMBER	YES	NO	P.R.	A.B.	R.A.	COUNCIL MEMBER	YES	NO	P.R.	A.B.	R.A.	COUNCIL MEMBER	YES	NO	P.R.	A.B.	R.A.
TUCKER	X					DIXON	X					SPAULDING	X				
MOORE, D.		X				HARDY	X					WILSON	X				
BARRY	X					HOBSON		X				WINTER	X				
CLARKE	X					MOORE, J.				X							
COATES		X				SHACKLETON	X										

X—Indicates Vote P. R.—Present A. B.—Absent R. A.—Readopted

Robert S Moore
(Secretary of the Council)

Final vote in Council 7/29/75

RECORD OF COUNCIL VOTE

COUNCIL MEMBER	YES	NO	P.R.	A.B.	R.A.	COUNCIL MEMBER	YES	NO	P.R.	A.B.	R.A.	COUNCIL MEMBER	YES	NO	P.R.	A.B.	R.A.
TUCKER	X					DIXON	X					SPAULDING	X				
MOORE, D.		X				HARDY	X					WILSON		X			
BARRY	X					HOBSON		X				WINTER	X				
CLARKE	X					MOORE, I.	X										
COATES				X		SHACKLETON	X										

X—Indicates Vote P. R.—Present A. B.—Absent R. A.—Readopted

Robert S Moore
(Secretary of the Council)

Presented to the Mayor 8/1/75

Robert S Moore
(Secretary of the Council)

Mayor's action
approve: 15 AUG 1975
disapprove:

Marion Barry
(Mayor's Signature)

15 AUG 1975

Enacted without Mayor's signature

(Secretary of the Council)

AN ACT 1–46, in the Council of the District of Columbia, August 15, 1975, To stabilize rents in the District of Columbia and to establish a Rent Stabilization Commission, and for other purposes

Be it enacted by the Council of the District of Columbia, That this act may be cited as the "District of Columbia Rental Accommodations act of 1975".

TITLE I—RENTAL ACCOMMODATIONS COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. 101. (a) There is established for the District of Columbia a Rental Accommodations Commission (hereinafter in this act referred to as the "Commission") which shall consist of nine members to be appointed by the Mayor of the District of Columbia by and with the advice and consent of the Council of the District of Columbia. The Mayor shall make his initial appointments within 30 days after the effective date of this act. Three of the members of the Commission shall represent the interests of landlords, and each of the three shall be a landlord of at least one housing accommodation located in the District of Columbia. Three of the members shall be tenants who shall represent the interests of tenants. The rest of the members of the Commission shall be neither landlords nor tenants. All members of the Commission shall be residents of the District of Columbia.

(b) Members of the Commission shall be appointed to serve for a two year term beginning on the effective date of this act. In the case of a vacancy in the membership of the Commission, a new member shall be appointed to serve out the term of the member whose vacancy gave rise to the appointment. The Mayor shall have the authority to remove from the Commission any member who fails to meet the qaulifications of a member or who fails to attend 70 percent of the regularly scheduled meetings held within any six month period.

(c) Members of the Commission shall be entitled to receive compensation of $50.00 per day for each day spent in performing the duties of the Commission, except no member shall receive more than $5,200 under this subsection in any one calendar year. No compensation shall be paid to a member of the Commission who is also an officer or employee of the United States or the District of Columbia government.

(d) Five members of the Commission shall constitute a quorum for the transaction of business so long as one of the five members is a landlord, one is a tenant, and two are neither landlords nor tenants.

(e) The chairperson and vice-chairperson of the Commission shall be selected by the members of the Commission from among their number and shall be neither landlords nor tenants.

DUTIES OF COMMISSION

SEC. (a) The Commission shall—

(1) promulgate, amend, and rescind rules and procedures for the administration of this act; and

(2) hear and decide appeals brought to it under section 204 and 212 of this act with respect to adjustments in the maximum rent allowable for a rental unit.

(b) In addition the Commission shall, twice each year, submit to the Council of the District of Columbia a report on the trends, during the immediate preceding six months, of tax, operating, and maintenance costs (as they relate to housing accommodations in the District of Columbia) and a recommendation as to whether any adjustment should be made, as a result of such trends, in the formula contained in section 204 for computing the rent ceiling.

(c)(1) The Commission shall have the power to hold such hearings, sit and act at such times and places within the District of Columbia, administer such oaths, and require by subpoena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission may deem advisable in carrying out its functions under this act.

(2) In the case of contumacy or refusal to obey a subpoena issued under this subsection by any person who resides, is found, or transacts business within the District of Columbia, the Superior Court of the District of Columbia, at the request of the Commission, shall have jurisdiction to issue such person an order requiring such person to appear before the Commission, there to produce evidence if so ordered, or there to give testimony touching upon the matter under inquiry. Any failure of such person to obey any such order of the Superior Court may be punished by the Superior Court as contempt thereof.

(d) Upon the request of the chairperson, each department or entity of the District of Columbia government is authorized to furnish directly to the Commission assistance or information as may be necessary for the Commission to effectively carry out this act.

RENTAL ACCOMMODATIONS OFFICE

SEC. 103. (a) There is established as an agency of the District of Columbia government, within the executive office of the Mayor, a Rental Accommodations Office (hereinafter in this act referred to as the "Office") which shall have as its head a Rent Administrator to be appointed by the Mayor.

(b) The Rent Administrator shall be a resident of the District of Columbia and shall be entitled to receive annual compensation (payable in regular installments) at a rate as may be established but no less than class GS–15 on the General Schedule under section 5332 of Title 5 of the United States Code.

DUTIES OF THE RENT ADMINISTRATOR

SEC. 104. (a) The Rent Administrator shall carry out, according to the rules and procedures established by the Commission, the rent stabilization program established under title II of this act.

(b) The Rent Administrator may employ, within such funds as may be available to him, such personnel and consultants, including legal counsel, as are necessary to carry out provisions of this act. Such personnel and consultants shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

TITLE II—RENT STABILIZATION PROGRAM

DEFINITIONS

SEC. 201. For the purpose of this act—

(a) The term "Council" means the Council of the District of Columbia established under section 401 of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) The term "Mayor" means the Mayor of the District of Columbia established under section 421 of the District of Columbia Self-Government and Governmental Reorganization Act.

(c) Except as provided in section 204(d), the term "base rent" means the rent charged (on a monthly basis) for a rental unit on February 1, 1973; or, in the case of a rental unit not rented on February 1, 1973, the rent last charged (on a monthly basis) for that rental unit between January 1, 1972, and February 1, 1973; or, in the case of a rental unit which was not rented during the period beginning January 1, 1972, and ending on February 1, 1973 or, if the landlord can show to the satisfaction of the Rent Administrator that the rent charged during that period cannot be determined, an appropriate rent as determined by the Rent Administrator.

(d) The term "capital improvement" means a permanent improvement or renovation other than ordinary repair, replacement, or maintenance, the use of which will continue beyond the twelve month period beginning on the date of completion of such capital improvement.

(e) The term "housing accommodation" means any structure or building in the District of Columbia containing one or more rental units, and the land appurtenant thereto. Such term shall not include any hotel, motel, or other structure, including any room therein, used primarily for transient occupancy and in which at least 60 percent of the rooms devoted to living quarters for tenants or guests are used for transient occupancy.

(f) The term "housing regulations" means the Housing Regulations of the District of Columbia as established by the Commissioners' Order dated August 11, 1955, as amended.

(g) The term "initial leasing period" means that period during which the first tenant of a new rental unit or a rental unit covered by item (6) of subsection (a) of section 202 of this act rents such rental unit.

(h) The term "landlord" means an owner, lessor, sublessor, assignee, or agent of any thereof or other person receiving or entitled to receive rents or benefits for the use or occupancy of any rental unit, including any person who has an option to buy or who has entered into a contract

to buy any housing accommodation or rental unit with the intent to offer such housing accommodation or rental unit for rent.

(i) The term "person" means an individual, corporation, partnership, association, joint venture, business entity, or an organized group of individuals, and their successors and assignees.

(j) The term "related facility" means any facility, furnishing, or equipment made available to a tenant by a landlord, the use of which is authorized by the payment of the rent charged for a rental unit, including the use of any kitchen, bath, laundry facility, parking, and the use of common room, yard and other common area.

(k) The term "related services" means services provided by a landlord, or required by law or by the terms of a rental agreement to be provided by a landlord, to a tenant in connection with the use and occupancy of a rental unit, including repairs, decorating and maintenance, the provision of light, heat, hot and cold water, telephone answering and elevator services, janitor services, and the removal of trash and refuse.

(l) The term "rent" means the entire amount of money, money's worth, benefit, bonus, or gratuity demanded, received, or charged by a landlord as a condition of occupancy or use of a rental unit, its related services, and its related facilities.

(m) The term "rental unit" means any apartment, efficiency apartment, room, single-family house (and the land appurtenant thereto), suite of rooms, or duplex, which is rented or offered for rent for residential occupancy. Such term shall not include any room in a hotel, motel or other structure used primarily for transient occupancy.

(n) The term "market value" standing alone means the greater of

(1) the total purchase price most recently paid for a housing accommodation; or

(2) the estimated market value of such housing accommodation, for property assessment purposes, as determined by the Mayor.

(o) The term "assessed market value" means the estimated market value of such housing accommodation, for property assessment purposes, as determined by the Mayor.

(p) The term "substantial rehabilitation" means any improvement to or renovation of a housing accommodation or a rental unit begun on or after February 1, 1973 for which the total expenditure equals 50 percent or more of the market value of the housing accommodation before such rehabilitation.

(q) The term "tenant" includes a tenant, subtenant, lessee, sublessee, or other person entitled to the possession, occupancy or the benefits thereof, of any rental unit.

(r) The term "maximum possible rental income" means the sum of the rents for all rental units, whether occupied or not, as of the date of the filing of the registration statement.

(s) The term "vacancy loss" shall be the amount of rent not collected (computed on an annual basis) due to vacant units. No amount shall be included for units occupied by a landlord or his employees or otherwise not offered for rent.

(t) The term "uncollected rent" shall be the amount of rents and other charges due but not collected from tenants minus the amount due and not collected from tenants whose location the landlord knows and from whom he has failed to attempt to recover the loss through

legal action in the Superior Court of the District of Columbia or other appropriate forum after having had adequate opportunity to do so.

(u) The term "operating expenses" shall mean the expenses for the upkeep of the accommodation for any consecutive 12 month period in the 15 months immediately preceding the filing of the registration statement required by subsection (b) of section 202, including but not limited to expenses for salaries of on-site personnel, supplies, painting, maintenance and repairs, utilities, professional fees, on-site offices, and insurance.

(v) The term "management fee" shall be the amount paid to a managing agent and any pro rata salaries of off-site administrative personnel paid by the landlord.

(w) The term "property taxes" shall be the amount paid to the District of Columbia Treasurer for real property tax on the housing accommodation.

(x) The term "other income which can be derived from the housing accommodation" shall include but not be limited to fees; commissions; income from vending machines; income from laundry facilities; parking and recreational facilities; late charges; and kindred income which a landlord earns because of his ownership of a housing accommodation other than the gross rental charge.

REGISTRATION AND COVERAGE

SEC. 202(a) Sections 203–212 of this act shall apply to each rental unit in the District of Columbia, except—

(1) any rental unit in an establishment which has as its primary purpose the providing of diagnostic care and treatment of diseases, including but not limited to hospitals, convalescent homes, nursing homes, and personal care homes;

(2) any rental unit in any federally owned housing accommodation or in any housing accommodation with respect to which the mortgage or rent is federally subsidized;

(3) any rental unit in a housing accommodation for which the initial certificate of occupancy was issued after February 2, 1973 but such exception shall be effective only during the length of the initial leasing period or for the first year of tenancy, whichever is shorter;

(4) any dormitory of an institution of higher education, or a private boarding school, in which rooms are provided for students;

(5) any rental unit rented to another by the occupant of a housing accommodation of not more than two rental units, whether such occupant is the owner of such housing accommodation or a tenant who rents such housing accommodation; and

(6) any rental unit in any housing accommodation, for the length of the initial leasing period, or the first year of tenancy, whichever is shorter, which for the two years immediately preceeding the effective date of this act has been both vacant and not offered for rent, *Provided*, That, such housing accommodation is in substantial compliance with the housing regulations.

(b) Within not more than 90 days following the effective date of this act each landlord shall file with the Rent Administrator, on a

form approved by the Rent Administrator, a registration statement for each housing accommodation in the District of Columbia (whether subject to sections 203–212 of this act or not) and for which he is receiving rent or is entitled to receive rent. The registration form shall contain that information the Rent Administrator may require, including, but not limited to

(1) a description of the housing accommodation, including the address, number of rental units, number of stories, drainage, type of construction, date and number of housing business license issued by the District of Columbia government with respect thereto, and date and number of the certificates of occupancy issued by the District of Columbia government with respect thereto;

(2) a description of the utilities, air-conditioning, and type of heating fuel used for each rental unit in such housing accommodation;

(3) rental information on each rental unit in such housing accommodation for the base rent date including the base rent, the current rent being charged, the amount of the security deposit if any, the related services included, and the related facilities and charges therefor;

(4) the information which is filed in paragraph (3) for the date on which such registration is filed;

(5) in the case of a housing accommodation which has been substantially rehabilitated, the market value of such housing accommodation prior to rehabilitation and the method of computing the market value, a description of such rehabilitation, and an itemized list of expenditures for rehabilitation;

(6) in the case of a housing accommodation which is planned to be substantially rehabilitated or in the process of being substantially rehabilitated, the market value of such housing accommodation prior to rehabilitation and the method of computing the market value, and a description of the proposed rehabilitation;

(7) in the case of a housing accommodation with respect to which the Rent Administrator has permitted, pursuant subsection (a) of section 205 of this act, the amortized costs of capital improvements to be included in the computation of the rate of return according to the formula provided in section 204 of this act, the market value of such accommodation prior to such improvements, a list of all such improvements allowed pursuant to section 205 of this title, and an itemized list of expenditures for such improvements;

(8) a list of any outstanding violations of housing regulations applicable to such housing accommodation;

(9) the name and address of the owner of such housing accommodation and, when applicable, the name of the resident agent;

(10) the information necessary for the Rent Administrator to easily and accurately compute, according to subsection (a) of section 204 of this title, the rate of return for that housing accommodation; and

(11) the rate of return for that housing accommodation as computed by the landlord according to said formula.

(c) On or before the end of the third complete month occurring after the date the initial registration was filed under subsection (b) of this section, and, at the end of each third month thereafter, each landlord shall file with the Rent Administrator as to housing accommodations not excepted by subsection (a) of this section either—

(1) a certification of the accuracy of the information on the registration form filed by him;

(2) upon there occurring any change which would not affect the rent which may be charged under this act, a sworn addendum setting forth the new information; or

(3) upon there occurring any change which would affect the rent which may be charged under this act, and if the landlord wants an increase in such rent, a new registration statement. Such new registration statement per item (3) of this subsection may be filed only at the times indicated in this subsection and at no other time.

(d) Each registration form filed under this section shall be available for public inspection at the Office, and each landlord shall keep a duplicate of each registration form posted in a public place on the premises of the housing accommodation with respect to which such registration form applies, *Provided*, That, each landlord may, in lieu of posting in a public place in each single family housing accommodation, mail to each tenant of such housing accommodation such duplicate of each registration form.

(e) Each registration form filed under this section which meets the minimum requirements established by the act and by the rules of procedure of the Commission shall be assigned a registration number.

(f) Each certificate of occupancy and each housing business license issued to any landlord in the District of Columbia after the effective date of this act shall contain the registration number of those housing accommodations to which such certificate or license applies.

REGISTRATION FEE

SEC. 203. Each landlord of a housing accommodation covered by this act shall pay to the Mayor at the time that he applies for his housing business license and at the time that he applies for any renewal thereof or, in the case of a housing accommodation for which no such license is required, at the time he files his registration statement for that housing accommodation under section 202(b), an annual registration fee of $2 for each rental unit in a housing accommodation registered by him. Such fees shall be paid from time to time into the Treasury of the United States and credited to the General Fund of the District of Columbia.

RENT CEILING

SEC. 204. (a) Except to the extent provided in subsections (b), (c), and (d) of this section, and section 211 of this title, no landlord may charge or collect rent for any rental unit in excess of the rent computed according to the following formula (hereinafter referred to in this act as the "rent ceiling.")

(1) Step 1: add to the base rent an amount equal to 4 percent of the base rent.

(2) Step 2: add to the figure computed in Step 1 an amount equal to 8 percent of such figure.

(3) Step 3: (A) In the case of a housing accommodation for which the rate of return, as shown on the registration statement and computed according to part (B) of this step, is less than 8 percent, the landlord may add to the figure computed in step 2 a pro rata share of an amount sufficient to increase the maximum possible rental income for that housing accommodation by such an amount as will generate a rate of return of no greater than eight percent, *Provided*, That no increase shall be more than five percent of (1) the amount computed in step 2 or (2) the rent as established by the Housing Rent Commission or a court of competent jurisdiction.

(B) In determining the rate of return for each housing accommodation, the following formula shall be used (computed over a base period of any consecutive twelve month period within the fifteen months immediately preceding the filing of the registration statement):

(1) The sum of the maximum possible rent income which can be derived from a housing accommodation shall be added.

(2) To the sum of all other income which can be derived from the housing accommodation.

(3) From the total of maximum possible rental income which can be derived from a housing accommodation plus the sum of all other income which can be derived from the housing accommoderation shall be subjected (i) the dollar value of vacancy losses and (ii) uncollected rents the remainder of which shall be defined as the "gross income".

(4) From the gross income shall be subtracted (i) the operating expenses; (ii) property taxes; (iii) management fee of no more than six percent of the maximum rental income of the accommodation unless and only to the extent any additional amount is approved by the Rent Administrator pursuant to subsection (b) of section 205 of this act; (iv) depreciation expenses (computed on a straight line basis) of no more than two percent of the assessed market value of the housing accommodation may be deducted in any one year as a depreciation expense, unless and to only the extent any additional amounts are approved by the Rent Administrator pursuant to subsection (c) of section 205 of this act; and (v) amortized costs of capital improvements if and as permitted pursuant to subsection (a) of section 205 of this act. The remainder after such subtractions shall be defined as the "net income".

(5) The net income shall be divided by the assessed market value of the housing accommodation to determine the rate of return.

