

District of Columbia Register

MAR 16 1979

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COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D. C. LAW 2-153

"District of Columbia Documents Act of 1978"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 2-96, on first and second readings, November 28, 1978 and December 12, 1978 respectively. Following the signature of the Mayor on December 29, 1978, this legislation was assigned Act No. 2-270, published in the January 26, 1979, edition of the D.C. Register, (Vol. 25, page 6960) and transmitted to Congress on January 19, 1979 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, cites the following legislation as D.C. Law 2-153, effective March 6, 1979.


ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 19, 22, 23, 24, 25, 26, 29, 30, 31
February 1, 2, 5, 6, 7, 8, 9, 13, 14, 15, 16, 20, 21, 22,
23, 26, 27, 28
March 1, 2, 5

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AN ACT

2-319

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 1978

To establish a District of Columbia Office of Documents, to provide a procedure for the preparation and publication of legal documents, 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 Documents Act".

Sec. 2. Creation of the District of Columbia Office of Documents.

(a) Part IV D of Organization Order No. 2, Commissioner's Order No. 67-23, December 13, 1967, creating the Secretariat within the Executive Office of the Mayor, is amended:

- (1) by striking subsection (k); and
- (2) by transferring, as provided in this act, to the District of Columbia Office of Documents all of the powers, duties and functions assigned to the Secretariat under any provision of law relating to the preparation, certification and publication of the District of Columbia Register and all District of Columbia rules, regulations, codes, ordinances and any amendments thereto.

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(b) There is hereby established within the Executive Office of the Mayor (created by Organization Order No. 2, dated December 23, 1967) a District of Columbia Office of Documents which shall be under the supervision and control of an administrator appointed by the Mayor without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

(c) The District of Columbia Office of Documents shall provide for the prompt preparation, editing, printing and public distribution of the District of Columbia Statutes-at-Large, the District of Columbia Register and the District of Columbia Municipal Regulations in accordance with this act.

(d) The Administrator of the District of Columbia Office of Documents (hereinafter also referred to as "Administrator") shall be a member of the District of Columbia Bar. The Administrator shall appoint such employess within the District of Columbia Office of Documents as may be necessary for the prompt and efficient performance of the functions of the Office and for which sufficient appropriation is authorized and provided.

(e) The Administrator shall be paid at a per annum gross rate not to exceed the highest step level of GS-15 of the General Schedule.

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(f) No fewer than seven (7) funded and authorized positions and the attendant funding totaling at least one hundred and fifty thousand dollars (\$150,000) for salaries and personnel benefits for such positions shall be transferred by the Mayor to the District of Columbia Office of Documents.

(g) All property, records and unexpended balances of appropriated funds in the Office of the Secretariat which are currently allotted for legal publications, codification and the District of Columbia Register functions shall be transferred to the District of Columbia Office of Documents. All rules, regulations, documents and other materials assembled or developed by the Mayor's Municipal Code Compilation Project shall be transferred to the Office of Documents.

Sec. 3. Powers of the District of Columbia Office of Documents.

The Administrator of the District of Columbia Office of Documents shall:

(a) supervise, manage and direct the preparation, editing, printing and public distribution of all legal publications of the District of Columbia government including the District of Columbia Statutes-at-Large, the

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District of Columbia Register and the District of Columbia Municipal Regulations in accordance with this act;

(b) promulgate appropriate rules of procedure to implement the provisions of this act;

(c) with the assistance of the Office of the Corporation Counsel, the officer designated by the Chairman of the Council, or legal counsels to agencies and other governmental entities, certify the promulgation, adoption or enactment of documents to be published in accordance with this act;

(d) coordinate with the officer designated by the Chairman of the Council the drafting and preparation of legislation to be published in the District of Columbia Register and the District of Columbia Municipal Regulations;

(e) establish editorial standards for the removal of unnecessary sex-based terminology in documents and for the numbering, grammar and style of all documents to be published pursuant to this act;

(f) except with respect to acts or resolutions of the Council, reject for publication proposed rules, regulations, orders, administrative issuances or ordinances which fail to comply substantially with the publication requirements authorized by this act;

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(g) in accordance with applicable law, procure contracts for the preparation and publication of documents pursuant to this act; and

(h) instruct promulgators of documents to be published under this act concerning the requirements established by the Administrator under this act and the means to comply with those requirements.

Sec. 4. Legal Publications. The District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, secs. 1-1501, et seq.) is amended by adding to the end thereof the following:

"Title III, Legal Publication

"Sec. 301. Definitions.

