

ENROLLED ORIGINAL

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Columbia
Official Code*

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To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to provide definitions for domicile, hard to fill position, and exceptional circumstances; to require persons appointed to the Excepted and Executive Services to be domiciled in the District at the time of appointment, or become domiciled within 180 days of their appointment; to require current District of Columbia employees to become domiciled within 180 days of the effective date of the Excepted and Executive Service Domicile Requirement Amendment Act of 2002, and to remain domiciled in the District of Columbia for the duration of the appointment; to require an affidavit from the employee that he or she filed and completed the certifications required by this bill within 180 days of his or her hire or 180 days of the effective date of the Excepted and Executive Service Domicile Requirement Amendment Act of 2002; and to require the District of Columbia Office of Personnel to promulgate regulations for granting waivers of the domicile requirements for exceptional circumstances and for hard to fill positions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Excepted and Executive Service Domicile Requirement Amendment Act of 2002".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 301(D.C. Official Code § 1-603.01) is amended by adding new subsections (e-1), (g-1), and (k-1) to read as follows:

**Amend
§ 1-603.01**

"(e-1) The term "domicile" means:

- (1) Physical presence in the District of Columbia; and
- (2) An intent to abandon any and all former domiciles and remain in the District of Columbia during the duration of the appointment.

"(g-1) The term "exceptional circumstances" means conditions or facts that are uncommon, deviate from or do not conform to the norm, or are beyond willful control, which are presented to the personnel authority by an agency hiring an individual to fill a position in the

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Excepted and Executive Services, and which shall be considered by the personnel authority in determining the reasonableness of granting a waiver of the domicile requirement pursuant to sections 906 and 1059.

"(k-1) The term "hard to fill position" means a position so designated by the personnel authority on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and responsibilities and the unusual combination of highly specialized qualification requirements for the position."

(b) Section 906 (D.C. Official Code § 1-609.06) is amended to read as follows:

**Amend
§ 1-609.06**

"Sec. 906. Domicile.

"(a) An appointee to the Excepted Service shall be domiciled in the District of Columbia at the time of his or her appointment or within 180 days of their appointment and shall remain domiciled in the District of Columbia during the period of the appointment, to be considered a bona fide resident. The failure to become a District of Columbia domiciliary or to maintain a District of Columbia domicile shall result in the forfeiture of the position to which the person has been appointed.

"(b) Domicile shall be proven by affirmative acts by an employee who is not a District of Columbia domiciliary and does not maintain a principal place of residence in the District of Columbia at the time of his or her appointment with the District government.

"(c)(1) Proof of domicile within the District of Columbia shall be established by meeting the requirements of subsection (d) of this section.

"(2) An employee shall fulfill the requirements of subsection (d) of this section by filing a sworn affidavit with the Office of Personnel, or its designee, that affirms the employee has undertaken affirmative acts to comply with each requirement and, if a requirement is inapplicable, the reasons why the requirement does not apply.

"(d) An Excepted Service appointee shall establish and certify that the District of Columbia is his or her domicile and principal place of residence as follows:

"(1) When providing proof of District of Columbia domicile, the employee shall have the burden of proof of establishing that the District of Columbia is his or her principal place of residence.

"(2) When the employee is not a domiciliary of the District of Columbia, and does not maintain his or her principal place of residence in the District of Columbia, domicile may be established by the employee providing evidence of the intent to change his or her domicile and acquiring a principal place of residence in the District of Columbia.