(b) The rent ceiling for a particular rental unit computed according to the procedure specified in this section may be increased or decreased, as the case may be,

(1) according to section 206, to allow for an increase or decrease in related services or facilities;

(2) according to section 210, to allow for the cost of substantial rehabilitation; or

(3) according to section 208 to allow for adjustments for vacant accommodations.

(c) In addition to the adjustments in the rent ceiling which are allowed as specified in subsection (b), any landlord may apply for a hardship adjustment to be computed under section 209.

(d) The rent ceiling for any unit in a housing accommodation exempted by paragraphs (3), or (6) of subsection (a) of section 202 from the provisions of sections 203–212, after the termination of such exemption, shall be the rent charged during the initial leasing period or during the first year of tenancy, whichever is less, increased by an amount not in excess of an amount computed in accordance with step 3 of the formula specified in subsection (a), *Provided*, That, no increase shall be more than five percent of the rent so charged. Such increase may be effected only in accordance with the procedures specified in subsections (h) and (i) of this section.

(e) Notwithstanding any provision of this act, the rent for any rental unit shall not be increased above the base rent unless (1) the housing accommodation of which such rental unit is a part is in substantial compliance with the housing regulations, *Provided*, That, such non-compliance is not the result of tenant neglect or misconduct; (2) the housing accommodation is registered in accordance with section 202; (3) the landlord of such housing accommodation is properly licensed pursuant to the housing regulations if such regulations require his licensing; and (4) the manager of such housing accommodation, when other than the landlord, is properly registered pursuant to the housing regulations if such regulations require his registration.

(f) If, on the effective date of this act, the rent being charged exceeds the allowable rent ceiling, the rent shall be reduced to the allowable rent ceiling effective the next date that the rent is due, *Provided*, That this subsection shall not apply to any rent approved by the Housing Rent Commission under Regulation 74–20 or any rent approved by a court of competent jurisdiction. The landlord shall notify the tenant in writing of the required decreases prior to the effective date of such decreases.

(g) Notwithstanding any other provision of this act, no rent shall be increased under this act for any rental unit with respect to which there is a valid written lease or rental agreement establishing the rent for such rental unit for the term of such written lease or rental agreement.

(h) (1) If a landlord indicates on his registration statement filed under subsection (b) of section 202 of this act, or on any document filed under item (3) of subsection (c) of section 202 of this act, that he is entitled to an increase in rents under part A of step 3 of subsection (a) and that he intends to so increase such rents, such landlord shall immediately notify (in writing) the tenants of the rental units to which such increase applies of the intended rent increase. Such notice shall be mailed to the tenants by certified mail, return receipt requested. Such notice shall include those items listed in subsection (i) of this section, and, in addition, a copy of that portion of the registration statement which shows the computation of the rate of return relating to the housing accommodation containing the rental units for which a rent increase is sought. The Commission shall by regulation prescribe the actual wording (including the size of type to be used)

of a statement to be included with such notice informing the tenants that they may request an audit of such registration statement and a hearing on such audit and giving the address where and time within which such request may be made.

(2) Any intended rent increase to be made under part (A) of step 3 of subsection (a) of this section shall not be effective before the first day that rent is due occurring more than 30 days after the notice specified in paragraph (1) of this subsection is mailed. If during such 30 days, a tenant in a housing accommodation to which such increase applies files a request for an audit of such registration statement, the Rent Administrator shall forthwith notify the landlord of such request and the landlord raising such rents shall pay the amounts collected reflecting such increase from the tenants of the housing accommodation, beginning on the effective date of such increase, into an interest bearing escrow account established by the landlord in a bank or other financial institution in the District of Columbia. Interest on such accounts shall be at least 5¼ percent. The landlord shall keep detailed records for such accounts showing the exact amounts in such accounts attributable to each tenant in the housing accommodation concerned. Such account, and such records, shall be maintained until the Rent Administrator completes the requested audit and issues an order specifying how the contents of such account is to be distributed. Either the landlord, or the tenant requesting an audit, may demand and receive a hearing on the audit. If the Rent Administrator finds, as a result of his audit, that such increase is justified, then he shall award the amounts in such account to the landlord. If the Rent Administrator finds, as a result of his audit that such increase was not justified, then he shall award the amounts in such account to the tenants concerned. If he finds such increase to be partially justified, he shall order the amounts in such account to be distributed equitably to reflect such finding. The Rent Administrator shall complete each such audit within a reasonable time.

(3) If any tenant files a petition for an audit of a registration statement more than 30 days after the mailing of the copy of such statement, the Rent Administrator shall conduct such an audit in a reasonable time, but the landlord shall not be required to place the amounts reflected by the increase in escrow. In addition, the Rent Administrator or Commission may initiate such an audit.

(4) An appeal may be taken from a decision of the Rent Administrator made as a result of an audit by filing a notice of such appeal with the Commission within fifteen days after the date of the decision being appealed.

(5) In the course of conducting any audit or review of any proposed rent increase under this act, the Rent Administrator may require the landlord concerned to produce copies of relevant portions of income tax forms filed by the landlord with either the Federal or District of Columbia for no more than three years.

(i) Each notice of an impending rent increase shall be in writing and shall contain a statement of the:

(1) current rent;

(2) proposed rent;

(3) percentage increase that the proposed rent represents over the current rent;

(4) effective date of the proposed rent increase;
(5) base rent;
(6) percentage increase that the current rent represents above the base rent;
(7) percentage increase that the proposed rent represents above the base rent;
(8) registration number of the accommodation;
(9) certification and explanation by the landlord that the unit is in substantial compliance with the housing regulations and that the increase is in substantial compliance with the housing regulations and that the increase is in compliance with this act.
(10) exact method of computation of the increase including itemization of cost figures to which the increase is attributable when such increase is pursuant to sections 205, 206, 208, 209, 210 of this title;
(11) statement of the penalties as described in section 215, and
(12) location of the registration statement in a public place on the premises in accordance with subsection (d) of section 202.

CAPITAL IMPROVEMENTS

SEC. 205. (a) In the case of a landlord who has completed capital improvements, the Rent Administrator may permit the costs of such improvements, amortized over the useful life of such improvements and applied on an equal basis to all rental units within the housing accommodations benefiting from such improvement, to be included as an item in the computation of the rate of return to be subtracted from gross income as defined in part (B) of step (3) of subsection (a) of section 204 of this title PROVIDED That, (1) the landlord has made available to the Rent Administrator and to the tenant concerned the plans, contracts, specifications, and building permits relating to the capital improvements; and (2) the Rent Administrator is satisfied that the interests of the tenant are being protected.

(b) Where, in the computation of a rate of return, a landlord seeks to deduct a management fee in excess of six percent of the maximum possible rental income, he shall first file with the Rent Administrator a petition to allow such excess to be deducted. If the Rent Administrator determines that such excess or part thereof is reasonable, he may permit to be deducted the same or so much thereof as he determines to be reasonable. The petition shall contain such information as the Rent Administrator may require including but not limited to the name of the payee of the fee and what, if any, identity exists between the landlord and the payee.

(c) Where, in the computation of a rate of return, a landlord seeks to deduct depreciation expenses in excess of two percent of the assessed market value of the housing accommodation, he shall first file with the Rent Administrator a petition to allow such excess to be deducted. If the Rent Administrator determines that such excess or part thereof is justified, he may permit to be deducted the same or so much thereof as he determines to be justified. The petition shall contain such information as the Rent Administrator may require including but not

limited to what if any depreciation of the housing accommodation has been claimed for tax purposes.

(d) Nothing in subsections (b) and (c) of this section shall be construed to prohibit or limit the Rent Administrator in any determination of the accuracy of any claimed management fee of six percent or less of the maximum possible rental income or any claimed depreciation expense of two percent or less of the assessed market value of the housing accommodation.

SERVICES AND FACILITIES

SEC. 206. If the Rent Administrator determines that—

(1) the related services or related facilities supplied by a landlord for a housing accommodation or for any rental unit therein are substantially increased; or

(2) the related services or related facilities supplied by a landlord for a housing accommodation or for any rental unit therein are substantially decreased; then the Rent Administrator may increase or decrease the rent ceiling applicable to such rental unit accordingly.

SECURITY DEPOSIT

SEC. 207. No person shall demand or receive a security deposit for any rental unit where no security deposit was demanded or received for such rental unit upon the effective date of this act.

VACANT ACCOMMODATION

SEC. 208. (a) When, after the date the initial registration statement is filed under this act, a rental unit becomes vacant, the landlord may adjust the rent ceiling for such rental unit to the rent ceiling applicable to any substantially identical rental unit within the same housing accommodation, provided the tenant has vacated on his own initiative or as a result of notice to vacate for one of the following causes: (1) nonpayment of rent; (2) violation of an obligation of his tenancy, as provided in item (1) of subsection (b) of section 213 of this act; or (3) use of the accommodation for an illegal purpose or purposes, as provided in item (2) of subsection (b) of section 213 of this act.

(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 are in comparable physical condition.

HARDSHIP PETITION

SEC. 209. (a) In those cases where, after any increase which may be permitted by Part (A) of step 3 of subsection (a) of section 204, the landlord can show a negative cash flow after consideration of debt service, the Rent Administrator, upon petition of the landlord, may allow such additional increases in rent as will generate a positive cash flow, *Provided*, That, in the consideration of such petitions, the Rent Administrator shall consider the degree of hardship which the re-

quested increase will place upon the tenants of the housing accommodation.

(b) In those cases where the rent increase permitted by Part (A) of step 3 of subsection (a) of section 204 is insufficient to generate a rate of return of eight percent computed according to the formula provided in Part (B) of said step, the Rent Administrator, upon petition of the landlord and after audit of the figures and computations in the most current registration statement, may allow such additional increases in rent as will generate a rate of return of eight percent. The Rent Administrator shall approve or disapprove such petition or any part thereof but shall not permit an increase which will generate a rate of return in excess of eight percent as of the time of the filing of the most current registration statement.

SUBSTANTIAL REHABILITATION

SEC. 210. (a) If the Rent Administrator determines that: (1) a rental unit is to be substantially rehabilitated, (2) such rehabilitation is in the interest of the tenants of such unit and the housing accommodation in which the unit is located, then the Rent Administrator may approve, contingent upon completion of such substantial rehabilitation, an increase in the rent ceiling for such rental unit, *Provided* That such rent increase is no greater than the equivalent of 125 percent of the rent ceiling applicable to such rental unit prior to substantial rehabilitation.

(b) In determining whether a housing unit is to be substantially rehabilitated, the Rent Administrator shall examine the plans, specifications and projected costs for such rehabilitation, which shall be made available to the Administrator by the landlord of the unit or accommodation to be rehabilitated.

(c) In determining whether substantial rehabilitation of a housing accommodation is in keeping with the interest of the tenants, the Rent Administrator shall consider, among other relevant factors: (1) the impact of such rehabilitation on the tenants of the unit or housing accommodation and (2) the existing condition of the unit or housing accommodation and the degree to which any violations of the housing regulations in such unit or housing accommodation constitute an impairment of the health, welfare and safety of the tenants.

(d) This section shall apply to the following: (1) any rental unit with respect to which a landlord has notified the tenant, after effective date of this act, of intent to substantially rehabilitate; (2) any rental unit with respect to which, prior to the effective date of this act: (i) the landlord has notified the tenant of the intended substantial rehabilitation; and (ii) all the tenants have left.

TRANSITIONAL PROVISION

SEC. 211. In the case of rental units, the rents of which have been determined by the Housing Rent Commission or a court of competent jurisdiction, the landlord of such units shall not use steps 1 and 2 of subsection (a) of section 204 of this act in computing the allowable rent ceiling for such units, but shall use the rents so allowed in lieu of said steps.

59-155—75——3

ADJUSTMENT PROCEDURE

SEC. 212. (a) The Rent Administrator shall consider an adjustment allowed by Sections 205, 206, 209 or 210 of this act in the rent ceiling applicable to any rental unit upon a petition filed with him by the landlord of such rental unit. Such petition shall be filed with the Rent Administrator on a form provided by him containing such information as he may require including an itemization of the actual income and operating expenses for the housing accommodation of which that rental unit is a part for a two-year period ending not more than four months before the date such petition was filed or initiated. A tenant may file a petition for adjustment of rent pursuant to section 204(e) or resulting from a reduction of services or facilities pursuant to section 206 of this act. The Rent Administrator shall approve or deny, in whole or in part, each such petition whether filed by landlord or tenant within 60 days after such petition is filed with him, unless an extension of time is approved, in writing, by both the landlord and tenant of such rental unit or by the Commission.

(b) Upon receipt of such petition, the Rent Administrator shall notify the landlord if the tenant filed the petition, or the tenants concerned if the landlord filed the petition by certified mail or any other form of service which assures delivery, of the receipt of such petition and of the right of either party to request (in writing) a hearing within fifteen days after the receipt of such notice. If a hearing is timely requested by either party, notice of the time and place of the hearing shall be furnished the parties by certified mail or any other form of service which assures delivery at least fifteen days before the commencement of such hearing. Such notice shall inform each of the parties of his right to retain legal counsel to represent him at the hearing.

(c) Each landlord of any rental unit with respect to which a petition is filed or initiated under this section shall submit to the Rent Administrator, within 15 days after demand therefor is made, an information statement, on a form approved by the Rent Administrator, containing the information the Rent Administrator may request or the Commission may require.

(d) The Rent Administrator may consolidate petitions and hearings relating to rental units in the same housing accommodation.

(e) The Rent Administrator may, without holding a hearing, refuse to adjust the rent ceiling for any rental unit, and may dismiss any petition for adjustment, if a final decision has been made on a petition filed under sections 206, 209, or 210 of this act or under District of Columbia Regulation 74–20 on another petition for adjustment as to the same rental units within the six months immediately before the filing of the immediate petition.

(f) All petitions filed under this section, all hearings held relating thereto, and all appeals taken from decision of the Rent Administrator, shall be considered and held according to the provisions of this section and the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1–1501 et seq.). In the case of any direct, irreconcilable conflict between the provisions of this section and the District of Columbia Administrative Procedure Act, the District of Columbia Administrative Procedure Act shall apply.

(g) Decisions of the Rent Administrator shall be made on the record relating to any petition filed with him. An appeal from any decision of the Rent Administrator may be taken by the aggrieved party to the Commission within ten days after the decision of the Rent Administrator, or the Commission may initiate a review of a decision of the Rent Administrator on its own initiative. The Commission may reverse, in whole or in part, any decision which it finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the provisions of this act, or unsupported by the substantial evidence in the record of the proceedings before the Rent Administrator; or it may affirm, in whole or in part, the Rent Administrator's decision. The Commission shall issue a decision with respect to an appeal within 30 days after such an appeal was filed. An appeal from a decision by the Rent Administrator respecting any rent adjustment shall not stay the effectiveness of the decision.

(h) No increase in rent allowed under this act shall be implemented unless the tenant concerned has been given written notice, at least 30 days before the intended date of implementation, of such increase.

(i) A copy of any decision made by the Rent Administrator or by the Commission under this section shall be mailed to the parties to such decision.

EVICTION

SEC. 213. (a) Notwithstanding any other provision of law, no tenant shall be evicted from a rental unit unless he has been served with a written noice to vacate, specifying the reasons for such eviction, and a copy of such notice has been filed with the Rent Administrator.

(b) Notwithstanding any other provision of law, no tenant shall be evicted from a rental unit, notwithstanding the expiration of his lease or rental agreement, so long as such tenant continues to pay the rent to which the landlord is entitled for such rental unit, unless—

(1) the tenant is violating an obligation of his tenancy and fails to correct such violation within 30 days after receiving notice thereof from the landlord;

(2) a court of competent jurisdiction has determined that the tenant has performed an illegal act within such rental unit or housing accommodation;

(3) the landlord seeks in good faith to recover possession of such rental unit for his immediate and personal use and occupancy;

(4) the landlord has in good faith contracted in writing to sell the rental unit, or the housing accommodation in which such rental unit is located, for the immediate and personal use and occupancy by another person, so long as at the time he offers the rental unit or housing accommodation for sale the landlord has so notified the tenant in writing;

(5) the landlord seeks in good faith to recover possession of the rental unit for the immediate purpose of making alterations or renovations of the rental unit which cannot safely or reasonably be accomplished while the rental unit is occupied or for the immediate purpose of demolishing the housing accommodation in which such rental unit is located and replacing it with a new construction, so long as the plans for such alteration or new construction have been filed with and approved by the Rent Administrator; or

(6) the landlord seeks in good faith to recover possession of the rental unit for the immediate purpose of discontinuing the housing use and occupancy of such rental unit for a continuous period of not less than 6 months.

(c) In any case where the landlord seeks to recover possession of a rental unit under paragraphs (3), (4), (5), or (6) of subsection (b) of this section he shall first notify the tenant of such rental unit, in writing and at least 90 days prior thereto, of his intent to recover possession of such rental unit, *Provided*, That, when the landlord seeks to recover possession of a rental unit under paragraph (5) for purposes of substantial rehabilitation, such notice shall be in accordance with section 302 of this act.

(d) No landlord shall demand or receive rent for any rental unit which he has repossessed under paragraphs (3) or (6) of subsection (b) of this section during the 6 month period beginning on the date he recovered possession of such rental unit. No person who has purchased a rental unit which has been repossessed by a landlord under paragraph (4) of subsection (b) of this section shall demand or receive rent for such rental unit during the 6 month period beginning on the date such landlord recovered such rental unit.

(e) In the case of any rental unit which has been repossessed by a landlord under paragraph (5) of subsection (b) of this section, the tenant from whom the landlord repossessed such unit shall have an absolute right to rerent such unit immediately upon completion of the renovation or alterations, and, where the renovations or alterations are necessary to bring the unit into compliance with the housing regulations, the tenant may rerent at the same rent and under the same obligations as were in effect at the time he was dispossessed, *Provided*, That, such renovations or alterations were not made necessary by the negligent or malicious conduct of such tenant.

RETALIATORY ACTION

SEC. 214. (a) No landlord shall take any retaliatory action against any tenant who exercises any right conferred upon him by this act, or by any rule or order issued pursuant thereto, or by any other provision of law. Retaliatory action shall include any action or proceeding to recover possession of a rental unit; action which would increase rent, decrease services, increase the obligation of a tenant or constitute undue or unusual inconvenience, violate the privacy of the tenant, harass, reduce the quality or quantity of service; and any refusal to honor a lease or rental agreement or any provision of a lease or rental agreement, refusal to renew a lease or rental agreement, termination of a tenancy without cause; and any other form of threat or coercion.

