

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**D.C. Law 19-293, effective April 27, 2013**  
**(Delayed Applicability; Expiration Date September 30, 2014)**

**20 DCSTAT 956**

**AN ACT**

**Bill 19-938**  
**Act 19-661**  
**effective**  
**February 4,**  
**2013**

**Codification**  
**District of**  
**Columbia**  
**Official Code**  
**2001 Edition**

**District of**  
**Columbia**  
**Flood**  
**Assistance**  
**Fund Act of**  
**2012**

**New**  
**Subchapter**  
**IIB,**  
**Chapter 1,**  
**Title 8**

**New**  
**§ 8-105.71**

*To establish the Flood Assistance Fund Program, the District of Columbia Flood Assistance Fund, and an associated assessment to reimburse District residents for costs related to property damage caused by a sewer-line backup, and to require the Flood Assistance Fund Program to submit a quarterly report to the Council detailing the claims submitted to and reimbursed by the program.*

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “District of Columbia Flood Assistance Fund Act of 2012”.

**Sec. 2. Definitions.**

For the purposes of this act, the term:

(1) “Authority” means the District of Columbia Water and Sewer Authority established pursuant to section 202(a) of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.02(a)).

(2) “Backwater valve” means a device installed in a building drain or branch of a building drain that prevents the backflow of water and sewage into the building’s drainage system.

(3) “District of Columbia Flood Assistance Fund” or “Fund” means the District of Columbia Flood Assistance Fund established in section 4.

(4) “Personal property” means movable property not affixed to land, including goods, wares, merchandise, and household items and furnishings.

(5) “Program” means the Flood Assistance Fund Program established in section 3.

(6) “Property owner” means the owner of residential property or nonresidential property located within the District of Columbia or the owner of personal property, as defined in this section, housed within the District of Columbia.

(7) “Sewer” shall have the same meaning as provided in section 201(9) of the Water and Sewer Authority Establishment and Department of Public Work Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.01(9)).

(8) “Sewer-line backup” means a wastewater backup into a building, which is caused by blockages, flow conditions, or malfunctions within the sewer system. The term “sewer-line backup” does not include wastewater backups resulting from flow conditions caused by overland flooding or blockages, flow conditions, or malfunctions of a private sewer lateral or internal building plumbing.

**Sec. 3. Flood Assistance Fund Program.**

(a) Within 45 days of the effective date of this act, the Mayor shall establish a Flood Assistance Fund Program to reimburse District property owners for damage to personal property and residential property caused directly and exclusively by sewer-line backups that occurred during the time period established in subsection (b)(2)(C) of this section. The Program shall manage the District of Columbia Flood Assistance Fund established in section 4. The Mayor shall designate a Flood Assistance Fund Manager to oversee the Program.

(b)(1) The Flood Assistance Fund Manager shall:

(A) Coordinate with the Authority to determine eligibility requirements for property owners seeking reimbursement through the Flood Assistance Fund;

(B) Contract with a third party outside the District government to examine and evaluate the property damage for which a District property owner is seeking reimbursement;

(C) Establish the qualifications of the third party to evaluate property damage caused by sewer-line backup;

(D) Establish the criteria the third party shall use to evaluate the damage of a property;

(E) Inform District property owners and renters of the establishment of the Fund within 45 days of the effective date of this act;

(F) Create a process to receive and administer claims submitted by District property owners seeking reimbursement through the Fund;

(G) Establish additional Program requirements as needed; provided, that a property owner's mitigation of the property owner's damage is considered as a requirement; and

(H) Coordinate with the Authority to establish a flood assistance fund fee; provided, that the fee shall not exceed \$0.30 per Equivalent Residential Unit per month.

(2) In determining whether a residential property owner shall be eligible for reimbursement through the Program, the Flood Assistance Fund Manager shall require the property owner to establish:

(A) That the property owner owns or rents residential property in the District of Columbia;

(B) That all damage to the residential property described in subparagraph (A) of this paragraph or to personal property housed within the residential property described in subparagraph (A) of this paragraph, for which the property owner is seeking reimbursement, was caused directly and exclusively by a sewer-line backup;

(C) That the sewer-line backup occurred:

(i) After the effective date of this act; or

(ii) Between June 1, 2012 and the effective date of this act;

provided, that the property owner submitted a claim to the Authority seeking reimbursement for property damage related to a sewer-line backup and the claim has not been resolved by the Authority, or the property owner has documentation of property damage related to a sewer-line

backup that occurred during this time period, which the Program considers sufficient to evaluate for the purposes of eligibility for reimbursement; and

(D) That the property owner contacted the Program, in a manner prescribed by the Flood Assistance Fund Manager, or notified the Authority about a sewer-line backup within 48 hours of becoming aware of the damage to the property described in subparagraphs (A) and (B) of this paragraph.