"For purposes of this title:

"(a) The terms 'Mayor', 'Council', 'District', 'agency', 'rule', 'rulemaking', 'person', 'licensing' and 'regulation' (except when used in the term 'District of Columbia Municipal Regulations') shall have the meaning provided in section 102 of title I of this act;

"(b) the terms 'Commissioner', 'District of Columbia Council', 'Chairman', 'act' and 'District of Columbia courts', shall have the meaning provided in section 103 of the District of Columbia Self-Government

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and Governmental Reorganization Act (87 Stat. 777; D.C. Code, sec. 1-222);

"(c) the term 'Administrator' means the person appointed by the Mayor to supervise and control the District of Columbia Office of Documents in accordance with section 2 of the District of Columbia Documents Act;

"(d) the phrase 'D.C. Code' means the code of the District of Columbia laws as provided for in Chapter 3 of the Act of July 30, 1947 (61 Stat. 636) and any continuations, supplements or revisions thereof authorized by act, Congressional resolution or act; and

"(e) the phrase 'document having general applicability and legal effect' means any document issued under lawful authority prescribing a sanction or course of conduct, conferring a right, privilege, authority or immunity or imposing an obligation, and applicable to the general public, members of a class or persons in a locality, as distinguished from named individuals or organizations. The phrase 'document having general applicability and legal effect' does not include any act to be codified in the D.C. Code or a personnel manual or internal staff directive solely

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applicable to employees or agents of the District of Columbia.

"Sec. 302. Comprehensive Compilation of District of Columbia Municipal Regulations.

"(a) The District of Columbia Office of Documents, established pursuant to the District of Columbia Documents Act, shall supervise, manage, and direct the preparation, editing, publishing and supplementation of an official legal compilation entitled the District of Columbia Municipal Regulations (DCMR). The District of Columbia Municipal Regulations shall be published in a manner to promote efficient public access to all current District of Columbia rules and regulations.

"(b) Except as otherwise provided by law, the following documents shall be accurately compiled in the District of Columbia Municipal Regulations;

"(1) every rule, regulation and document having general applicability and legal effect adopted by the Commissioner, the Mayor, the District of Columbia Council and each agency;

"(2) every act of the Council which is not codified or to be codified in the D.C. Code and which is not enacted in emergency circumstances as provided in

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section 412 of the District of Columbia Self-Government and Governmental Reorganization Act;

"(3) every rule, regulation and document having general applicability and legal effect which is adopted under authority of law by a board, commission or instrumentality of the District of Columbia: PROVIDED, That nothing in this subparagraph shall be construed to apply to the District of Columbia courts;

"(4) any document which the Council by resolution finds to be a document having general applicability and legal effect and which the Council by resolution orders to be printed.

"(c) The District of Columbia Municipal Regulations shall contain the entire text of each document to be compiled under this act without any incorporation by reference unless (1) the publication of the document would be impractical due to its unusual lengthiness; (2) the document is not itself a rule, regulation or document having general applicability and legal effect but is incorporated by reference in a rule, regulation, or document having general applicability and legal effect; (3) a copy of the document incorporated by reference is available to the public at every public library branch in the District of Columbia and at the

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relevant agency headquarters; and (4) the incorporation by reference includes a specific indication of how and where a copy of such document may be inspected and obtained.

"(d) The Administrator shall ensure that the District of Columbia Municipal Regulations shall contain the following research aids:

"(1) a citation or historical note to the original rule or act from which each section in the District of Columbia Municipal Regulations was derived;

"(2) a reference to where the original form of each rule, act, or document contained in the District of Columbia Municipal Regulations can be inspected or copied;

"(3) parallel reference tables indexing the sections of the District of Columbia Municipal Regulations to enabling legislation and other provisions of law which the District of Columbia Municipal Regulations implements;

"(4) major parts organized according to subject matter headings with subdivisions thereof organized according to government agency titles; and

"(5) a comprehensive index relating to sections of the District of Columbia Municipal

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Regulations to subject matter topics and to the organizational units of government.

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"(e) The Administrator may prepare (or procure by contract in accordance with applicable law) and include in the District of Columbia Municipal Regulations annotations of judicial decisions, and other explanatory material relating to any document published in the District of Columbia Municipal Regulations.

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"(f) Each complete edition of the entire District of Columbia Municipal Regulations may be published in segments if it is deemed to be expeditious in the judgment of the Administrator.

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"Sec. 303. The District of Columbia Register.