(b) In determining whether an action taken by a landlord against a tenant is retaliatory action, the trier of fact shall take into consideration whether, within the 6 months immediately preceding such landlord's action, the tenant—

(1) has made a witnessed oral or written request to the landlord to make repairs which are necessary to bring the housing accommodation or the rental unit into compliance with the housing regulations;

(2) contacted appropriate officials of the District of Columbia government, either orally in the presence of a witness or in writ-

ing, concerning existing violations of the housing regulations of the rental unit he occupies or pertaining to the housing accommodation in which such rental unit is located, or reported to such officials suspected violations which, if confirmed, would render such rental unit or housing accommodation in noncompliance with the housing regulations;

(3) withheld all or part of his rent, after having given a reasonable notice to the landlord, either orally or in the presence of a witness or in writing, of a violation of the housing regulations;

(4) organized, been a member of, or been involved in any lawful activities pertaining to a tenant organization;

(5) made an effort to secure or enforce any of his rights under his lease or contract with the landlord; or

(6) brought legal action against the landlord based on the provisions of this act.

PENALTIES

SEC. 215. (a) Any person who—

(1) demands or receives any rent for a rental unit in excess of the maximum allowable rent applicable to that rental unit under the provisions of this act, or

(2) substantially reduces or eliminates related services previously provided for a rental unit,

shall be held liable by the Rent Administrator for treble the amount by which the rent exceeded the applicable rent ceiling or for $50, whichever is greater.

(b) Any person who—

(1) willfully makes a false or misleading statement in any registration statement or other statement filed under this act, or

(2) willfully commits any other action in violation of this act, or willfully fails to do anything required under this act;

shall be fined not more than $5,000 for each violation.

TITLE III—CONVERSION OF HOUSING THROUGH CONDOMINIUM CONVERSION, COOPERATIVE OWNERSHIP, OR SUBSTANTIAL REHABILITATION OR SALE THEREOF.

SALE OF SINGLE FAMILY HOUSING ACCOMMODATION

SEC. 301. Any owner of a single family housing accommodation may sell such housing accommodation to a purchaser but only after such owner has given the tenant of such housing accommodation an opportunity to purchase such housing accommodation at a price which represents a bonafide offer of sale. The tenant shall be afforded at least 45 days within which to accept such offer of sale.

CONDOMINIUM CONVERSION

SEC. 302. (a) Every tenant of a housing accommodation which the landlord seeks to convert from a rental basis to a condominium or cooperative, shall be notified in writing no less than 180 days before the conversion thereof. The landlord of such a housing accommodation shall make to each tenant a bonafide offer of sale of the unit which such tenant occupies, and the tenant shall be afforded no less than 60 days

within which to accept. No tenant shall be served with a notice to vacate until 150 days after he first receives notice of the landlord's intention to convert, nor shall the notice to vacate be served prior to the expiration of the aforesaid 60-day period or receipt of the tenant's written rejection of the bonafide offer of sale of the unit which he occupies, whichever occurs first. Nothing in this subsection shall be construed to permit conversion of rental units to condominium units where otherwise prohibited by law.

(b) The tenant of every housing accommodation which the landlord seeks to substantially rehabilitate shall be notified in writing at least 120 days prior to commencement of rehabilitation. No tenant shall be served with a notice to vacate until 90 days after he first received written notice of the landlord's intention to rehabilitate, and no landlord shall commence actual (physical) rehabilitation until the 120-day notice period has expired. The written notice of intent to substantially rehabilitate shall include the information required under section 202 (b), and a statement that the Rent Administrator has approved the substantial rehabilitation according to section 210 and information indicating tenant may obtain a copy of the registration form at the office of the Rent Administrator, and the address of the Rent Administrator.

TITLE IV—MISCELLANEOUS

REPEAL OF REGULATION 74–20

SEC. 401. Except as to the appointment of members of the Rental Accommodations Commission, the provisions of this act shall be deemed as a continuation of Act 1–35, adopted on July 22, 1975 by the Council and approved by the Mayor on July 25, 1975, and shall be deemed to have been in effect as of the effective date of said Act 1–35.

TRANSFER OF RECORDS

SEC. 402. (a) There are hereby authorized to be transferred to the Rent Administrator and the Commission for use in the administration of the functions of those offices, the property, records, and unexpected balances of appropriations and other funds which related primarily to the functions so transferred.

(b) Any determination, rule, or order, contract, compact, designation or other action made by the District of Columbia Housing Rent Commission shall, except to the extent modified or made inapplicable by the act, continue in effect.

JUDICIAL REVIEW

SEC. 403. (a) Any person or class or persons aggrieved by a decision of the Commission, or by any failure on the part of the Commission to act, may seek judicial review of such decision or failure by filing a petition for review in the District of Columbia Court of Appeals. The Commission on its own initiative, or the Rent Administrator, may commence a civil action to enforce any rule or decision of the Commission or Rent Administrator, as the case may be. Such an action brought by the Commission or Rent Administrator, as the case may be. Such an action brought by the Commission or Rent Ad-

ministrator, as the case may be, shall be brought in the Superior Court of the District of Columbia.

(b) The Superior Court, in issuing any order in any action brought under this section, may award costs of litigation (including a reasonable attorney's fee) to any successful party.

EFFECTIVE DATE

SEC. 404. This act shall take effect at the end of the 30-day period (excluding Saturdays, Sundays, holidays, and days on which either House of Congress is not in session) provided for Congressional review of acts of the Council under subsection (c) of section 602 of the District of Columbia Self-Government and Governmental Reorganization Act, and shall terminate at the end of the second year occurring immediately after such effective date. At the end of the first year following such effective date, the Council shall review the rent stabilization program established in this act through review of the reports required in Section 102(b) and through any other investigations or hearings it may conduct or require.

SEVERABILITY

SEC. 405. If any provision of this act, or any section, sentence, clause, phrase or word or the application thereof, in any circumstances is held invalid, the validity of the remainder of the act and of the application of any such provision, section, sentence, clause, phrase or word shall not be affected.

COUNCIL OF THE DISTRICT OF COLUMBIA

REPORT

To: All Councilmembers.
From: Nadine P. Winter, Chairperson, Housing and Urban Development Committee.
Date: July 31, 1975.
Subject: Report on Bill 1–157, Rental Accommodations Act of 1975.

The Committee on Housing and Urban Development, having considered The Rental Accommodations Act of 1975 (Bill 1–157), reports favorably upon the Bill and its amendments as approved, and recommends enactment of the Bill.

The Bill, which stabilizes rents in the District of Columbia and establishes a Rent Control Commission, received a final reading and was passed by the Council of the District of Columbia on July 29, 1975.

A legislative history of the Bill and similar legislation which it predates appears below in the section titled, Background.

BACKGROUND

On February 27, 1973 Delegate Walter Fauntroy introduced to the Congress of the United States, a bill (HR 4771), to regulate the rents that landlords in the District could charge their tenants. The hearings before the Sub-Committee on Labor, Social Services, and the International Community of the Committee of the District of Columbia clearly established the need for such legislation. As a result Public Law 93–157, 87 Stat. 626, was signed into law on November 21, 1973. This enabling legislation authorized the Council of the District of Columbia to regulate rents in order to provide tenants a measure of protection in a sellers market, and it required the District of Columbia to assure landlords a reasonable rate of return.

On April 26, 1974 the Council of the District of Columbia passed Regulation 74–8, a regulation designed to impose a temporary freeze on rents while allowing the Council of the District of Columbia time to develop a comprehensive measure. Technical errors in that measure required the enactment of Regulation 74–9 which was signed into law on April 29, 1974. Immediately after enactment landlords filed suit in court, charging that the Regulation (74–9) violated their constitutional rights in that no emergency existed and that no provision for pass-throughs of increased costs was included. Furthermore, since Regulation 74–9 was passed as an emergency measure but without a prior notice of 24 hours it was presumed by landlords to be invalid by virtue of procedural mistakes.

Before the court ruled upon the motion, the District Council passed Regulation 74–13, a measure identical to the previous one. The courts, recognizing the temporary nature of the Regulation and the District

59–155—75——4

of Columbia Council's authority to pass such measures, denied the landlord motions.

By July 26, 1974 the District of Columbia Council adopted Regulation 74–20 which was signed into law on Augst 1, 1974. This measure, the result of countless hours of work by tenants, landlords, Councilmembers and staff, provided a mechanism for landlord and tenant relief. An automatic increase formula allowed landlords to raise their rents a few percentage points and included a hardship provision for those landlords who could not live within the percentages established. Tenants were protected from caprious evictions, decreases in services and excessive rent increases.

Notwithstanding the almost self-regulating nature of the measure, the rent control program was not working well by November. Members of the Housing Rent Commission complained publicly that the $85,000 authorized to be appropriated by the Congress was insufficient to administer the program effectively. It was further charged that the Executive Branch of the District of Columbia was providing inadequate supplementary assistance. Some tenants claimed that the landlords were filing an excessive number of petitions in order to sabotage the work of the Commission. Some landlords claimed that the problem resulted from the irresponsible behavior of tenant representatives on the Commission. Whatever the reasons, the Commission could not process these petitions within the sixty days established by law.

Landlords, subsequently, filed suit. The courts began allowing landlords to return their rents to the August 1st levels, whenever the Commission could not process their petitions. Landlords, unhappy that the Regulation was not held invalid, and the government, displeased with allowance of increased rents, appealed the decision. The D.C. Court of Appeals' decision of July 16, 1975 is interpreted as follows:

1. The pass through and reasonable rate of return requirements mandated in Public Law 93–157 (the Congressional Authority) had not been fully complied with in Regulation 74–20. [However, since the Council's legislative authority emanates from the Home Rule Charter, the Rental Accommodations Act (Bill 1–157) will not be directly affected by this decision.]

2. Inadequate administrative procedures which result in unduly long periods of time for landlords or tenants to receive remedies from their petitions may constitute lack of due process in Regulation 74–20. [These procedures with respect to time delays in landlords receiving rents, etc. have been remedied in the new Bill (1–157).]

On January 22, 1975, shortly after its inauguration, the Council of the District of Columbia held hearings on the need for continued rent control. The overwhelming testimony indicated that some form of rent control was needed. What seemed evident, however, was the need for substantially increased logistical support and a mechanism to expedite proceedings in order to reduce the backlog of cases.

In response to the testimony, Councilmember Nadine Winter of Ward 6, introduced on March 11, 1975, Bill 1–40, a bill to stabilize rents in the District of Columbia and to establish a Rent Stabilization Commission. The bill was referred to the Committee on Housing and Urban Development which is chaired by Ms. Winter. The bill was designed to resemble the previous regulation and to offer the same protection to tenants and landlords as accorded in that previous Regula-

tion (74–20). The bill did, however, differ from the regulation in that it stripped from the Commission its administrative role. The Commission was designed to be a policy and appeal board with the administrative and denovo adjudicatory functions transferred to the Rent Administrator. The changes were made in an effort to expedite processing of petitions and to encourage the maximum attention to procedural details that a body unencumbered with numerous caseloads might give.

At approximately the same time the bill was introduced, the Mayor of the District of Columbia transferred to the Council, the District Budget for fiscal year 1976. Included with the budget of the Office of Housing and Community Development was a budget request for $529,-000 for the Housing Rent Commission. The Committee on Housing and Urban Development added $140,000 to that budget request in anticipation of the increased workload likely to result in administering the new bill. Such a figure matches the Executive Branch's estimate of what would be required to administer the act. The Committee on Housing and Urban Development is determined to see the rent control program succeed in the District of Columbia.

Hearings on Bill 1–40 were held on April 9, 1975. Of the more than seventy witnesses testifying, few were landlords. Those landlords who appeared did not deny that there might be a need for controls. They pleaded for a higher percentage ceiling and a relaxation of some of the burden of paperwork. Tenants, many from the City-wide Housing Coalition, wanted no increases and were instrumental in providing evidence to counter the study by the Apartment and Office Buildings Association. (See Attachment A—Report from Bureau of Social Science Research)

The Committee chairperson requested that the members of the Coalition and AOBA meet in round table discussions in order to see if a consensus might be reached. They met and discussed differences without reaching a definitive argreement. The Committee staff maintained contact with members of both groups in an effort to clarify issues and develop a method for solving some problems.

The final mark-up session on Bill 1–40 was held by the Committee on May 2, 1975 and reported out at that session. The first reading of the Council was May 20, 1975 and the vote was eleven (11) years, zero (0) no, one (1) present and one (1) absent. The second reading was on June 10, 1975 and the Bill was unanimously passed by the Council. On June 27, 1975, the Mayor returned the Bill to the City Council with his disapproval while expressing full support of rent control. The Mayor suggested that the measure was primarily defective in its:

1. Failure "to provide an equitable rent stabilization program which protects tenants against excessive rents while at the same time providing landlords with a reasonable return".

2. Creation of "unending adverse impacts on the city's housing supply".

3. Impairment of construction and rehabilitation of rental stock with "a significant loss and deterioration of the less than adequate existing rental stock". (See Attachment B—Mayor's veto message of June 27, 1975, specifying the other concerns relating to his disapproval of Bill 1–40.)

The Council chose not to override the veto, but to accept the Mayor's offer to be available with his staff to resolve the aforementioned concerns.

The Mayor, the Committee, other Council members and appropriate staff persons from the Executive and Legislative branches diligently worked to resolve the differences during the following week and on July 15, 1975, a new Rental Accommodations Act (Bill 1–157) was passed by the Council. This new Bill (1–157) essentially embodied the fundamental thrust and intent of Bill 1–40 which had been vetoed by the Mayor. The major changes were:

1. The Rental Accommodations Office was changed from an independent agency to one established as an agency of the District of Columbia government within the executive office of the Mayor.

2. All new construction was exempted for units for which the initial certificate of occupancy was issued after February 2, 1973 for the initial leasing period or the first year of tenancy (whichever occurs first).

3. The formula for rent increases was changed to provide a floor of eight percent as opposed to seven percent as a reasonable rate of return.

4. The maximum allowable rent increase was changed from four percent of the amount computed in Step 2 of the formula plus the pass-through provision for utilities to five percent, with no allowance for pass-through of utility costs.

5. The limitation on depreciation expense in the rate of return formula was removed and the Rent Administrator was provided with the authority to increase that limit if properly justified.

6. The registration and filing procedures were simplified and the time necessary for these procedures was reduced.

7. Hardship provisions were added to allow landlords to file petitions for an additional increase who (after allowable increases) can still show a negative cash flow.

The provisions of Regulation 74–20, extended on April 24, 1975 by Act 1–12 would expire on July 26, 1975. Therefore, it was necessary to insure that the city would not be without any form of rent control. Act 1–35, a transitional rent stabilization program was enacted on July 22, 1975 on an emergency 90 calendar day basis. The major provisions of this legislation were as follows:

1. The provisions of Regulation 74–20 remained in effect for a period of sixty days after enactment.

2. During this interim period, the Housing Rent Commission would not receive or act upon any petition for adjustment of rent filed with it and would continue action on those previously filed.

3. Landlords shall not raise any rents except pursuant to previous commission or court order.

4. The provisions of Bill 1–157 were incorporated into the Act 60 days after the effective date with the exception that the Mayor would appoint the members of the Commission to serve until such time as the confirmation process could be completed and that the bill would be subject to the following amendments:

(1) In section 202(b), strike "not less than 30, but";

(2) In section 204(h)(2), strike out "60", each place it appears and insert in lieu thereof "30";

(3) In section 204(h)(3), strike out "sixty" and insert in lieu thereof "30";

(4) In section 212(g), add the following additional sentence: "An appeal from a decision by the Rent Administrator respecting any rent adjustment shall not stay the effectiveness of the decision."; and

(5) Strike sections 401 and 404, and renumber the remaining sections accordingly.

Amendments (1), (2), and (3) are designed to substantially reduce the time involved in the registration procedures, thereby giving due cognizance of the intent of the Committee and the recent (July 16, 1975) court decision to expeditously administer all facets of the legislation so as to insure due process to both tenant and landlord. Amendment (4) was designed to clarify the fact that the effectiveness of the decision of the Rent Administrator would in no way be diminished during the appeal process. Amendment (5) deletes the repeal provisions and the effective date provisions which are addressed in Section 2 of this Act.

Bill 1–157 was passed at its final reading of the Council on July 29, 1975. The vote was 9 for and 3 against with one member being absent. There were no substantive amendments made at that time, only technical provisions designed to facilitate a smooth transition from the emergency Act 1–35 to the permanent legislation.

Summary

I. Comparison of proposed act with regulation 74–20 (the rent control regulation)

The following is a list and explanation of the major differences between the proposed "District of Columbia Rental Accommodations Act of 1975" (Bill 1–157) and the existing Rent Control Regulation.

1. Implementation of Rent Stabilization

The functions of the existing Housing Rent Commission are divided between two bodies—the Rental Accommodations Commission and the Rental Accommodations Office whose director (the Rent Administrator) is appointed by the Mayor. Under the proposed act, decisions on hardship petitions and other exceptions to rent ceilings will be made by the Administrator, who will also be responsible for administration of the act. The Commission will rule on petitions only on appeal. In addition it will continue to function as the rule making body in implementation of the act.

The intent of the above changes is to (a) expedite administration of rent control through delegation of the decision process in hardships to the Administrator; (b) separate administration and fact-finding from judicial review; (c) minimize partisanship within the Commission and maximize objective regulatory functioning.

2. Exemptions from coverage of rent stabilization

The following additional exemptions are provided:

(a) New rental units for which the initial certificate of occupancy was issued after February 3, 1975 for the initial leasing period or for the first year of tenancy (whichever occurs first). The intent is to provide incentives to new construction additional

to the more limited exemption provided in the existing Regulation.

(b) Any rental unit which has been previously "boarded up" for two years, provided such unit is in compliance with the Housing Regulation. The intent is to provide incentives to return abandoned units to the housing market.

(c) Rental units rented to another by the occupant (owner or tenant) of a housing accommodation of not more than two units. The intent was not to unduly burden the small landlord who was not in 'housing rental business' but merely attempting to supplement their income as documented at Public Hearings of January 22, 1975 and April 9, 1975.

It should be noted that, under the proposed act, excluded rental units are exempted *only from the rent stabilization program*. In contrast to existing provisions, excluded units are covered by all other provisions of the proposed act, such as registration, eviction controls, etc.

3. Registration

Quarterly updating of the registration form is substituted for the current 30-day correction requirement. The purpose is to decrease paperwork for landlords and the Rental Accommodations Office. Additionally, rate of return data must be included on the registration form and a listing of outstanding housing code violations.