"(3) Proof of the intent to change his or her domicile to the District of Columbia and acquire a principal place of residence in the District of Columbia shall include the following documents in addition to the requirements in section 305.3 of the District of Columbia Personnel Regulations:

"(A) A copy of a change of address form filed with the United States Postal Service containing the address of the employee's principal place of residence in the District of Columbia;

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"(B)(i) A copy of an executed contract of sale for the real property that was the employee's principal place of residence at the time of accepting the appointment, if the employee owns a principal place of residence outside of the District of Columbia; or

"(ii) A change in the public records of the state where the employee was domiciled to show that the residence outside of the District of Columbia is no longer the employee's principal place of residence;

"(C) Utility bills, including electric, gas, telephone, cable, water, or other residency related bills associated with occupying real property in the District of Columbia, where the billing and mailing address are the same as the principal place of residence in the District of Columbia of the employee;

"(D) A bank account in the District of Columbia in the name of the employee;

"(E) District of Columbia and federal income tax returns that use the District of Columbia address which is the employee's principal place of residence;

"(F) Professional dues statements mailed to the employee's principal place of residence in the District of Columbia;

"(G) A sworn affidavit from the employee that the administration of the employee's estate is subject to District of Columbia probate and estate taxes;

"(H) Credit card or brokerage account statements mailed to the employee's principal place of residence in the District of Columbia;

"(I) Automobile, health, and life insurance contracts for the employee based upon the employee's principal place of residence in the District of Columbia;

"(J) Mortgage statements for the employee's principal place of residence in the District of Columbia, or an executed lease for the employee's principal place of residence in the District of Columbia; and

"(K) A sworn affidavit from the employee that the employee's income, from any source, is subject to District of Columbia withholding tax and taxation.

"(e) A person hired in the Excepted Service prior to March 16, 1989, who was required to be or become a District of Columbia resident within 180 days of appointment and maintain that residency or forfeit employment, shall continue to be bound by this domicile requirement after March 16, 1989.

"(f) Subsections (a) through (e) of this section shall not apply to any person applying for, or accepting, a position in the Excepted Service as an attorney. The person shall be covered by the provisions of section 801(e).

"(g)(1) Pursuant to rules and regulations which the personnel authority shall prescribe, the personnel authority may grant waivers of the domicile requirements in subsections (a) through (e) of this section for appointees to positions in the Excepted Service presenting exceptional circumstances or for appointees to hard to fill positions.

"(2)The Office of Personnel shall transmit the rules and regulations specifying how waivers shall be implemented for employees presenting exceptional circumstances or for

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employees appointed to hard to fill positions to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not act within the specified 45-day period, the rules and regulations shall be deemed approved.

"(h) A person hired in the Excepted or Executive Service prior to the effective date of the Excepted and Executive Service Domicile Requirement Amendment Act of 2002, passed on 2nd reading on June 4, 2002 (Enrolled version of Bill 14-592), who was required to be or become a District of Columbia resident within 180 days of appointment and maintain that residency or forfeit employment, shall continue to be bound by the terms of the residency requirement in effect at the time of hiring, and any waivers of the residency requirement previously granted to the person shall continue in effect. The requirements of the Excepted and Executive Service Domicile Requirement Amendment Act of 2002, passed on 2nd reading on June 4, 2002 (Enrolled version of Bill 14-592), shall only apply to persons hired after the effective date of the Excepted and Executive Service Domicile Requirement Amendment Act of 2002, passed on 2nd reading on June 4, 2002 (Enrolled version of Bill 14-592)."

(c) Section 1059 (D.C. Code § 1-610.51) is amended as follows:

(1) Strike the section designation "1059. District residency" and insert the section designation "1059. District of Columbia domicile." in its place.

**Amend
§ 1-610.51**

(2) Subsection (a) is amended to read as follows:

"(a) The provisions of section 906 (a) through (h) shall apply to employment in the Executive Service."

Sec. 3. Fiscal impact statement.

This measure requires minimal record keeping on an applicant upon the acceptance of an appointment to the Excepted or Executive Service. Therefore, the fiscal impact on the District of Columbia is minimal since the Office of Personnel, or its designee, will merely have to file the required affidavits and certifications received from or waivers granted to the employee in the personnel file of the appointee upon receipt.

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman
Council of the District of Columbia

Mayor
District of Columbia