(3) A property owner submitting a claim pursuant to paragraph (2)(C)(ii) of this subsection shall submit the claim no later than 6 months after the effective date of this act.

(4) In determining whether a property owner shall be eligible for reimbursement through the Program, the Flood Assistance Fund Manager shall consider the evaluation of the third party established in paragraph (1)(B) of this subsection.

(5) The Flood Assistance Fund Manager shall establish eligibility requirements, which shall be submitted to the Council for a 45-day period review excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove by resolution the requirements within the 45-day period of review, the requirements shall be deemed approved.

(6) In executing the process to receive and administer claims submitted by District property owners, the Flood Assistance Fund Manager shall:

(A) Make an eligibility determination within 30 days of receipt of a claim for reimbursement;

(B) Notify a property owner, in writing, of the owner's eligibility for reimbursement through the Fund within 7 days of the determination;

(C) Manage the payment of individual claims reimbursed pursuant to this section; and

(D) Remit payment to a property owner within 45 days of issuing a determination that the property owner's claim has been deemed eligible for reimbursement.

(c) The Program shall submit a quarterly report to the Mayor and the Council which, at a minimum, shall include:

- (1) The number of claims submitted;
- (2) The geographic distribution of claims submitted and paid;
- (3) The type of damage compensated by claims paid;
- (4) The processing time for claims and disbursements;
- (5) The total dollar amount of claims paid;
- (6) The Flood Assistance Fund balance; and
- (7) Administrative costs of operating the program.

(d) An action to recover for property damage may not be maintained against the District of Columbia or the Authority by a property owner who submits a claim pursuant to this section and is reimbursed through the Fund for the claim.

(e) Nothing in this section shall be construed to exclude from eligibility for the Program, a District property that is not in compliance with section P3008 of the 2006 International

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**D.C. Law 19-293, effective April 27, 2013**  
**(Delayed Applicability; Expiration Date September 30, 2014)**

**20 DCSTAT 959**

Residential Code or section 715 of the 2006 International Plumbing Code; provided, that upon receiving reimbursement through the Fund, a residential property owner shall install a backwater valve, pursuant to section P3008 of the 2006 International Residential Code and section 715 of the 2006 International Plumbing Code.

(f) No new rights or entitlements are created by this act.

**Sec. 4. District of Columbia Flood Assistance Fund.**

New  
§ 8-105.73

(a)(1) There is established as a nonlapsing fund the District of Columbia Flood Assistance Fund ("Fund"), which shall be used solely for the purposes stated in subsection (b) of this section. The Fund shall be funded by a flood assistance fund fee, established by the Flood Assistance Fund Manager pursuant to section 3. All funds collected from the fee defined in paragraph (3) of this subsection shall be deposited into the Fund and shall be disbursed by the Flood Assistance Fund Manager.

(2) Within 45 days of the effective date of this act, the Mayor shall transmit to the Council a proposed budget for the Fund.

(3) The Authority shall collect a flood assistance fund fee in an amount not to exceed \$0.30 per Equivalent Residential Unit per month from each property in the District; provided, that the fee shall not apply to District-owned properties or ratepayers enrolled in the Authority's Customer Assistance Program.

(4) All funds deposited into the Fund, and any interest earned on the funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be available for the uses and purposes set forth in subsection (b) of this section without regard to fiscal year limitation until September 30, 2014, subject to authorization by Congress.

(b)(1) The money in the Fund shall be used solely:

(A) To reimburse District property owners and renters whose personal property or residential property sustained damage as a result of a sewer-line backup pursuant to section 3; and

(B) To allow the Authority to recover the actual administrative costs associated with collecting the fee on the District's behalf.

(2)(A) Pursuant to paragraph (1)(A) of this subsection, the damage to the residential property or the personal property must have been sustained during the time period established in section 3(b)(2)(C); and

(B) The damage to the residential property or the personal property is not otherwise covered by an insurance policy.

(c) If, at the beginning of a fiscal year, the fund balance of the Fund exceeds the projected annual cost of all programs pursuant to subsection (b) of this section in that fiscal year by at least \$1 million, the Flood Assistance Fund Manager shall suspend payment and the collection of the fee defined in subsection (a)(3) of this section, until the excess is estimated by the Flood Assistance Fund Manager to be under \$500,000.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**D.C. Law 19-293, effective April 27, 2013**  
**(Delayed Applicability; Expiration Date September 30, 2014)**

**20 DCSTAT 960**

(d) If, upon the expiration of this act, there is a balance in the Fund, the excess funds shall be refunded back to the Authority's customers who have paid the fee pursuant to subsection (a)(3) of this section.

**Sec. 5. Applicability.**

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

New  
§ 8-105.74  
Delayed  
Applicability

**Sec. 6. Sunset.**

This act shall expire on September 30, 2014.

New  
§ 8-105.75  
Expiration  
September 30,  
2014

**Sec. 7. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Sec. 8. 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.