4. Registration Fee

A payment of an annual $2.00 fee for each rental unit is required. This fee, which will provide an income of approximately $370,000 annually, is to be deposited in the Treasury of the United States and credited to the General Fund of the District of Columbia to supplement (if so appropriated) budget allocations for the Office and the Commission.

This fee requirement reflects the strong conviction of the Committee, based on the experience of the last year, that adequate funding is indispensable to equitable rent control administration for both landlords and tenants. The previous chairman of the Housing Rent Commission testified on January 22nd that a minimum of $985,000 is required to administer the Rent Control Regulation. He freely admitted that, because of lack of adequate funding and resources, the Commission is unable to keep abreast of its petition caseload, much less institute general compliance mechanisms. Against this background, the proposed General Fund credits will be a necessary resource, even when combined with the fiscal year 1976 Council budget request for the administration of the act.

5. Rent Stabilization Formula

Regulation 74–20 provided a rent increase of 4 percent above base rent for 1973 and an additional 8 percent for 1974. The proposed act provides, for the two year life of the act, a relatively simple formula for the landlord to compute the rate of return for each housing accommodation. This formula includes the normal operating expenses and all rental property incomes. Management fees, an operating expense item as used in the formula, are limited to six percent of the maximum rental income unless and only to the extent any additional amount is approved by the Rent Administrator. Depreciation expense (computed

on a straight line basis), as an operating expense item used in the formula is limited to two percent of the assessed market value unless and only to the extent any additional amount is approved by the Rent Administrator. These two items mentioned above were the subjects of lengthy consideration by this Committee and the Council. Some members considered these as vulnerable areas for exploitation by unscrupulous landlords while others considered these as legitimate expense items and the limits as being inflexible and in need of some exceptions in hardship situations. The margin of approval was narrow. Landlords may automatically increase rents by an amount up to five percent, to bring their rate of return for the housing accommodation up to the eight percent allowable floor. Additionally, the proposed act requires a semi-annual report by the Commission and an annual review by the Council of the provisions of the act.

The rationale for this rent increase formula is further amplified in Section II (Findings and Intent) of this report.

In addition to the rent ceiling established by the above formula, the proposed act provides for adjustment in rent ceilings to allow for: (a) substantial rehabilitation (b) increase or decrease in related services (c) capital improvements (d) hardships petitions.

6. Vacancy decontrol for identical units

This existing provision, providing for equalization of rents or identical units upon vacancy, was retained in the proposed act. It was the contention of the Committee that the existing provision provided a mechanism for a more equitable range of rents within a building.

7. Code Compliance

The proposed act *prohibits* rent increases above base rent (February 1, 1973) for any rental unit not in compliance with the housing regulation. This is a significant strengthening of the code compliance prerequisite, which is currently left *to the* discretion of the Commission in considering or reviewing a rent increase.

8. Eviction Control

Eviction control is also tightened by a ninety day (rather than thirty day) notice requirement for all evictions except those due to nonpayment of rent, illegal action, or violation of a tenancy obligation by a tenant. This bill also requires written notice to vacate specifying reasons and filing copies with the Rent Administrator.

The notice requirement for evictions for condominium conversion (180 days) and for substantial rehabilitation (120 days) was retained.

9. Prohibition on Withholding of Rent

The proposed act eliminates the controversial "13(f)" provision of Regulation 74–20 prohibiting withholding of rent by a tenant unless such rent is deposited in an escrow account. As indicated in the Legislative Report of July 26, 1974, accompanying Regulation 74–20, this provision was never intended to abrogate case law (as feared by some tenants) and has been interpreted in keeping with existing case law by the D.C. Superior Court. The committee considers this provision confusing and redundant, in view of existing case decisions (*Bell* v. *Tsintolas*, 430 F. 2d 474 (1970), *Javins* v. *First National Realty*, 138

U.S. App. D.C. 369 (1970), and *Brown* v. *Southall Realty*, 237 A2d 834 (1968).) which have upheld the withholding of rents under specified conditions.

The committee, however, thought safeguards on tenants monies were necessary. Upon the filing of a petition, the amount of the increase under the rent stabilization and hardship sections are to be placed in an interest bearing escrow account to be awarded by the Rent Administrator after a final decision has been rendered. The intent of this provision is to immediately provide landlords with rental fees due them and not cause undue financial difficulty while safeguarding the increment of increase during the administrative procedures before final decision.

10. Civil Damages

Unlike the existing regulation, the proposed act provides civil damages as well as criminal penalties for certain violations by landlords. If a landlord demands or receives excess rent or reduces services, the tenant may be awarded treble damages or a minimum of $50 (whichever is the greatest amount) by the Rental Accommodations Office. This provides the Office a significant enforcement tool and is intended as an incentive to compliance to some landlords in the city, who are believed to be in wholesale non-compliance with the rent ceiling provisions of the current regulation.

Purpose

II. FINDINGS AND INTENT

The extension of rent controls for two years and the proposed changes in the program reflect the findings and intent of the Committee as itemized below. The Committee finds that:

1. Extension of a rent control program in the District of Columbia is a necessity, in view of the continuing housing crisis.

Documentation presented to the former City Council in January 1974 indicated the following (1) a vacancy rate in the District of Columbia so low (2.7 percent) as to constitute an emergency according to the U.S. Department of Housing and Urban Development; (2) a declining supply of low and moderate income housing and disproportionate rent increases among low and moderate income units.

According to all indications, this critical housing shortage, particularly for lower income families, is continuing to accelerate. A recent study by the Washington Center for Metropolitan Studies indicates that "the Washington Metropolitan Area is heading into what may well be the most severe housing shortage in its history", more pronounced than in the nation as a whole.[1] The continuing decline in the housing stock was documented at the January 22, hearing by AOBA as well as tenant groups. The Metropolitan Washington Planning and Housing Association testified at this same hearing that a low income family in the District (below $5,000) currently pays an average of

---

[1] Metropolitan Bulletin, No. 15, January–February 1975.

35 percent of its income for rent. Against this background, the vast majority of witnesses at the January 22 and April 9 hearings supported or recognized the need for a continued rent stabilization. Extension was supported by the Executive Branch as follows:

> The Executive strongly supports continuation of controls over rent in the District of Columbia. [W]e believe the vacancy rate is at least as low as it was in August and that the inflationary pressure to increase rents is such that removal of controls would be catastrophic particularly among thhe elderly and the low and fixed income population.

2. The rent stabilization program should be extended for a minimum of two years after its enactment.

It is the conviction of the Committee that the projected long-range housing crisis and the need to stabilize rents over an extended period of time require enactment of a rent stabilization program for two years or longer. For this reason the Committee strongly recommends that the life of the proposed bill extend midway the year 1977, with the proviso that the rent stabilization formula be reviewed annually by the Council.

3. An equitable rent stabilization program responsive to the housing crisis and the inflationary spiral should include the following: (a) mandatory rent ceilings; (b) some allowance, in such ceilings for rising operating costs; (c) a division between landlords and tenants, of the most rapidly spiraling operating costs; (d) provision for regular review of the rent ceiling formula adopted.

The rent stabilization program provided in the proposed act embodies the above ingredients. It was devised pursuant to consideration of the following: (1) the continuing, but declining inflation spiral (8 percent in 1973, 12 percent in 1974, and a projected 6–7 percent in 1975), according to the U.S. Labor Department Consumer Price Index (CPI); (2) disproportionate increases (as compared to the CPI) in the costs of electricity, gas, and heating oil since early 1973; (3) the need for some automatic increases as a means to render rent stabilization more administratively feasible; (4) the proposed 2 year life of the act; (5) proposed annual review of the formula.

It is the finding of the Committee after review of the above factors that the proposed rent ceiling formula adequately allows for increased operating costs, and is equitable to the interests of both landlords and tenants.

4. The proposed rent stabilization program must be structured to assure that, with adequate funding, it will provide expeditious administration and broader enforcement of the law.

The record of rent control in its first nine months has been replete with administrative problems which have stymied effective implementation of the hardship provision and prevented any broader measures to assure compliance with the regulation. The inability of the Commission to keep abreast of the hardship caseload is well documented in public testimony and the press. Equally disturbing is the fact that the Commission has been totally unable to institute any general enforcement programs to check on compliance by landlords not involved in hardship petitions. This fact was documented by

59–155—75——5

former Chairman Timothy L. Jenkins at the January 22 hearing and by Commission member Florence Roisman, who stated:

> We . . . have tens of thousands of registration forms in our office but we do not have the resources to check those registration forms . . . So, with respect to the properties that have been registered, where the columns are filled in, no one has the slightest notion whether those rents are in fact within the ceiling . . . And I would add to that that there are . . . Thousands or perhaps tens of thousands of units in the city subject to regulation that have not been registered. And as to those, clearly we have no idea whether those units are within the ceiling . . .

The Committee is determined not to allow repetition of the administrative and enforcement problems described above. The Committee has taken measures to assure adequate funding for the Commission by (1) increasing substantially the Mayor's budget request for rental control implementation and (2) providing for payment of a two dollar per unit annual registration fee. In addition the Committee has drafted the proposed act with an eye to making it as administratively feasible and self-enforcing as possible. The following provisions, while serving multiple purposes, are intended to lighten the administrative load of the Office and the Commission: (1) the revamped administrative structure, as embodied in these separate agencies; (2) the automatic increase of up to five percent for landlords whose rate of return is less than eight percent; (3) the substantial increase in the specificity of data to be used in consideration of increases; (4) and the exemption of small (two units or less) rental accommodations where landlords occupy one of the units which will significantly decrease the number of units covered by the rent stabilization provision.

5. It is the intent of the Committee that the Rental Accommodations Office make general compliance with the act a priority goal and function. To this end, it is expected that the office will systematically check registration forms, eviction notices, and other statements filed with it; institute field checks to measure compliance in all parts of the city; receive and process complaints; mount citywide educational campaigns; and institute such other enforcement measures and programs necessary to assure broad compliance with the rent accommodation act.

6. The continuing housing shortage and decline in new housing stock in the District of Columbia require specific incentives to increase and improve the housing supply. Specific new incentives are provided as follows in the proposed bill: (1) All new construction for which the initial certificate occupancy was issued after February 2, 1973, is exempt. (2) All units which have been boarded and vacant for two years are exempt for the duration of the act, provided they are returned to the market and are in compliance with the housing regulation. The 1970 Census reported 16,000 abandoned, unoccupied units in the City. (3) Compliance with the Housing Regulation is made a *mandatory* prerequisite to any rent increases above base rent. This strengthened provision can be a significant incentive to improvement of the housing stock if adequately enforced. The Committee intends to monitor such enforcement both by the Rental Accommodations Office and the Housing Inspection Division.

Impact

III. FINANCIAL IMPACT STATEMENT

The financial implications of the proposed act may be summaried as follows:

1. Workload and Budget of the Rent Accommodations Office and Rent Accommodations Commission.

The anticipated workload and budget requirements of the Office and Commission are reflected in the Council's fiscal year 1976 budget submission to the Mayor (a total of 669,600 dollars for the implementation of the Rent Accommodations Act) and the additional General Fund credits established in the proposed act and explained elsewhere in this Report.

The proposed funding provided to implement the proposed act reflects the strong conviction of the Committee that the success of any rent stabilization program affecting 190,000 units is dependent on adequate funding specifically allocated to that program. Testimony presented at both the January 22 and April 9 hearings, and the experience of the past year confirm this position. During the past nine months the administration of rent control has been significantly handicapped by the lack of adequate resources. While the Committee anticipates that the nature of the workload will change from concentration on individual cases to a more general compliance program, the Committee does not expect any reduction in the workload as compared to the previously unmanageable load of the current commission. The Committee anticipates that the combined budget request and General Fund credits will enable the Office and Commission to handle petitions expeditiously and assure broad compliance with the act.

2. Anticipated Revenues

The anticipated revenues resulting from the proposed act will total approximately $380,000 ($2 annual registration fee for each of the 190,000 rental units in the city).

3. Impact on other agencies

The inability of the Housing Rent Commission to process large numbers of hardship petitions within the 90 day limit has impacted significantly on the workload of the Office of the Corporation Counsel (Environment and Consumer Protection Section) and the Superior Court of the District of Columbia. Currently a total of approximately 400 petitions have been returned by the Housing Rent Commission. Numerous landlords whose petitions were returned have exercised their right to take such petitions to Superior Court. The result is a major increase in workload for the Court and the Corporation Counsel, which is involved in defense of the Rent Control Regulation in each of these cases. A special Task Force, including five attorneys and administrative support, has been established by the Corporation Counsel to handle the load. While it is impossible to assess the dollar cost to the Court and the Office of the Corporation Counsel, the impact on staff use is clearly considerable.

As already indicated, the proposed act is structured to substantially diminish the complexity of the administrative procedures and reduce the time necessary for tenants and landlords to receive remedies under this provision. It is anticipated that with adequate funding, the Office and the Commission will be able to handle the caseload, and the increased demands currently on the Court and the Corporation Counsel will be greatly reduced or eliminated.

Sectional Analysis

IV. SECTION-BY-SECTION ANALYSIS

Following is a section-by-section analysis of the proposed Bill.

TITLE I—RENTAL ACCOMMODATIONS COMMISSION

SECTION 101—ESTABLISHMENT OF COMMISSION

Subsection 101(a) sets up a nine-member Commission, known as the Rental Accommodations Commission which will succeed the present Housing Rent Commission. Three members of the Commission will be landlords representing landlord interests. Three members will be tenants representing tenant interests. The remaining three members will be neither landlords nor tenants and will represent the public interest. All members of the Commission will be appointed, within 30 days of the effective date of the act, to the Commission by the Mayor with the advice and consent of the Council. All members shall be District residents.

The proposed bill as introduced into Council would have established a seven-member Commission, with three of those members being public members, two being landlord members and two being tenant members. Some members of the public, including the past and the present Chairman of the Housing Rent Commission, suggested that a balance was needed and proposed a nine-member Commission with three public, three tenant, and three landlord members.

The Council agrees that equal representation is, preferable to any over or under representation by and of the three segments. It, therefore, strongly supports the three-three-three formula.

Subsection 101(b) provides two year terms for the Commissioners. The Mayor will fill vacancies and will have the authority to remove members in the event that they cease to be qualified or miss more than thirty percent of the regularly scheduled meetings within any six month period.

The Council wished to make it possible to remove members from the Commission in cases of relocation of members outside the District, long-term illnesses, and the like. The added provision resulted from communications the Committee received from the Executive Branch.

Subsection 101(c) authorizes compensation to Commission members at $50 per day, but not to exceed $5,200 per year for any members. No U.S. or District employee receives compensation. The $5,200 limit per member was arrived at after considering the statement within the budget request of the Housing Rent Commission that the Housing Rent Commission expected to meet twice a week. Since the

new Commission will not be reviewing commission-initiated appeals, it is unlikely that the new Commission will need to meet more than twice a week.

Subsection 101(d) establishes the quorum requirement for the lawful transaction of business at five. At least two public, one tenant, one landlord must be present along with another member in order to transact business.

The Council believes that a quorum should constitute a majority of the membership and that their rationale for the proportionate breakdown as outlined in subsection 101(a) should be applicable in the quorum requirements.

Subsection 101(e) establishes two offices within the Commission: the Chairman and Vice-Chairman. Both officers shall be selected from among its public members. The Council intended that public members should preside over sessions of the Commission. This was to increase the effectiveness of the arbitration process by reducing the possibility of the natural bias which may ensue under landlord or tenant members presiding.

SECTION 102—DUTIES OF COMMISSION

Subsection 102(a) outlines the Commission's responsibilities and duties. Basically the Commission will establish the rules for administering the rent stabilization program. Additionally, it will review appeals from the Rent Administrator. The provision has caused some concern among the public, for the Commission is no longer involved in the initial decision of cases. The new Commission will be a policy making and appeal agency. While some members of the public supported transferring to the new Commission the authority now vested in the Housing Rent Commission, other members of the public wanted the appellate function to be vested with the courts alone.

The Council supports a compromise position which divides administrative and quasi-judicial functions between the Rent Administrator and the Commission. It is the conviction of the Council that such a division of powers represents optimum regulatory procedure which is standard in most regulatory agencies, including the D.C. Commission on Human Rights and rent commission in neighboring jurisdictions. It should be noted that the Commission's appeal and review functions will provide it with first hand information for its rule making and policy determination role.

Subsection 102(b) requires the Commission to submit to the Council every six months a report on trends, including tax, operating and maintenance cost within the District and to recommend any changes in the formula for computing the rent ceiling.

The Council felt that its responsibility for oversight would be facilitated and it may expeditiously initiate action to amend the legislation should such be deemed appropriate because of some drastic and unforeseen economic shifts.

Subsection 102(c) authorizes the Commission and explicitly the Rent Administrator, to hold hearings, administer oaths, and subpoena whatever data or witnesses the Commission deems advisable. It also empowers the Superior Court to enforce subpoenas and punish persons for failure to comply.

The Council felt that the timely procurement and certification of information was imperative to the expeditious processing of petitions filed by landlord and tenant.

Subsection 102(d) authorizes each entity of the District government to supply assistance and information directly to the chairman of the Commission.

The Council, while not intending to cause excessive burdens to other agencies, did wish to have the Commission function as effectively as possible without bureaucratic liaison agents.

SECTION 103—RENTAL ACCOMMODATIONS OFFICE

Subsection 103(a) establishes a new agency of the District of Columbia Government within the executive office of the Mayor. It also creates the post of Rent Administrator. The Administrator will be the principal executive officer of the new agency and will be appointed by the Mayor.

The Council felt that the Mayor would not be able to effectively implement his strong support for rent control and the new legislation if the agency remained as an independent entity.

Subsection 103(b) requires that the Rent Administrator be a resident of the District and that he receive compensation at a rate no less than GS–15 under the General Schedule under section 5332 of Title 5 of the United States Code.

The Council felt that it was mandatory to have a high level administrator in order to expeditiously facilitate the administrative procedures of the new legislation. The recent court decision on Regulation 74–20 underscored the necessity to expeditiously provide remedies for petitioners to the Commission.

SECTION 104—DUTIES OF THE RENT ADMINISTRATOR

Subsection 104(a) directs the Rent Administrator to carry out the Rent Stabilization Program according to the rules and procedures established by the Commission.

Subsection 104(b) authorizes the Rent Administrator to hire legal counsel and other employees or consultants as necessary within budget constraints, and specifically delineates the authority to do so under the U.S. Code.