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"(a) The District of Columbia Office of Documents shall also supervise, manage and direct the preparation, editing and publishing of the District of Columbia Register which shall serve as the only official legal bulletin in the District of Columbia government and the temporary supplement of the District of Columbia Municipal Regulations.

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"(b) The District of Columbia Register shall contain the entire text of the following:

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"(1) every rule, regulations and document having general applicability and legal effect required

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to be but not yet published and integrated in the District of Columbia Municipal Regulations as provided in this title;

"(2) every notice of public hearing issued by an agency;

"(3) every notice of proposed agency rulemaking or repeal and every other document required to be published under the District of Columbia Administrative Procedure Act; and

"(4) every act, resolution, and notice of the Council and any other document requested to be published by the Chairman of the Council or his or her designee.

"(c) The Administrator is authorized to publish in the District of Columbia Register:

"(1) any document requested to be published by the Joint Committee on Judicial Administration in the District of Columbia;

"(2) information on changes in the organization of the District of Columbia government;

"(3) notices of public hearings not published under authority of subsection (a) of this section; and

"(4) such other matters as the Mayor may from time to time determine to be of general public interest.

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"(d) The Administrator may exercise the discretion of omitting from the District of Columbia Register the publication of the entire text of a document if (1) such publication would be unduly cumbersome or expensive and (2) if, in lieu of such publication, there is included in the District of Columbia Register a notice stating the general subject matter of any document so omitted and the specific manner in which a copy of such document may be obtained.

"(e) If the text of an adopted act or rule is the same as the text of the previously published proposed act or rule, the Administrator may insert in the District of Columbia Register a notation to this effect giving the publication date of and citation to the District of Columbia Register issue containing the proposed act or rule.

"(f) If, after a proposed rule has been published initially in the District of Columbia Register, an agency decides to alter the initial text so that the proposed rule is substantially different from the initial text, the agency shall submit the altered text as though for initial publication. The alterations shall be indicated by the use of symbols determined by the Administrator.

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"(g) The District of Columbia Register shall be published on at least each Friday, or, if Friday is a legal holiday, on the next working day. Each year the Administrator shall publish quarterly a cumulative index of all matters published in the District of Columbia Register during the year.

"(h) On each document published in the District of Columbia Register there shall appear the date upon which such document was filed with the Administrator pursuant to section 304. On each issue of the District of Columbia Register there shall appear on its cover the actual date such issue was generally circulated to the public for review and comment: PROVIDED, That should the District of Columbia Register be generally circulated after the cover date shown, a notice stating the correct date shall be attached thereto. All time computations based upon publication in the District of Columbia Register shall commence from the cover date, or if corrected, the date of notice thereof. The provisions of this subsection shall apply to any and all supplemental editions to the District of Columbia Register.

"Sec. 304. Documents to be Filed in the District of Columbia Office of Documents.

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"Any document required or authorized to be published in the District of Columbia Municipal Regulations or the District of Columbia Register shall be filed with the District of Columbia Office of Documents. If a document has been published pursuant to title I of this act and forwarded to the Office of the Secretariat prior to the effective date of the District of Columbia Documents Act, such document need not be filed with the District of Columbia Office of Documents, unless the Administrator otherwise notifies the person responsible for filing the document.

"Sec. 305. Permanent Supplements to the District of Columbia Municipal Regulations.

"At least once each year, every document required to be compiled pursuant to section 302 shall be permanently integrated into the District of Columbia Municipal Regulations by publication of loose-leaf pages or other appropriate permanent supplements of the District of Columbia Municipal Regulations. The index of the DCMR shall be similarly supplemented or reissued.

"Sec. 306. Filing Future Documents with the Administrator.

"Except as provided in section 304, two copies of any document to be published pursuant to this title

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shall be filed with the Administrator. The Administrator shall immediately review filed documents to determine their conformity to the provisions of this title and to editorial standards promulgated by the Administrator. Upon the Administrator's determination of a document's conformity with this act, one copy of such document shall be prepared for publication and one copy kept for permanent historic preservation.

"Sec. 307. Publication Specifications of the District of Columbia Municipal Regulations.

"(a) The District of Columbia Municipal Regulations and its permanent supplements shall be published pursuant to typographical and contractual arrangements which ensure that the District of Columbia Municipal Regulations can be purchased at a reasonable cost in its entirety or in portions of related rules, regulations or documents having general applicability and legal effect.

"(b) Copies of the District of Columbia Municipal Regulations shall be available to the public at each regular branch of the District of Columbia Library System and to each Advisory Neighborhood Commission established by the Council.