The Council wanted to provide adequately for the implementation of one of the major functions of the Rent Administrator—assurance of compliance by landlords and tenants with the rent stabilization provisions through spot checks and other investigations. This would allow sufficient flexibility in the staff allocations.

TITLE II—RENT STABILIZATION PROGRAM

SECTION 201—DEFINITIONS

Subsection 201(a) defines the Council of the District of Columbia for purposes of this act.

Subsection 201(b) defines Mayor of the District of Columbia for the purposes of this act.

Subsection 201(c) defines "base rent" as rent charged on February 1, 1973 or last rent charged between January 1, 1972 and February 1,

1973 (if not rented on that date) or an appropriate rent determined by the Rent Administrator (if not rented during previous year or if rent charged during that period cannot be determined). This definition shall be adhered to during the entire act as provided in subsection 204(d).

Subsection 201(d) defines "capital improvement" as a permanent improvement or renovation other than ordinary repair, replacement or maintenance continuing for twelve months or longer. It was the intent of the Council that normal replacements and proper maintenance should clearly be delineated as that ongoing effort of landlords to keep dwellings in compliance with the housing code.

Subsection 201(e) defines the term "housing accommodation" as a structure or building within the District of Columbia containing one or more rental units with 60 percent or more of its rental units within used for residential nontransient occupancy.

Subsection 201(f) defines the term "housing regulations" as the Housing Regulations established by the Commissioner Order dated August 11, 1955 as amended.

Subsection 201(g) defines "initial leasing period" as that period in which the first tenant of a new accommodation, or one substantially rehabilitated, occupies and rents it.

Subsection 201(h) defines "landlord" using the standard definition while adding thereto all possible nuances of the definition which could cover any entity receiving or entitled to receive rents or benefits for the use or occupancy of rental units. The Council felt that this definition should be all inclusive in order that there be no loopholes for any bonafide housing business operator to circumvent the provisions of the act.

Subsection 201(i) gives the standard definitions of "person".

Subsection 201(j) defines "related facility" as any furnishing or equipment available to tenants, the use of which is included in the rents.

Subsection 201(k) defines "related services" as those in the rental agreement, required by law or provided by landlord, and paid for in the rent.

Subsection 201(l) defines "rent" in its broadest meaning to include any consideration of value in exchange for the use or occupancy of a rental unit.

Subsection 201(m) defines "rental unit" as any type of apartment, room, single family house or duplex which is rented or offered for rent for residential occupancy. It also specifically excludes those structures used primarily for transient occupancy.

Subsection 201(n) defines "market value" as the purchase price paid by the landlord or that value determined by the Mayor for assessment purposes, whichever is greater.

Subsection 201(o) defines "assessed market value" as the estimated market value of a housing accommodation as determined by the Mayor for property assessment purposes.

Subsection 201(p) defines "substantial rehabilitation" as any improvement or renovation begun after February 1, 1973, the cost of which improvement is 50 percent or more of the market value of the accommodation.

Subsection 201(q) defines "tenant" as including a tenant, subtenant, lessee, sublessee, or other person entitled to the possession, occupancy

or the benefits of any rental unit. The intent of the Council was to insure that every individual who rented property for residential use would be protected by the provisions of the act.

Subsection 201(*r*) defines "maximum possible rental income" as the sum of rents for all rental units (occupied or not) as of the date of filing the registration statement. The Council wanted to specifically include all possible income from rental in the rate of return formula in order to more realistically assess the income and income potential.

Subsection 201(*s*) defines "vacancy loss" as the amount of rent not collected due to vacant units. The Council wanted to insure that units not offered for rent or occupied by the landlord or his employees be excluded so as not to improperly inflate losses in the rate of return formula.

Subsection 201(*t*) defines "uncollected rent" as the amount of rent or other charges due but not collected. Deducted from this amount is any such amounts due for which the landloard has failed to attempt to recover through appropriate legal channels after having ample opportunity to do so. The Council wanted to insure that uncollected rents as a proper operating loss item in the rate of return formula would not be improperly inflated by amounts for which no reasonable attempt to recover such had been made.

Subsection 201(*u*) defines "operating expenses" as the normal expenses for the upkeep of the rental accommodation for any consecutive 12 month period in the 15 months immediately preceding the filing of the registration statement.

Subsection 201(*v*) defines "management fee" as the amount paid to a managing agent and any pro rata salaries paid to off-site administrative personnel.

Subsection 201(*w*) defines "property taxes" as the amount paid to the District of Columbia Treasurer for real property tax on the housing accommodation. This is a legitimate expense item in the computation of the rate of return.

Subsection 201(*x*) defines "other income which can be derived from the housing accommodation" generally as all other types of income other than the gross rental charge which a landlord earns by virtue of his ownership of the accommodation. These income items are legitimate income items in the computation of the rate of return.

SECTION 202—REGISTRATION AND COVERAGE

Subsection 202(*a*)—Sections 203–212 of this act applies to all rental units except the following:

1. rental units in health care, personal care homes and hospitals; (to eliminate medical care institutions)
2. federally owned units or units in which the mortgage or rents are subsidized; (federal regulations prohibit controls on such properties)
3. a unit for which the initial certificate of occupancy was issued after February 2, 1973 (to stimulate new construction because the Committee originally intended to exempt all new construction)
4. any dormitory of an institution of higher education and private boarding schools where rooms are provided for students; (to specifically eliminate institutional residences)

5. any rental unit in an owner or renter occupied residence containing not more than two rental units; (to eliminate small units which are generally not primarily operated as a housing business)

6. units in housing accommodations which have been vacant and unoccupied for two years preceding the enactment date if such accommodation is in compliance with the housing regulations; (to encourage the utilization of boarded up housing in increasing the rental housing stock).

Additionally, the Council intended that administrative workload of the Rental Accommodations Office would be significantly reduced by these aforementioned exclusions.

Subsection 202(b) requires registration of unregistered accommodations within 90 days after the effective date of the act.

A registration statement is required to be filed for every housing accommodation within the District of Columbia irrespective of the applicability of any other provision of the Act to the housing accommodation.

Paragraph one (1) requires a complete description of property along with the housing business license and occupancy permit numbers and dates.

Paragraph two (2) requires a description of the utilities including air conditioning and heating fuel.

Paragraph three (3) requires rental information (local occupancy fee charged, amount of security deposit, related service included and related facilities and charges) that obtained on the base rent date.

Paragraph four (4) requires the information required in paragraph 3 that obtains on the registration date.

Paragraph five (5) requires information on rental units that have been substantially rehabilitated (market value prior to rehabilitation, method of market value computation, description of rehabilitation and an itemized list of expenditures).

Paragraph six (6) requires the same information as stated in paragraph (5) on rental units for which substantial rehabilitation is planned. Additionally, it requires a description of the proposed rehabilitation.

Paragraph seven (7) requires information on the market value prior to capital improvement, a list of capital improvements and an itemized list of expenditures for all capital improvements allowed under section 205 of this act.

Paragraph eight (8) requires a list of outstanding violations of the housing regulations applicable to the registered accommodation.

Paragraph nine (9) requires inclusion of the name and address of the owner and, when applicable, the resident agent.

Paragraph ten (10) requires the information necessary for the Rent Administrator to easily and accurately compute the rate of return according to subsection 204(a).

Paragraph eleven (11) requires the rate of return for that housing accommodation as computed by the landlord according to the formula in subsection 204(a).

Subsection 202(c) requires landlords to certify that there have been no changes in the information required on the previous registration statements or, when applicable, to correct such statements quarterly by sworn addendum. Upon the occurrence of any change which would

affect the rent, the landlord would have to submit a new statement prior to filing for an increase.

Subsection 202(d) provides for public inspection of registration forms and requires landlords to post a copy in public place on the premises of the housing accommodation to which the registration statement applies, have such available at the Rental Accommodations Office and mail duplicate copies to each tenant.

The Council felt that it was imperative that the data on registration forms be readily accessible to tenants on the premise and at the office in order to facilitate their decisions relating to filing petitions and to provide this pertinent data to all parties concerned.

Subsection 202(e) requires the Administrator to assign each registration form a registration number.

The Council added this provision in order to aid in the management of registration information.

Subsection 202(f) requires that the registration number be placed on each housing business license and each certificate of occupancy issued after the effective date of the act.

The Council intended that this section would encourage landlords to register promptly and properly, since they will not be able to get a license until they get a registration number.

SECTION 203—REGISTRATION FEE

Section 203 establishes an annual registration fee of $2.00 per rental unit to be paid at the same time and place that one applies for their housing business license or their renewal or files their registration form.

These fees are to be paid into the Treasury of the United States and credited to the General Fund of the District of Columbia. There was substantial testimony to the Council supporting the concept that the Rental Accommodations Office should be self-sustaining. The Council felt that the two dollar fee was not burdensome and would produce approximately $375,000 annually to support the staff necessary to administer the program.

SECTION 204—RENT CEILING

Subsection 204(a) provides the formula for computing the rent ceiling (or maximum allowable rent for rental unit). Landlords will only be able to add to the current rent ceiling applicable to their units, an amount up to 5 percent of the current rent ceiling. This amount may only be added if the rate of return of that particular housing accommodation is less than eight percent (as computed according to the formula). Then the landlord may only increase rents on a pro rata basis by an amount sufficient to generate a rate of return no greater than 8 percent. The aforementioned rate of return formula includes the normal elements of income and operating expenses of the housing industry. The maximum possible rental income plus all other related income from the property are added together. From this sum is subtracted operating expenses, property taxes, management fees, depreciation expense, and the amortized cost of capital improvements (where allowed). The result of this computation produces a

net income figure. This net income figure is divided by the assessed market value of the property to provide a percentage rate of return.

It is the conviction of the majority of the Council that the rent increase formula described above is the most equitable method to allow for increased costs of landlords without placing the entire burden of such costs on the shoulders of tenants. Specifically, it is the contention of the Council that the increased operating costs will be equitably shared by landlords and tenants. Hopefully, such a measure will encourage conservation of energy and better management of declining resources by both landlords and tenants.

The Committee chose to adapt the approach of Regulation 74–20 of automatic increases rather than a cost justification approach because it felt that the latter approach would result in a flood of petitions by landlords and tenants. Even if the cost justification approach were tied to a reasonable rate of return formula there could be no guarantee that the tenants would be protected from excessive rents or that the landlords were doing their best to maximize efficiency, cut wastes, eliminate mismanagement and the like.

The testimony at the hearings revealed a deep gulf between the opinions of landlords and those of the tenants. Generally, landlords argued that 10% increase would be needed as a minimum to allow an adequate reasonable rate of return on their investment which they contend should be around 10%, using the market value of the property as the denominator. Tenants argued that no increases should be allowed.

The act would allow 5 percent increase over a two year period to cover the cost of increasing taxes, maintenance, labor, trash removal services and other operating costs. The Council finds that such an increase is justifiable to protect the interests of both landlords and tenants.

The derived formula resulted from combining features of two different approaches, neither of which in and of itself was thought to be acceptable or sufficient. The first approach, known as the automatic-increase-approach, was the thrust of the prior regulation (74–20) which allowed all landlords to automatically increase their rents to a level 12.32 percent higher than that which they received on February 1, 1973. Although further increases required the scrutiny of the Commission, many tenants were forced to pay higher rents even though they may have been paying their own utility bills. The ceiling of 12.32 percent was arbitrary and in some cases much too high, in others too low. The second approach, or cost-justification-approach was the method envisioned in the Congressional enabling legislation. Landlords should have been able to raise their rents as their costs increased. Irrespective of a landlords profit levels, a strict pass-through-of-costs provision would have placed the burden of inflation on tenants alone.

The Committee recognized some very basic facts: (1) declining profits encourage investment disincentives; (2) negative cash flows can lead to reduction in housing stock; (3) across-the-board automatic percentage increases in rent levels are in and of themselves inflationary; (4) any percentage increase figure would rely on guesswork (of such exogenous factors as oil import tariffs, consumer conservation

efforts, coal production levels, etc.); and (5) rent controls are necessary to protect tenants from excessive rent increases during periods of critical housing shortages. In an attempt to preserve the housing stock while protecting tenants from needless rent increases, the Committee decided to allow automatic increases only in those situations where a landlord is experiencing a rate of return (discounting debt service) of less than eight percent and only to the extent that any tenant does not receive an increase of more than 5 percent. Thus, the Committee established a minimum standard for a landlord's obtaining an automatic increase.

The rate-of-return computation method was chosen basically because it was a means of instituting a cost-justification approach and because its use was already being employed by the hearing examiners at the Commission. The Committee could thereby insure, although it felt no compulsion to do so, that the intent of the original Congressional enabling legislation which sought to provide landlords with a reasonable rate of return could be carried out, and thereby assuage the apprehensions of many landlords who, because of the enabling legislation, had expected a reasonable rate of return. The benefits of this method to the tenants was not overlooked, for they too now had a means of checking the reasonableness of any increase.

The adoption of the eight (8 percent) percent floor was reached after negotiations with the Mayor, and his representatives. This decision was predicated upon the constitutional concepts that the Council should adopt a measure which provided a floor no lower than the prevailing interest rates or that which has been prescribed by the Commission after the courts request to develop a rate of return formula. Both sides did agree that a higher rate would serve as an incentive to keep money invested in rental housing. The Committee, however, wished to make it clear that the formula adopted is a rate of return on total assets rather than a rate of return on equity which in reality would be a rate of return on investment formula. It should also be noted that the Commission itself adopted a formula, under court order, essentially identical to the one in the measure.

It is the Committee's belief that some landlords need rent increases and are entitled to such increases without combersome delays or procedures. It has provided a mechanism to accomplish that goal.

The Committee also intended to protect tenants against unnecessary or excessive rent increases. It believes that the 5% limit and future scrutiny by the Administrator and Commission will fulfill that aim.

Thus, it is the Committee's conviction that an allowance of automatic increases within cost-justification guidelines and percentage increase restraints serves as the best method of providing landlords with a reasonable return and tenants with protection.

Subsection 204(b) specifies that rent ceilings may be increased or decreased in accordance with section 206 (to allow for increases or decreases in related services or facilities); section 210 (to allow for the cost of substantial rehabilitation); and section 208 (to allow for adjustments for vacant accommodations). These allowances were deemed necessary by the Council to provide a flexible adjustment process in specifically defined situations where tenants or landlords were experiencing inequities as determined by the act or the Rent Administrator.

Subsection 204(c) gives landlords and tenants the right to apply for a hardship adjustment for reasons other than those specified in 204(b).

Subsection 204(d) establishes the rent ceiling and specifies the conditions under which there may be increases for properties exempted under section 202 after the initial leasing period or the first year of tenancy has expired. The Council included this provision to prevent landlords whose rent ceiling was set at the initial leasing period or first tenancy period rent from using step 1 and step 2 of the formula in 204(a).

Subsection 204(e) specifically prohibits any increase above the base rent unless the housing accommodation is in compliance with the housing regulations and such non-compliance is not the fault of the tenant. There was strong support in the Council that any rental accommodation made available must first conform to the housing regulation, that this was a prime responsibility of the landlord and it would be grossly inequitable to any tenant to increase rents while that rental unit and related facilities and services were not safe, sanitary, etc. as prescribed by the housing regulations.

Additionally, the subsection prohibits increases above the base rent whenever the accommodation is not registered in accordance with provisions of the act or is not licensed. This registration also applies to the manager when such is not the landlord.

Subsection 204(f) requires rent roll backs for those units charging in excess of the allowable rent ceiling on effective date of act. Tenants will be notified in writing prior to the effective date of such decreases.

This subsection would not apply to any rent approved previously by the Housing Rent Commission under Regulation 74–20 or any court of competent jurisdiction.

Subsection 204(g) prohibits increases for rental units with valid written leases or rental agreements until the terms of such agreement have expired.

Subsection 204(h)(1) requires a landlord to immediately notify a tenant of an increase by certified mail prior to that increase. It also requires specific information as listed in substcetion (i) to be included, plus a copy of that portion of the registration statement which shows the computation of the rate of return. (It also authorizes the Commission to prescribe the wording of the statement.) Such notice must inform the tenants of their right to request an audit, have a hearing on the audit and provide the tenant with the address and time limitations for the process. The Council was unanimous in their support of these provisions for complete and timely disclosure to the tenant, thus expediting and facilitating the petition filing procedures.

Subsection 204(h)(2) specifies that the first due date for any increased rent cannot be prior to 30 days after such notice is mailed to the tenant who must immediately begin paying the increased rental amount on the prescribed date. If the tenant requests an audit during this 30 day period, the Rent Administrator must notify the landlord and he must place the increment of increase into an interest bearing escrow account (earning a minimum of 5¼ percent). The landlord or tenant may request a hearing on the audit and the escrow amount will be disbursed by the Rent Administrator when and in accordance with the final decision of the hearing.

The Council felt it imperative to expedite the procedures by which landlords could receive their rents that were due while holding in escrow (the increment of increase) during the contested dispute.

Subsection 204(h) (3) provides for the Rent Administrator to also conduct audits at the request of the tenants who file for audits after the initial 30 days and also for the Rent Administrator or the Commission to initiate audits. In these instances, however, the landlord is not required to place the increase in question in escrow.

Subsection 204(h) (4) provides that the decision of the Rent Administrator may be appealed to the Commission within 15 days.

Subsection 204(h) (5) provides that in the process of reviewing or auditing proposed rent increases the landlord may be required to furnish either Federal or District income tax records filed for no more than three prior years. The Council felt that this was standard procedure in the verification of income and expense records.

Subsection 204(i) specifically delineates that each notice of an impending rent increase shall be in writing and shall contain the following specific items which are deemed as basic information for the Rent Administrator to render a decision:

1. current rent;
2. proposed rent;
3. percentage increase that the proposed rent represents over the current rent;
4. effective date of the proposed rent increase;
5. base rent;
6. percentage increase that the current rent represents above the base rent;
7. percentage increase that the proposed rent represents above the base rent;
8. registration number of the accommodation;
9. certification and explanation by the landlord that the unit is in substantial compliance with the housing regulations and that the increase is in compliance with this act;
10. exact method of computation of the increase including itemization of cost figures to which the increase is attributable when such increase is pursuant to sections 205, 206, 208, 209, 210 of this title;
11. statement of the penalties as described in section 215, and
12. location of the registration statement in a public place on the premises in accordance with subsection (d) of section 202.

SECTION 205—CAPITAL IMPROVEMENTS

Subsection 205(a) allows the property amortized costs of completed capital improvements to be used as an expense item in the computation of the rate of return when (1) the landlord has made available to the Rent Administrator and the tenant the plans, contracts, specifications and building permit copies; and (2) satisfaction by the Rent Administrator that the interests of the tenants are being protected.

Subsection 205(b) provides that the Rent Administrator may allow a management fee greater than 6% to be used in the formula computing the rate of return if it is determined that that is reasonable. The petition to all for such must contain information relating to the relation-

ship between the landlord and management entity along with any other information the Administrator may require.

Subsection 205(c) provides that the Rent Administrator may allow an amount in excess of two percent of the assessed market value to be used in the formula for computing the rate of return if determined that the excess was justified. The petition to allow for such excess must contain the depreciation claimed for tax purposes as well as any other information the Administrator may require.

Subsection 205(d) clarifies the fact that nothing in the two aforementioned sections should be construed to prohibit or limit Rent Administrator in any determination of the accuracy of management fees or depreciation expenses.

SECTION 206—SERVICES AND FACILITIES

Section 206 authorizes the Rent Administrator to increase or to decrease the rent ceiling applicable to any unit as related services or related facilities increase or decrease.

This appeared to be incontroversial. The Council supported this provision as introduced.

SECTION 207—SECURITY DEPOSIT

Section 207 specifies that no security deposit shall be demanded or received if such had not been the case prior to the effective date of the act.

SECTION 208—VACANT ACCOMMODATION

Subsection 208(a) authorizes the Rent Administrator to adjust the rent ceiling for units becoming vacant to a ceiling equal to that of a substantially identical unit within the same building if the tenant has vacated on their own initiative for non-payment of rent, violation of any obligation of tenancy or used the premises for an illegal purpose.

Subsection 208(b) explicitly defines "substantially identical".

SECTION 209—HARDSHIP PETITION

Subsection 209(a) allows consideration by the Rent Administrator of cases where landlords can show a negative cash flow after consideration of debt services. Upon petition, additional increases which are sufficient to generate a positive cash flow may be allowed if the Rent Administrator considers the degree of hardship that the increase will place upon the tenant.

Subsection 209(b) allows consideration by the Rent Administrator of cases where after allowances under section 204, the landlords rate of return is still under 8 percent, they may file a petition for an additional increase which would in no case allow for a return of more than 8 percent.

The rationale of the Council for both hardship situations was that there must be some vehicle to at least consider the provision of relief for landlords forced into this position by the effects of spiraling costs rather than ineffective management. However, they felt it was paramount that tenants not share any undue burden or that any significant number be forced to other less viable alternatives. Additionally, they

felt that this should not be a floodgate for a deluge of petitions. Consequently, hardship petitions were only allowed in the two aforementioned situations.

SECTION 210—SUBSTANTIAL REHABILITATION

Subsection 210(a) allows the Rent Administrator to raise the rent ceiling to no more than 125 percent of the rent ceiling for any unit about to benefit from substantial rehabilitation. The Rent Administrator must ascertain that the rehabilitation is in the interests of tenants and may approve this contingent upon completion.

Subsection 210(b) requires the Rent Administrator to examine the plans, specifications and projected costs of any project about to be rehabilitated.

Subsection 210(c) expands the provision of 210(a) by requiring the Rent Administrator to consider certain factors when determining whether or not the rehabilitation is in the interest of tenants: namely, the impact that the rehabilitation will have on tenants and the extent of current housing code violations to the unit which may impaid the health, welfare and safety of the tenants.

Subsection 210(d) imposes a further restriction upon the landlord in that landlords must notify tenants of their intention to rehabilitate and the extent of the intended rehabilitation.

These subsantial rehabilitation provisions significantly reduce a landlord's incentive to arbitrarily rehabilitate a rental unit. No longer is the landlord guaranteed a 125 percent rent increase nor is he guaranteed any increase. The Rent Administrator is given considerable discretion and guidelines. The intent of the Council is to discourage unnecessary and arbitrary substantial rehabilitation at the expense of the tenants and decrease the probability of reducing the housing stock available to low and moderate income persons. Also it is implicit in these provisions, that the intent of the Council is to have the Rent Administrator approve the efficacy of the rehabilitation in accordance with these provisions and if such requirements are met, then the landlord may set the rent ceiling at an amount not to exceed 125 percent of the base rent. The Rent Administrator will then approve such increase.

SECTION 211—TRANSITIONAL PROVISION

Section 211 is a transition provision designed to prevent landlords from benefiting both from Regulation 74–20 and from this act. It specifically prohibits them from using increases allowed under section 204 and any decision rendered by the Housing Rent Commission.

SECTION 212—ADJUSTMENT PROCEDURE

Subsection 212(a) requires landlords seeking adjustments to submit information requested by the Administrator or Commission, including an itemization of actual income and operating expenses for a two year period ending not more than four months prior to the filing. The Rent Administrator must render a decision within 60 days after the petition is filed unless an extension is approved by both parties or the Commission.

Subsection 212(b) prescribes the procedure that must be followed once a petition is filed. The Rent Administrator upon filing will notify the other party concerned of the filing by the other party and of his right to request a hearing within 15 days of receiving the notice. If a hearing is requested each party will be notified at least 15 days prior to the time set for the hearing of the date, the place, and the right to be represented by Counsel.

Subsection 212(c) requires an information statement to be filed by the landlord within 15 days after demand thereof containing whatever information the Rent Administrator may request or the Commission may require.

Subsection 212(d) allows the Rent Administrator to consolidate petitions and hearings relating to rental units within the same housing accommodation.

Subsection 212(e) permits the Rent Administrator to dismiss petitions for adjustments without a hearing, if one had been held six months prior to the filing.

Subsection 212(f) requires procedures to be followed within provisions of the District of Columbia Administrative Procedure Act and gives precedence to the above act should there be any conflict between it and this act.

Subsection 212(g) gives the Commission the right to review cases brought to it on appeal. The Commission may reverse or affirm the decision of the Rent Administrator in whole or in part. However, the Commission must within thirty days after the appeal was filed.

Bill 1–40 allowed 150 days for the Rent Administrator and Commission to determine a matter. The Council feels that five months is entirely too long to dispose of a matter and has therefore shortened the proceedings to 60 days, 30 days for a determination by the Administrator and 30 days for the Commission.

Subsection 212(h) requires a 30 day notification to the tenant that the tenant will be raised before such raise can become effective.

Subsection 212(i) requires that a copy of any decision made by the Rent Administrator or the Commission under this section be marked to all parties to such decision.

SECTION 213—EVICTIONS

Subsection 213(a) requires that evictions cannot be effected unless and until a tenant has been served with a written notice to vacate specifying the reasons for such evictions and a copy of that notice has been filed with the Rent Administrator.

Subsection 213(b) protects tenants from arbitrary and/or retaliatory evictions by specifying under which conditions other than nonpayment of rent that this may occur.

These are as follows:

Item (1)—the tenant is in violation of the tenancy and fails to correct such after proper notice.

Item (2)—the court has determined that the tenant performed an illegal act on the premises.

Item (3)—the landlord desires to recover the property for the purpose of their immediate and personal use and occupancy.

Item (4)—the landlord has contracted to sell the unit and has so notified the tenant in writing at the time of the offering for sale.

Item (5)—the landlord is to make repairs or renovations which could not safely be done with the unit being occupied or for the immediate demolition and replacement with new construction approved by the Rent Administrator.

Item (6)—landlord desires to discontinue the housing use for a continuous period of 6 months or more.

These provisions were intended by the Council to protect tenants and to eliminate improper attempts to remove low and moderate housing stock from the market, to trigger evictions primarily designed to facilitate illicit increases in rent ceilings and to deter the untimely upgrading of housing stock to a level for those few persons who could afford them while there is still a critical shortage of lower priced rental accommodations.

Subsection 213(c) allows tenants a 90 day written notice whenever their eviction is the result of the landlord's desire to repossess the property, except as provided in section 302 of this act.

Subsection 213(d) prohibits anyone from demanding or receiving rents from rental units repossessed under items (3) or (6) of subsection (b) of this section during the prescribed 6 month period beginning when they took possession. This subsection was designed to deter the circumvention of the provisions of this act.

Subsection 213(e) grants tenants who were evicted from a rental unit for repairs or renovations the right to re-enter the rental unit at the same rent and obligations as before, provided that such repairs were made to correct housing code violations and were not made necessary by the tenant. The Council strongly endorses the eviction control provisions.

SUBSECTION 214—RETALIATORY ACTION

Subsection 214(a) prevents landlords from retaliating against tenants who exercise their rights under the act. Landlords are forbidden to threaten, harrass, evict, decrease services, or increase rents, dishonor any provision of a lease, refuse to renew a lease or any other form of threat or coercion.

Subsection 214(b) spells out those considerations on which the trier of fact shall base a finding as to whether or not a landlord has retaliated against a tenant. Such items include consideration of the contact that the tenant has had with the landlord or appropriate government employees concerning housing violations; consideration of the tenants participation in rent strike or other lawful activities of tenant organizations; and consideration of the extent to which the tenant attempted to enforce or secure their rights under lease or contract, including any legal action.

The retaliatory action section is an integral part of any rent stabilization program. The Council fully supported it.

SECTION 215—PENALTIES

Subsection 215(a) provides remedies for tenants who have been overcharged or who have had services reduced. A tenant may recover treble the amount of overcharge or $50, whichever is greater.

The Council wished to provide incentives for tenants to pursue their rights under the act. It, therefore, provided civil remedies in addition to criminal sanctions.

Subsection 215(b) imposes a fine of not more than $5,000 upon anyone who willfully violates provisions of the act or attempts to circumvent provisions of this act by false or misleading statements.

TITLE III—CONVERSION OF HOUSING THROUGH CONDOMINIUM CONVERSION, COOPERATIVE OWNERSHIP OR SUBSTANTIAL REHABILITATION OR SALE THEREOF

SECTION 301—SALE OF SINGLE FAMILY HOUSING ACCOMMODATIONS

Section 301 requires the owner of a single family housing accommodation to notify the tenant of his intent to sell, provide them with an opportunity to purchase the unit and at least 45 days within which to accept such offer to purchase the unit.

This was intended to provide tenants with an opportunity to remain in the neighborhood if that was desired and if it was economically feasible for the tenant to do so.

SECTION 302—CONDOMINIUM CONVERSION

Subsection 302(a) provides the tenants of a housing accommodation which is likely to be converted into a cooperative or a condominium a 180-day notice of the impending conversion. Each tenant must be offered an opportunity to purchase within 60 days of such notice and served with at least a 150 day notice to vacate after having been informed of the conversion.

Subsection 302(b) requires the landlord to give a 120 day written notice to tenants prior to the date of substantial rehabilitation and a 90 day notice to vacate after having been informed of the intended rehabilitation.

No actual (physical) rehabilitation can commence until the end of the 120 day notice period. The notice must include the details of the rehabilitation as listed in section 202(b), and a statement that the Rent Administrator has approved the rehab in accordance with this provision in addition to a copy of the registration form. The Council intended that the timely notice and full disclosure would provide the tenant with the data necessary to facilitate any decision and consequent action.

TITLE IV—MISCELLANEOUS

SECTION 401—REPEAL OF REGULATION 74–20

Section 401 with the exception of the appointment of members of the Rental Accommodations Commission, this section continues the provisions of Act 1–35 (signed into law on July 25, 1975 by the Mayor) and makes it effective as of the same date. The intent of the Council was to provide 60 days for petitions and after pending matters under Regulation 74–20 to be consummated while preparing for the implementation of the provisions of this act. The Housing Rent Commis-

sion would continue to serve during that period allowing the Mayor sufficient time to appoint members for the new Rental Accommodations Commission.

SECTION 402—TRANSFER OF RECORDS

Subsection 402(a) transfers property records and unexpended funds and appropriations from the old Commission to the Rent Administrator and the new Commission.

Subsection 402(b) continues all actions of the Housing Rent Commission except as modified or made inapplicable by the new acts (Act 1–35 and Bill 1–157).

SECTION 403—JUDICIAL REVIEW

Subsection 403(a) provides for judicial review and the institution of civil action and specifies the appropriate court.

Subsection 403(b) awards costs of litigation to any successful party. The Council intended that this may be a deterrent to unnecessary judicial appeal while providing sufficient latitude for the court to award reasonable costs where feasible.

SECTION 404—EFFECTIVE DATE

Section 404 provides for termination of the proposed act at the end of the second complete calendar year occurring immediately after the effective data. The Council also voted to include in this section a requirement for annual review by the Council of the rent stabilization program. Their intent was to assure assessment of the impact of this emergency legislation and to enact modifications where necessary. The Council also felt that it was imperative to specifically note the authority for their action as being subsection (c) of section 302 of the District of Columbia Self-Government and Governmental Reorganization Act and that the effective date was thus controlled by the provisions of subsection 602(c).

SECTION 405—SEVERABILITY

Section 405 explicitly spells out the normal severability provisions.

NOTE.—This committee report on Bill 1–157 was developed to encompass not only the deliberations of the Housing and Urban Development Committee, but also the action of the City Council, the Mayor and appropriate members of the Executive Branch of our city government. The following documents are attached to clarify the exigencies of this process.

1. Statement of Nadine Winter, Chairperson of the Housing and Urban Development Committee introducing Bill 1–40 (First Reading, May 20, 1975).

2. Statement of Nadine Winter, Chairperson of the Housing and Urban Development Committee introducing Emergency Legislation (Act. 1–35), July 22, 1975.

ATTACHMENTS

A. Letter from Bureau of Social Science Research to Chairperson Winter.

B. Mayor's veto message of June 27, 1975.

C. Response by Councilmember Nadine Winter regarding veto of Bill 1–40.

D. Statement of Councilmember Clarke regarding veto of Bill 1–40.

E. Statement of Nadine Winter, Chairperson of the Housing and Urban Development Committee introducing Bill 1–40 (First Reading May 20, 1975).

F. Statement of Nadine Winter, Chairperson of the Housing and Urban Development Committee introducing Emergency Legislation (Act 1–35), July 22, 1975.

ATTACHMENTS

Attachment A

BUREAU OF SOCIAL RESEARCH, INC.,
Washington, D.C., May 8, 1975.

MS. NADINE WINTER,
Chairman, Committee on Housing and Economic Development,
District of Columbia Council

DEAR MS. WINTER: I recently have had the opportunity, through the courteous assistance of your capable and dedicated committee staff, to study the proposed amended version of your Bill 1–40, the "D.C. Rental Accommodation Act of 1975," and your report on the bill, especially the proposed formula for computing the rent ceiling. You and the committee are to be congratulated in stating so clearly the basic principles that a balance should be struck between the interests of tenants and landlords in setting the maximum allowable rents, and that in particular the increased costs of utilities should be equitably shared by landlords and tenants. I wish you all success in winning acceptance of these sound basic principles, which I endorse.

Unfortunately, however, the exact formula as proposed in Bill 1–40, as amended, would not succeed in carrying out these priciples, but rather would place the preponderant burden, and a highly unwarranted share of the total burden, on the shoulders of tenants. For many landlords, in fact, it would provide a sheer windfall, enabling them to recover part of the same costs twice over! This truly unfortunate (and, I am sure, unintended) outcome can be avoided by making two technical changes in the formula specified in the bill as amended, without changing the general approach of the formula. If the rent ceiling formula finally adopted is actually going to carry out the commendable principles you have laid down, it is essential that these two technical changes be made.

First, the less important of the two changes I would urge you to make: The 4 percent proposed rental increase intended to cover possible operating cost increases other than utilities over the next two years should be broken down into two annual installments, a 2 percent increase to go into effect now and another scheduled 2 percent increase to go into effect a year from now. A rental increase in anticipation of future cost increases over a period as long as two years is not at all equitable: It places the full burden of such cost increases on the tenants far too soon, months ahead of the time that landlords actually experience them. If it turns out that the 4 percent overall figure is about the right *size* to fully cover the increases occurring in these non-utility costs over the next two years, its *timing* is still wrong, and heavily biased against the tenant. Dividing the 4 percent figure into

two annual installments of 2 percent each (making a combined total of slightly more than 4 percent ultimately) would go a long way toward remedying this inequity.

Moreover, this would give you (the Rent Commission and the Council) greater flexibility in having the opportunity to reconsider the proper amount of the second year's installment when the time comes. If present cost trends continue (a notable *slowing down* in the inflation of maintenance costs generally, both labor and materials, notwithstanding that some specific items are showing exceptions to the trend) then the overall 4 percent rental increase over the next two years will turn out to be *substantially greater than necessary* to *fully* recover these costs, and will prove to be a substantial windfall to landlords. (I believe this is likely, in fact, considering that a 4 percent increase in gross revenue will *fully recover* an average cost increase in these specific categories combined amounting to at least 16 to 17 percent over the next two years, or an average annual rate of 8 percent. This is a higher rate of inflation than most economists now are forecasting for the immediate future 2-year period.) But if the 4 percent rental increase is once established, it would surely be virtually impossible to "roll back" any part of it later on, even if that were unquestionable warranted by the actual cost trends at that time. Breaking the 4 percent into two annual installments will avoid this possibility.

And of course, the flexibility works to advantage both ways: If a new inflationary boom *were* to develop later this year (unlikely, but not impossible) the second year's installment of permitted rent increase could be greater than 2 percent. A regular periodic review of this sort also is consistent with the responsibility assigned to the Rent Commission in Subsection 102(b).

* * * * * * *

The second and even more serious defect in the specific rent ceiling formula described in Bill 1–40, as amended, concerns the base period for the utility cost-increase pass-through provision. The base period as proposed (the increase from Fiscal Year 1974 average utility costs to FY 1975 average costs) largely *overlaps* the period for which actually utility cost increases in the District of Columbia have *already* been *fully recovered* by most landlords (and in fact *more than recovered*, by the average D.C. rental property owner up to the end of 1974, as indicated by the AOBA survey data). Using this particular base period means that the cost pass-through formula of Bill 1–40, while it will achieve a 50–50 sharing of utility cost increases in the *future*, will *start out* by granting a *150 percent recovery* of the utility cost increases experienced by the average D.C. landlord over the most recent calendar year for which the District Council has already granted a fully adequate rental increase.

Surely this is an unintended effect of the particular technical means specified in Bill 1–40, as amended, for carrying out the principle of 50–50 utility cost sharing between tenants and landlords, rather than the deliberate intent of you or of the Housing Committee. This would be an incredible profit windfall for the great majority of D.C. landlords. As careful analysis of the AOBA survey data shows, over 60 percent of all D.C. rental units experienced *increasing* profits over the past two years, if they took full advantage of the 12.3 percent rental

increase previously granted by the council. The effect of the particular base period formula proposed so far in Bill I–40 will be to grant even greater profit increases to the majority of D.C. landlords in 1975. It is not exaggerating to say that unless this particular base-period is changed, its effect will be to make a travesty of the new rent control bill in its first year of operation.