"Sec. 308. Legal Effectiveness of Documents.

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"(a) Notwithstanding any other provision of this title, any rule, regulation, or document having general applicability and legal effect which has been adopted or enacted by the Commissioner, the Mayor, the District of Columbia Council, an agency, or other instrumentality of the District before the effective date of this title and which is not published in the District of Columbia Municipal Regulations four hundred and twenty-five (425) days after the effective date of this title shall not be in effect thereafter.

"(b) Except in the case of emergency rules or acts, no rule or document of general applicability and legal effect adopted or enacted on or after the effective date of this title shall become effective until after its publication in the District of Columbia Register, nor shall such rule or document of general applicability and legal effect become effective if it is required by law, other than titles I or III of this act, to be otherwise published, until such rule or document of general applicability and legal effect is also published as required by such law.

"Sec. 309. Errors in Publication Documents.

"The Administrator of the District of Columbia Office of Documents shall correct grammatical or

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typographical errors in the printing of the text of a document in the District of Columbia Statutes-at-Large, the District of Columbia Register or the District of Columbia Municipal Regulations by the publication of an errata list or by publication of the entire document or the affected part of the document in its corrected form so as to indicate the actual corrections which were made.

"Sec. 310. Certification.

"Each part of the District of Columbia Statutes-at-Large, the District of Columbia Municipal Regulations, each permanent supplement of the District of Columbia Municipal Regulations, and the District of Columbia Register shall contain a certificate by the Administrator stating that such part contains all documents required to be published pursuant to this title as of the date of such certificate.

"Sec. 311. Presumption Created by Publication.

"The publication of any document in the District of Columbia Statutes-at-Large, the District of Columbia Municipal Regulations or the District of Columbia Register creates a rebuttable presumption:

"(a) that it was duly issued, prescribed, adopted or enacted; and

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"(b) that all requirements of this title have been complied with.

"Sec. 312. Criminal Penalties.

"Any person who knowingly and wilfully causes any document not to be published in the District of Columbia Statutes-at-Large, the District of Columbia Register, or the District of Columbia Municipal Regulations which is required to be so published pursuant to this act shall be guilty of a misdemeanor and shall be fined not more than \$100 or imprisoned not more than 30 days, or both."

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Sec. 5. Receipts from Sales.

Subsection (i) of section 1 of the Act To grant additional powers to the Commissioners of the District of Columbia, and for others purposes, approved December 20, 1944 (58 Stat. 819; D.C. Code, sec. 1-244(i)), is amended by striking the first sentence of subparagraph (1) thereof and inserting in lieu thereof the following:

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"(1) To purchase and sell maps and to sell copies of and subscriptions to the District of Columbia Statutes-at-Large, the District of Columbia Register, and the District of Columbia Municipal Regulations, including binders therefor (hereinafter referred to as 'material'), at such prices as the Mayor or his

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designated agent may from time to time determine to be necessary to approximate the cost thereof, including the cost of distribution."

Sec. 6. Repealers and Conforming Amendment.

(a) Section 104 of title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Code, sec. 1-1504) is amended as follows:

(1) by striking subsection (a) and inserting in lieu thereof the following:

"(a) The Mayor shall cause to be published the official publications known as the District of Columbia Register and the District of Columbia Municipal Regulations pursuant to title II of this act";

(2) by striking "in the District of Columbia Register pursuant to this section" in subsection (b) and inserting in lieu thereof the following: "in the District of Columbia Register or the District of Columbia Municipal Regulations pursuant to title III of this act"; and

(3) by striking subsections (d) and (e).

(b) Section 106 of title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1207; D.C. Code, sec. 1-1506) is repealed.

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(c) The District of Columbia Codification Act, effective October 8, 1975 (D.C. Law 1-19), is amended as follows:

(1) by striking subsections (a), (b), (c), (d), (e) and (f)(2) of section 204;

(2) by striking "District of Columbia Municipal Code" in subsection (f)(1) of section 204 and inserting in lieu thereof "District of Columbia Municipal Regulations";

(3) by striking the designation "(f)(1)" in section 204;

(4) by striking "; and (3) Mayor's Orders issued during that Council year" in section 205; and

(5) by striking section 207 and inserting in lieu thereof the following:

"Judicial Notice. All courts within the District of Columbia shall take judicial notice of the acts and resolutions published in the District of Columbia Statutes-at-Large."

Sec. 7. Effective Date.

This act shall take effect as provided for acts of the Council of the District of Columbia in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

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