An alternative base-period and method for calculating the utility cost pass through on the 50/50 landlord-tenant sharing basis is readily available, and is described in the note attached to this letter. It has the advantage of utilizing official U.S. Government data for fuel oil and gas prices in the Washington, D.C. area and the official rate schedule for electricity as published by the District Public Service Commission. Its primary advantage, however, is that it can be computed on a timely basis—either each quarter or each six months—and thus base the 50/50 utility cost pass-through on the most, recent appropriate quarterly or 6-month time period. This would remedy the severe defect in the presently proposed formula, which was a base period (FY 1974) beginning nearly *two years* before the date at which the first 50/50 cost pass-through would go into effect.

Please note that this out-of-date base period as presently proposed in Bill 1–40 encompasses the autumn and winer of 1973–74, the exact period of the "oil crisis," and the very period during which fuel prices suddenly jumped by an unprecedented amount, although they were highly stable prior to that time and have largely stabilized since the early part of 1974. This is illustrated for the cost of No. 2 fuel oil in the Washington, D.C. area (the predominant heating fuel for the District) in the attached graph.

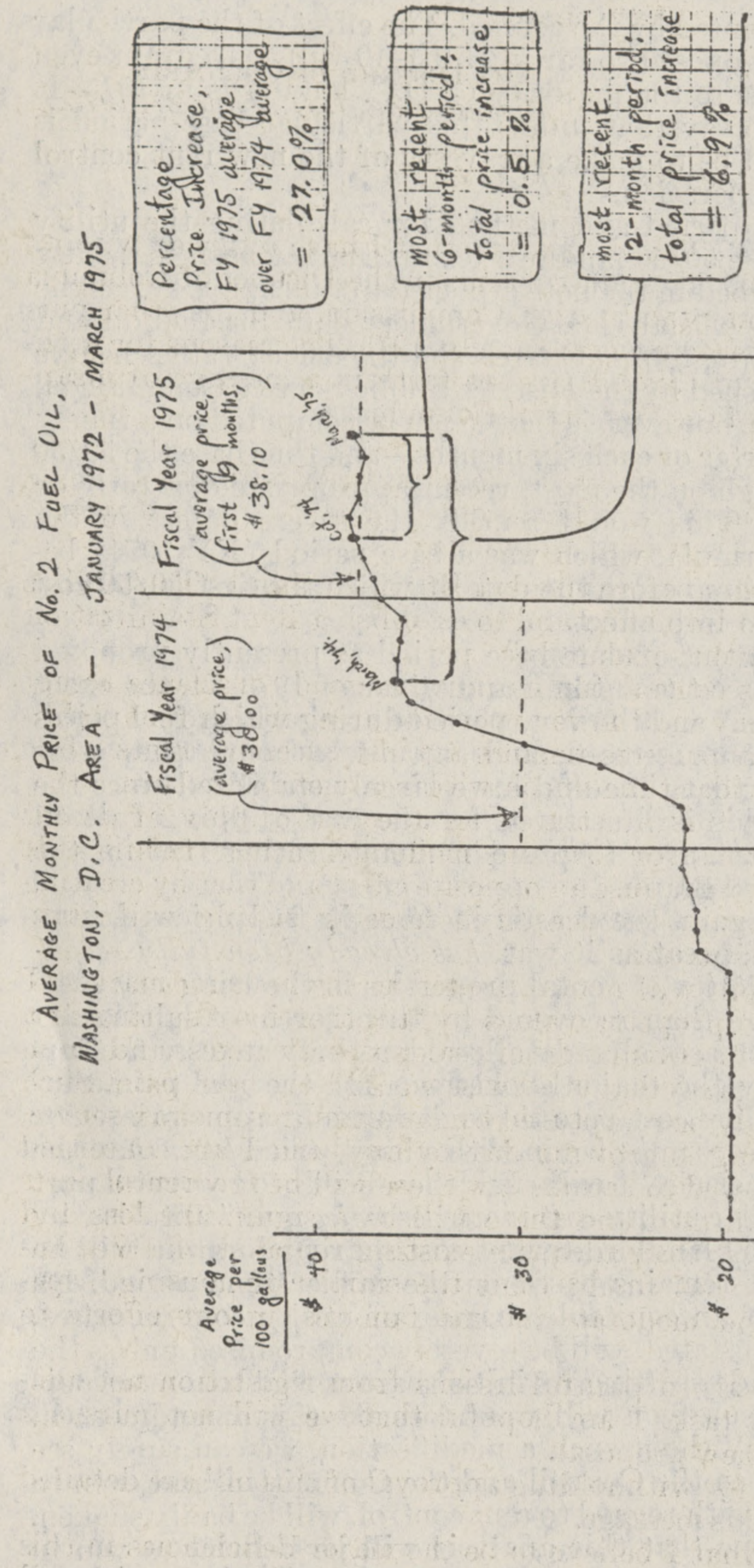
And to emphasize again, the drastic increase in fuel prices during the winter of 1973–74, great as it was, *has already been fully recovered* for the great majority of rental properties in the District by the end of 1974 (and *more* than recovered by then for most landlords) through the rental increases already allowed, as indicated by the survey data presented by the major spokesman for the real estate industry itself. Any utility cost pass-through formula appropriate for 1975 and subsequent years must begin with a base period *later* than the winter of 1973–74. Otherwise it will enable landlords to recover a part of those abnormal earlier utility cost increases *twice over!* That is why the very laudable 50/50 landlord-tenant cost sharing formula will be a literal travesty if it remains based on the earlier time period. Its underlying purpose of an equitable sharing of utility cost increases, which you have so well stated, will be severely compromised unless the technical change is made shifting its initial base period to a more current time span. I am sure you will want to make this amendment in the present formula. Without such a modification, we can surely see that public confidence in the Council and the Committee, and even in your actual intentions with regard to rent control, will be badly shaken.

I most sincerely hope that this analysis will be helpful to you in taking the necessary steps to overcome the two serious flaws remaining in your otherwise excellent and widely appreciated rent control bill. I know that you have worked very hard on this entire matter, but if a good final rent control procedure can be established, many, many citizens will feel genuine gratitude for your efforts.

Sincerely yours,

GARY W. BICKEL, Ph. D.

AVERAGE MONTHLY PRICE OF No. 2 FUEL OIL,
WASHINGTON, D.C. AREA — JANUARY 1972 - MARCH 1975



Source: U.S. Bureau of Labor Statistics

ATTACHMENT B

THE DISTRICT OF COLUMBIA,
Washington, D.C., June 27, 1975.

HON. STERLING TUCKER,
Chairman, Council of the District of Columbia,
Washington, D.C.

DEAR MR. CHAIRMAN: This is to advise that I have returned without my approval Bill 1–40, "To stabilize rents in the District of Columbia and to establish a Rent Stabilization Commission, and for other purposes," as passed by the Council on June 10, 1975. The reasons for withholding my approval of this bill are set forth in a message of disapproval to the Council of the District of Columbia.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor.

To the Council of the District of Columbia:

I am returning without my approval Bill 1–40, a bill "To stabilize rents in the District of Columbia and to establish a Rent Stabilization Commission, and for other purposes."

I fully support rent control but I cannot in good conscience accept this bill. Bill 1–40 in my view fails to provide an equitable rent stablization program which protects tenants against excessive rents while at the same time providing landlords with a reasonable return.

I am committed to the increase of an adequate supply of decent housing accommodations for low and moderate income families. It appears that Bill 1–40 will cause an opposite effect and that by creating unending adverse impacts on the city's housing supply will harm rather than help the situation.

The effects of the bill will not be limited to the housing market. I believe it would cause property values to fall, thereby resulting in a significant reduction in revenue from real property taxes, and from income and franchise taxes that otherwise would have been paid. Such lost revenues could only be recaptured by increases in some tax source.

Our need for housing is growing day by day, and I am concerned that if this Bill is allowed to become law there will be few rental units constructed or rehabilitated and there will be a significant loss and deterioration of the less than adequate existing rental stock. We cannot adopt legislation that would limit the supply of housing, especially for our low and moderate income families, in our efforts to stabilize rents.

We have already learned painful lessons from legislation not adequate to the complex task. I am hopeful that we will not pursue a similar course with a new proposal.

Additional reasons for withholding approval of this bill are detailed in the attachment to this message.

I have dealt with what I believe to be the major deficiencies in this bill. Again, I reassert my support for rent control. To that end I will be available with my staff to develop legislation which will remedy the deficiencies in Bill 1–40.

I am hopeful that the Council will immediately avail itself of this offer so we may assure the citizens that this government is prepared to fully and fairly meet their needs.

WALTER E. WASHINGTON,
Mayor.

ATTACHMENT TO MAYOR'S MESSAGE RETURNING BILL 1–40

(1) Section 204(a) of Bill 1–40 establishes seven per cent as the maximum rate of return. In establishing a rate of return, it is necessary not only to avoid a rate which can be held to effect the confiscation of property without compensation but also to provide reasonable incentives for the maintenance of existing housing and the provision of additional housing resources.

In my judgment the rate established in Bill 1–40 could be held to be unreasonable and therefore confiscatory and would clearly impede, if not completely foreclose, the financing of new or existing housing accommodations as well as the financing of rehabilitation projects. I believe the rate of return should be reflective of prevailing rates of interest. This rate should be established at a level to attract investments while at the same time avoiding excessive rents.

(2) The "proviso" in Section 204(a)(3) creates a serious question of denial of equal protection. Once a rate of return is established it should be applicable to all landlords.

(3) Section 204(b) limits depreciation expense to two percent of the assessed market value. It is generally recognized that depreciation is an actual expense. Section 204(b) makes no allowance for those cases in which it can be demonstrated that the actual depreciation expense is in excess of two percent.

(4) Section 201(u) of the bill limits management expenses to six percent. If a limit is to be established for this expense item, there must be a basis to demonstrate that any expense in excess of such limitation is plainly unreasonable. The legislation should not artificially limit this expense allowance but rather should authorize the Rent Administrator to disallow any amount which is found to be unreasonable.

(5) Section 103 of the bill establishes the position of the Rent Administrator at GS–15 and also authorizes the Administrator to fix the rate of compensation for employees. Under Section 422 of the D.C. Self-Government Act, the personnel laws enacted by Congress remain in effect until such time as the District Government establishes an independent merit system. According, grade classification and pay levels must be established in accordance with extant classification and pay legislation.

(6) Sections 202(a)(4) and (5) provide for different treatment of construction depending upon whether such construction was commenced before or after January 1, 1975, irrespective of completion dates. I do not believe this distinctive treatment is legally supportable.

(7) I believe Section 202(c) is unnecessarily burdensome. It would appear that annual registration statements would be inadequate.

(8) Section 203(b) establishes a Rent Stabilization Fund to be the depository for registration fees and funds appropriated for the purpose of the rent control program. The creation of such a fund would remove the revenues from registration fees from the Executive's budget planning process and, by earmarking those monies, would reduce the flexibility of the resource allocation process. The amount of the registration fee should not be established in the act; rather, it should be set from time to time by the Mayor to help offset administrative costs. The fees should be deposited in the General Fund, and funding for the rent control program should be deposited in the Gen-

eral Fund, and funding for the rent control program should be determined through the normal appropriations process.

(9) Section 208 mandates that the Rent Administrator must consider the degree of hardship which any requested increase will place on the tenant. This section also apparently contemplates that tenants may seek a downward adjustment of any existing rent based on hardship. In addition Section 208(c)(1) requires the Administrator upon the filing of a hardship petition by a tenant to "* * * require the Landlord to deposit into an escrow account some or all of the funds involved." I believe these provisions raise grave constitutional questions. It seems that an otherwise legally permissible rent could be reduced on the basis that the tenant could not afford the rent. Thus the Administrator would be required to either increase the rents of other tenants to make up the deficit or require the landlord to, in effect, contribute an amount equal to the deficit to the tenant.

(10) Section 209(a) provides that upon completion of any substantial rehabilitation a rent increase may be approved provided it is no greater than 125% of the rent ceiling prior to the rehabilitation. The Council report indicates that it was not intended that the rent increase be 125% of the rent ceiling but rather that the Administrator would have authority to establish the rent at *any* level up to but not exceeding 125%. In order to carry out that intent, the language of the bill should be changed. It would also be necessary either to provide standards to govern the Rent Administrator in making such determinations or direct the Commission to develop such standards.

Subsection (d) of this section authorizes the increase of 125% in rent to those landlords who intend to substantially rehabilitate a housing accommodation, yet it arbitrarily excludes from the increase any landlord who on the effective date of the act, has expended "more than fifty percent of the total project." Such a classification is unreasonable, and patently unfair.

(11) I find Section 210 of the bill confusing and unclear. It would seem to provide that any landlord whose rent was adjusted under Regulation 74–20, would be excluded from the provisions of Section 204 irrespective of the rate of return. I believe this would result in a denial of equal protection of the law.

(12) Section 211 provides for notification by "certified mail." Yet, by Bill No. 1–88 the Council has amended the present rent control Act to eliminate the requirement for notification by certified mail. Therefore, the requirement herein should be eliminated.

In subsection (g), a provision should be added requiring that a copy of the decision of the Rent Administrator or the Commission shall be served upon the parties.

(13) Section 212(a) provides that no tenant shall be evicted unless the landlord has filed a copy of the written notice to vacate with the Rent Administrator. From this section it is unclear what function, if any, the Rent Administrator is to perform with respect to proposed evictions. Yet, by section 403(a) it is implied that the Rent Administrator does have some functions, though again unspecified, with respect to proposed evictions. Section 403(a) provides in part:

". . . Nothwithstanding any provision of Title 16 or 45 of the District of Columbia Code, no person may initiate any proceeding for ejectment or for possession in the Superior Court of the District of

Columbia unless such person has exhausted the remedies available to him under this act."

Also subsection (b)(5), it is provided that a landlord cannot demolish a housing accommodation and replace it with new construction unless his plans therefor are first filed with, and approved by, the Rent Administrator. This provision vests the Rent Administrator with seemingly unlimited power to dictate to a property owner how he is to use his porperty. Such unrestrained power vested in the Rent Administrator amounts to an unconstitutional taking of another's property without due process of law.

(14) Section 212(e) could have the effect of requiring a landlord whose property is severely damaged by abnormal conditions or an Act of God to rerent to the tenant at the previously established rent ceiling irrespective of the costs to the nature of repairs effected. The provision should be amended so as to avoid this possible effect.

Attachment C

Memorandum—Council of the District of Columbia

To: All Councilmembers.
From: Nadine P. Winter, Chairperson, Housing and Urban Development Committee.
Date: June 27, 1975.
Subject: Statement for Rental Accommodation Act.

It was with a sense of deep regret and shock that I received the news of the Mayor's disapproval of the rent control measure. The action of the Mayor would deny to more than 70% of the city's population protection from excessive rent increases at a time when they are experiencing the brunt of spiraling living costs. Furthermore, the timing of the veto forces the Council to take a posture of defending all of the provisions of the Bill or hastily making minor changes to clarify language and make other non-substantial changes, if there is need, and introduce Emergency Legislation.

Let me state from the outset that the extremely specious, ill-informed objections to the measure included in the Mayor's veto message and the last minute disapproval, quite frankly should prompt each one of us and the public that, irrespective of the Mayor's statements to the contrary, the Mayor wants no rent control measure, and therefore no protection of the tenants, in the District of Columbia. The Mayor had a golden opportunity to support publicly and unequivocally his concern for the ordinary hard-working low and moderate income citizens and/or for citizens on fixed incomes. We can not do business as usual. A city must be more than bricks and mortar people must live here.

Should some of my colleagues think my remarks are harsh, let us examine the record.

The Mayor's first objection is that the rate of return formula in section 204(a) establishes a maximum or ceiling which could be held, presumably by a court, to be confiscatory. In reality the formula establishes a minimum or floor below which landlords can automatically raise their rents provided that no tenant is charged more than 4% more of the rents he is now paying plus half the cost of utility in-

creases determined by another formula. Moreover, the rate of return formula is a rate of return on total assessment (ROTA) rather than a rate of return on investment (ROI) formula. Thus, while a landlord may only get a 7% return (net return) on his total assessment, he may have more than 8%, 9%, 12% or whatever, return on his investment. There is no roll back of profit to a landlord.

The Mayor's second, sixth, ninth, eleventh, and thirteenth objections are based upon his legal opinion of the constitutionality of certain provisions of the bill. Within the four memoranda addressed to me from the Mayor's legislation liaison officer and prepared by the Corporation Counsel, I can recall no such legal opinions being previously rendered despite the fact that most of the provisions objected to have been in the bill for months.

The Mayor's third objection is based upon his understanding of depreciation as an actual expense. I have no such understanding. Indeed no one has attempted yet to prove to me the actuality of such an "expense". The formula included in the Bill is the exact formula hand carried to me by the Executive Director of the Rent Commission stating "this is the formula the Rent Commission adopted".

I would have had no difficulty in negotiating with the Mayor those concerns he expressed in his fourth, seventh and eighth objections, for they are philosophical in nature. It should be noted that the Council did consider whether management expenses should be limited, whether registration should be annual and whether fees collected from registration should go to the general fund. We would have welcomed the Mayor's active involvement in the matters rather than the expressions of opinions made within the body of lengthy memoranda.

The Mayor's fifth objection is a good example of the kind of cursory reading he and his advisors may have given this bill. The Mayor says that the "Administrator" may fix the rate of compensation for employees. That is not the case. Such power is given to the Commission and the language of the provision within the act was transmitted to me by the Corporation Counsel in a letter dated May 15, 1975 (copy attached). I assumed that if there were any problem with the legality of such a provision, they would have done more than suggested some grammatical changes. If the Mayor wants the new independent agency under his control, then he should say so, rather than suggest that there is some legal problems with the provision. Obviously, the Mayor's and Council's power to control the grade classification and pay levels remains if only at budget time.

The Mayor's sixth objection is curious. The Council, in an attempt to encourage new investments, exempted from rent control all new construction begun this year or likely to begin. Construction which began last year was initiated with the knowledge that under the existing regulation, the landlords of such new units would be exempted only for one year or the period of first tenancy. During this year landlords can establish and adjust base rent, observe management pitfalls and determine a net operating cost. This actually allows landlords to determine anticipated needs. Such landlords simply, therefore, do not need the incentive that is now provided for those wishing to build. Also exempted will be units put back on the market after having been boarded up for more than two years. How, then, can the Mayor claim that "there will be few rental units constructed or rehabilitated". This

section may encourage landlords if they are serious about social problems as well as investments and this city.

These are but a few of the misgivings I have about the Mayor's action. It would certainly not be very useful for the Council's staff to sit down with the Mayor's staff to iron out differences in position until the Mayor's staffers sit down, read the bill, become thoroughly familiar with its provisions and implications. Our staff has done so.

It is clear that I intend to support efforts within this Council to override the Mayor's untimely action or introduce an Emergency Rental Accommodation Bill on Tuesday, July 8th. Hopefully, the Bill will be transmitted to the Mayor on that date. The Mayor will then have ten (10) working days (July 22nd) to approve or disapprove. In the event the Mayor chooses to wait until one minute to midnight to disapprove then the Council must decide the fate of 70% of the District residents, the tenants of this city, at its last legislative session in July. The last day of rent control is July 28th.

The Emergency Legislation will then be introduced as the permanent Bill. I seek your advice, comments and full support. It seems to me an EITHER-OR situation.

Attachment D

News Release—Council of the District of Columbia

STATEMENT OF COUNCILMEMBER DAVID A. CLARKE REGARDING VETO OF RENTAL ACCOMMODATIONS ACT

I am deeply distressed at the action of the Mayor in vetoing the Rental Accommodations Act of 1975. Coming as it does less than one month before the expiration of the current rent control regulation, we are faced with the prospect of no rent control at all if the Council does not take decisive action quickly.

I do not believe that the Mayor's veto is justified. Moreover, as some of the provisions which the Mayor addressed in his message were in the bill for long periods, it would appear that the executive branch could best have expressed its views while the matter was pending before us and not have put rent control in jeopardy as it is in now. A close reading of the veto message indicates that the executive branch was possessed of both erroneous fact and theory. In the case of one point, the executive branch premised its veto on a point previously suggested by it.

The Mayor indicates that the rate (7%) could be held to be unreasonable and therefore confiscatory. This perspective utterly ignores the radical change in the nature of our new government and particularly that of the legislature. Court decisions on the point, most of which are antiquated, examine the actions of administrative agencies with appropriate strictness. This rate was prescribed by an elected legislature, and it is firm judicial doctrine, based on respect for the separation of the branches, to construe legislative prescriptions liberally. This should be all the more the case here where the Council has the power to set the interest rate. The Executive Branch

continues to act as if our new government were still only possessed of minimal authority.

The provision of sec. 204(a)(3), providing that no rents may be increased upon the filing of a registration statement more than 4% plus 50% of the increased cost of utilities, would create a distinction but one based on a legitimate governmental interest in preventing any tenant from having his/her rents raised more than he/she could absorb. The standard should not only be based on how much more the landlord gets but should also consider how much more the tenant pays.

The 2% limit on depreciation is precisely what the current Housing Rent Commission prescribed in its formula according to the copy thereof given to the Council on June 9, 1975 by the Executive Director of the Commission (Attachment A). I still maintain that depreciation is a tax-beneficial fiction and that property values are not decreasing, certainly not more than 2%.

The 6% limit on management fees, which provision has been in the bill since May 2, 1975 without adverse executive comment, is necessary to prevent false decreases in apparent net income through payment of large management fees to straw managers and is consistent with the current state of the trade.

The indication that the Rent Administrator should not be allowed to fix the rate of compensation for employees *is directly contrary to the position taken by the executive branch through the Mayor's Special Assistant for Legislation* when she, on April 23, 1975, suggested such language (P. 3, Attachment B).

The absolute exemption of units construction of which begins after January 1, 1975 was inserted to encourage new building and differs from the provision for units the construction of which began before that date but are not occupied as of that date in that only the base rent of the latter is exempted. The basis for this absolute exemption of totally new units (which is not in the existant regulation) is to encourage the new units the Mayor says he wants built. Total exemption was felt necessary to encourage construction which has not yet begun while partial exemption was felt sufficient to permit the continuation of construction already begun. A veto based on this provision is hard to understand.

The provision of additional filings of registration statements is to permit landlords whose rate of return his dipped below 7% to raise their rents by the filing of an amended registration statement, for Sec. 204(a)(3) provides that it is the registration statement which trips the automatic rent increase mechanism. Again this provision was to help landlords in need of increases; its veto appears absurd and indicates a lack of understanding by the executive branch of the bill.

Sec. 208 provides that, in the case of petitions *filed by landlords* for hardship increases (there is only provision for landlord filing), "the Rent Administrator shall consider the degree of hardship which the *requested increase* will place upon the tenants." (Emph. sup.) To say that this "apparently contemplates that tenants may seek a downward adjustment of any existing rent based on hardship" is not logical.

The 125% level of section 209 is in the current regulation.

It would appear therefore that the Mayor's veto is premised upon erroneous fact and theory. What is more important is that his action

jeopardizes the whole prospect of rent control and puts the city's tenants, during a period of high unemployment and otherwise hard times, in clear danger of losing their homes. I hope my colleagues override the veto.

Section 12—Return on Capital Value.

Section 12.1—A landlord may file a petition for an increase in the maximum allowable rent on the ground the current maximum allowable rent established pursuant to Section 5 and 6 of Regulation 74–20 does not equal the sum of:

1. real estate taxes, and licensing fees;
2. the operating and maintenance expenses of the property;
3. an allowance for reasonable vacancy and uncollected rent losses on the property;
4. an allowance for depreciation on the value of the building exclusive of land;
5. a return of eight to ten percent on capital value which shall be the fair market value for District of Columbia tax purpose as established by the Department of Revenue.

Section 12.2—The Maximum allowable depreciation upon the building exclusive of land shall not exceed 2%.

Section 12.3—Except as provided in Section 8 above, interest cost and amortization of principal may not be deducted as operating expenses.

Section 12.4—In order to facilitate the petitioner in ascertaining whether his property qualifies for a rent increase on the basis of hardship, the Petitioner should insert his figures into the following formula:

Gross Rental Income (100% occupancy).
Less Vacancy Losses.
Less Uncollected Rent.
Equals Net Rental Income.
Less Operating Expenses.
Less 2% Depreciation.
Less Taxes and Fees.
Equals Net Operating Income.
Divided by Fair Market Value.
Equals Rate of Return.

MEMORANDUM—GOVERNMENT OF THE DISTRICT OF COLUMBIA

April 23, 1975.

To: Hon. Nadine Winter, chairperson, Housing and Urban Development Committee, District of Columbia Council.
From: Judy Rogers, Special Assistant for Legislation.
Subject: Bill 1–40: To stabilize rents in the District of Columbia and to establish a Rent Stabilization Commission, and for other purposes.

This memorandum is to advise you of the Executive Branch comments on Bill 1–40 "To stabilize rents in the District of Columbia and to establish a Rent Stabilization Commission and for other purposes."

The bill was introduced on March 11, 1975 and referred to your Committee.

As stated by Mr. Lorenzo Jacobs, Director of the Office of Housing and Community Development in his testimony on April 9, 1975 before your Committee, the Executive Branch strongly supports the continuation of controls over rents in the District of Columbia. We join in the Council's efforts to improve the machinery which is necessary to make the program more effective. The Mayor has requested in the 1976 Executive Budget $440,900 and 30 positions to support the Commission and program under current law (Regulation 74–20). We have also supported the enactment of Bill 1–37 which would eliminate the $85,000 authorization limitation on annual appropriations for the program.

In accord with the Executive Branch testimony at the Council hearing January 22, 1975, we support Bill 1–40 to the extent that it will reorganize the Commission to permit greater representation of the public interest, establish a strong Rent Administrator with authority to decide cases, and leave only policy decisions and appeal functions with the Commission. Bill 1–40 has incorporated these ideas and, accordingly, will, we believe, provide for the more speedy resolution of landlord and tenant petitions than has been possible under Regulation 74–20.

In order to strengthen the bill further and clarify certain provisions, we offer the following amendments, prepared primarily by the Office of the Corporation Counsel, to Bill 1–40 for the Council's consideration:

(1) Since Bill 1–40 proposes to create a new and comprehensive program to control rents in the District of Columbia and to supersede entirely Regulation 74–20, there should be a provision to repeal Regulation 74–20.

* * * * * *

(6) Section 103(b) should be deleted since we do not favor the creation of job salary levels by statute. Compensation should be established through regular personnel classification procedures. At the very least the phrase "class GS–15" should be replaced with "grade 15".

(7) Section 104(b) should be deleted and in lieu thereof substitute the following: "The Rent Administrator shall employ such personnel or consultants, including legal counsel, as are necessary at such rates of compensation as may be fixed by the Commission."

The reason for this change is to include within the Administrator's authority the right to employ consultants, and to shift to the Commission the authority to set salary levels.

The last sentence has been stricken because we submit that the Executive Department already has qualified and trained employees performing the function therein outlined for to-be-appointed rental unit enforcement officers. The creation of a new staff would result in an unnecessary duplication of effort, produce considerable confusion for the citizens of the City, and could well lead to instances of inconsistent findings and judgments by the Rent Stabilization Office's inspectors and those in the Housing Division, a circumstance which could adversely affect the success of particular enforcement actions by both agencies and seriously impair the credibility of the District Government in the eyes of the citizens we serve.

The Housing Division has been responding to the existing Housing Rent Commission's requests for information and inspections on a timely basis. However, we recognize that any sizable increase in the Commission's workload and need for information and inspections would strain the Housing Division's resources and necessitate a corresponding increase in inspectional staff. For the reasons cited above, however, it would seem preferable to increase the size of an existing staff rather than establish a new one. This would not preclude the Rent Stabilization Office from hiring such employees as may be necessary to verify registration statements and perform other related functions.

Attachment E

Statement of Councilmember Nadine P. Winter introducing a bill to stabilize rents in the District of Columbia and to establish a Rent Stabilization Commission, and for other purposes

Mr. Chairman: Today I am introducing some modifications to the present Rent Control Act which is a landlord/tenant bill designed to control the rise of rents, the rate of evictions and the modification process for condominium conversions. There are no fundamental differences in the intent of the previous law as provided by the District of Columbia Rent Control Act of 1973 (P.L. 93–157) and District of Columbia Regulation 74–20. The proposed changes provide for:

1. changes the name and composition of the present Housing Rent Commission;
2. establishes a method for computing 1975 allowable rent increases;
3. increases the time limit for case depositions;
4. requires annual registration of rental units, and
5. provides for the imposition of registration fees.

More specifically, this measure establishes a seven member policy and appeal commission composed of three public, two tenant and two landlord members. It provides for a Rent Administrator vested with the authority for first determination for the granting of exemptions or the dismissal of landlord or tenant petitions. The Commission as an appeal board could grant reprieves upon petitions by either landlords or tenants. As a quasi landlord-tenant court, the Commission would be able to closely inspect evictions and, thereby eliminating a substantial number of these evictions, thus reducing the burden on the landlord-tenant division of the D.C. Superior Court and staff.

Mr. Chairman, this bill is not going to be universally popular among landlords or tenants. The divergency of views, expressed at the recent hearing held before the Committee of the Whole is indicative of the several approaches that can be taken. Because there was no major disagreement with the fundamental concept of the measure, but primarily with some of its provisions, I am concentrating my attention on those areas which elicited the major objections of both sides.

The substantive areas of difficulty, Mr. Chairman, seemed to be that the Commission was virtually unable to function effectively due to

budgetary restraints, insufficient logistical support, difficulty in establishing quorums, and the like. The bill being introduced today, addresses these problems and will provide the framework for substantial relief to both landlords and tenants who petition for such. This bill is in no way a panacea for housing management ills, but it will provide the vehicle upon which we may build equitable landlord/tenant law for the betterment of all citizens of the District of Columbia.

Attachment F

STATEMENT OF NADINE P. WINTER, JULY 22, 1975, UPON INTRODUCING AN EMERGENCY TRANSITION BILL TO EXTEND THE RENT CONTROL PROGRAM

Mr. Chairman and members of the Council, today I am introducing emergency legislation to provide a transitional rent stabilization program in the District of Columbia, until permanent legislation is passed.

Although I am introducing this legislation as an individual Councilmember, the work which brought it here today is in cooperation and consultation with members of the Housing and Urban Development Committee and the Corporation Counsel's Office.

The legislation which you have before you is a Bill to provide for a transitional rent stabilization program in the District of Columbia. It has the following features:

1. Section 1 provides a mechanism for the disposition of those cases filed under Regulation 74–20.

2. Section 2 disallows any additional petitions for rent adjustment under Regulation 74–20 to be accepted by the Housing Rent Commission after the effective date of this act.

3. Section 3 provides for the incorporation of the provisions of Bill No. 1–157, Rental Accommodations act of 1975, which the Council passed on First Reading, July 15, 1975. These provisions, however, will not go into effect until 60 [1] days after the effective date of this act.

An interim Rental Accommodations Commission shall be appointed by the Mayor during this 60 days. The permanent Rental Accommodations Commission will be appointed within 30 days after expiration of this emergency act. The permanent Commission will be appointed by the Mayor and confirmed by this Council.

Section 3 also provides for amendments to Bill 1–157 as passed on First Reading:

(*i*) Amendment no. 1 of section 202 (b), p. 15 of Bill 1–157, would remove the limitation of the landlord filing a registration statement "within not less than 30 days". This change would allow registration statements to be filed within the time period specified for the effectiveness of all provisions under this act. For example, the provisions of Bill 1–157 under this act become effective 60 days after the effective date of this act.

(*ii*) Amendment no. 2, Sec. 204 (h) (2), p. 27 of Bill 1–157, reduces the time from 60 days to 30 days in which a rent increase can be effected after the filing of the registration statement.

---

[1] Time specified in this act referring to days, means calendar days.

(*iii*) Amendment no. 3, Sec. 204 (h), p. 28 of Bill 1–157, reduces the time period from 60 days to 30 days in which a tenant may file a petition for audit of the landlord's registration statement.

(*iv*) Amendment no. 4, Sec. 212 (g), p. 40 of Bill 1–157, adds a sentence which allows a decision of the Rent Administrator regarding a rent adjustment to become effective while such decision is under appeal to the Commission.

(*v*) Amendment no. 5, Sec. 401, p. 50 of Bill 1–157 and Sec. 404, p. 52 of Bill 1–157 would strike these two sections. Since a transition is provided for in this emergency bill for the disposition of cases under Regulation 74–20, Sec. 401 of Bill 1–157 under this act is unnecessary. Sec. 404 of Bill no. 1–157 is the effective date for the permanent legislation. The bill before you has its own effective date cited in Section 4, which provides for the period of time for emergency acts.

It must be pointed out that the permanent legislation on Bill No. 1–157 must be amended as noted in amendments 1, 2, 3, and 4 of this transitional rent stabilization bill. Sec. 401 of the permanent Bill 1–157 will be amended upon Final Reading of Bill No. 1–157, when the Council will have passed and the Mayor will have signed the emergency transitional bill which we will act on today.

The language as suggested for Sec. 401 of the permanent bill No. 1–157 in your attachment which reads, "Amendments Needed to Bill No. 1–157 Upon Final Reading" will preclude the filing of double registration statements by landlords under the emergency act and the permanent legislation. We have been assured in conferences with key staff of the Corporation Council's Office that this language will accomplish the Council's intent.

Mr. Chairman, I move for adoption of this emergency transitional rent control act.

[H. Con. Res. 399, 94th Cong. 1st Sess, by Mr. Stuckey on Sept. 17, 1975.]

CONCURRENT RESOLUTION

Resolved by the House of Representatives (*the Senate concurring*), That the Congress disapproves of the action of the District of Columbia Council described as follows: The District of Columbia Rental Accommodations Act of 1975 (Act 1–46) passed by the Council of the District of Columbia on July 29, 1975, signed by the Mayor of the District of Columbia on August 18, 1975, and transmitted to the Congress on September 8, 1975, pursuant to section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

SEPTEMBER 25, 1975.

Re H. Con. Res. 399: To disapprove Act 1–46, the District of Columbia Rental Accommodations Act of 1975.

Memorandum to: Henry Solares, Staff Director, Subcommittee on Commerce, Housing and Transportation, Committee on the District of Columbia, U.S. House of Representatives.

From: Judy Rogers, Special Assistant for Legislation, Executive Office, District of Columbia Government.

At the request of the Chairman of the D.C. Council, a meeting was held yesterday to determine the District's response to H. Con. Res. 399. Present at the meeting were the Mayor, the City Administrator, D.C. Council Chairman, Councilmember Winters, Councilmember Clarke and the D.C. Corporation Counsel, the Acting Director of the Department of Housing, and me. Decisions were made about the District Government representatives at the staff briefing and Subcommittee hearing as reflected below:

(1) At the request of the General Counsel of the House District Committee, Ruby Martin, representatives of the District Government will brief House District Committee staff on the D.C. Rental Accommodations Act of 1975 on Monday, September 29, 1975 at 2 P.M. in Room 1310 Longworth Office Building. Representing the District Government will be the D.C. Corporation Counsel, Mr. C. Francis Murphy, and Ms. Carol Madison, Staff Director of the D.C. Council Committee on Housing and Urban Develp ment, and Mr. Edward Webb, Jr., General Counsel to the D.C. Council.

2. At the Subcommittee hearing on October 1, 1975, the District Government witnesses will be the D.C. Corporation Counsel, Mr. C. Francis Murphy; the Director of the Department of Housing and Community Development, Mr. Lorenzo Jacobs; the Staff Director of the D.C. Council Committee on Housing and Urban Development, Ms. Carol Madison; and the General Counsel of the D.C. Council, Mr. Edward Webb, Jr.

3. Since the House District Committee staff briefing has been rescheduled from Friday, September 26th to Monday, September 29th, I am forwarding to you a copy of the D.C. Council Committee report on the act which is the subject of the disapproval resolution introduced by Congressman Stuckey. This Committee Report, dated July 31, 1975, sets forth the background proceedings leading to enactment of Act 1–46, a summary of the purposes of the Act and a section by section analysis. This report contains information which should prove useful to you in preparing for the hearing and staff briefing. In addition, we are preparing a statement and background materials to be submitted by the Mayor and Council chairman to the Committee. Testimony is also being prepared for the D.C. Corporation Counsel to present October 1st. Please call me if I can be of further assistance. I will serve as the liaison between the District Government and the Committee on H. Con. Res. 399.

○