

AMENDING THE ACT ENTITLED “AN ACT TO REGULATE THE HEIGHT OF BUILDINGS IN THE DISTRICT OF COLUMBIA” TO CLARIFY THE RULES OF THE DISTRICT OF COLUMBIA REGARDING HUMAN OCCUPANCY OF PENTHOUSES ABOVE THE TOP STORY OF THE BUILDING UPON WHICH THE PENTHOUSE IS PLACED

APRIL 28, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ISSA, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 4192]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 4192) to amend the Act entitled “An Act to regulate the height of buildings in the District of Columbia” to clarify the rules of the District of Columbia regarding human occupancy of penthouses above the top story of the building upon which the penthouse is placed, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

Current federal law sets building height limits for buildings in the District of Columbia. It also allows for certain rooftop structures to be erected to a greater height than these limits, subject to approval by the Mayor of the District. For instance, “mechanical penthouses” over elevator shafts can rise above the height limit, so long as they are set back from the roof edge by a distance equal to their height. This legislation permits certain human occupancy penthouses to be erected to a height that exceeds the statutory limits. Specifically, it permits approval of the erection on rooftops of human occupancy penthouses of a height of one story of 20 feet or less. These would also be subject to the one-to-one setback requirement. Additional structures could not be erected atop the human occupancy penthouse. The Committee anticipates that the District of Columbia Zoning Commission would adapt its regulations to accommodate the erection of those human occupancy penthouses that are allowable under this bill.

BACKGROUND AND NEED FOR LEGISLATION

In 1910, the Heights of Buildings Act was signed into federal law. That law has prohibited New York City-style skyscrapers from being erected in the Nation’s capital. In limiting building heights in the District of Columbia, the Heights Act protects sightlines to the city’s monuments and memorials, and helps to ensure public safety.

The Committee began in early 2012 to determine what, if any, modifications should be made to this 100-year-old law—changes that would empower the residents of the District to determine the shape of their city’s skyline without compromising federal interests—such as maintenance of the prominence of the city’s great architectural symbols.

In the 112th Congress, the Committee held a hearing on the Heights Act, and witnesses provided different perspectives on whether and how to modify the existing law.

Chairman Issa and Delegate Norton subsequently wrote to the National Capital Planning Commission (NCPC) and the Mayor’s Office, asking them to jointly study the Heights Act and recommend changes, if appropriate.

The comprehensive study included significant research as well as a series of meetings held to consider input from experts and the general public alike. Afterward, the Mayor’s Office and NCPC provided separate recommendations.

The Mayor recommended specific increases of the height limits in the downtown area. The Mayor also recommended that the city and NCPC, working together, be permitted to use the City’s comprehensive plan as a tool to adjust height limits outside of the L’Enfant City, without having to go to Congress for statutory approval.

Ultimately—and only after itself considering broader changes—NCPC’s lone recommendation for near-term change was a modest proposal for a specific enhancement to the existing Heights Act.

Under existing law, so-called “mechanical penthouses” that cover elevator shafts or mechanical equipment can be built on rooftops—even if the penthouse exceeds Heights Act limitations—so long as

a one-to-one setback ratio is maintained between the penthouse height and the distance from the side of the penthouse to the edge of the roof, and so long as the city approves the structure.

NCPC recommended that human occupancy be allowed in rooftop penthouses, so long as the setback ratio is maintained, the penthouse does not exceed one story that is no more than twenty feet high—and, again, so long as the city approves the structure.

LEGISLATIVE HISTORY

Limitations on building heights date as far back as the origins of the capital city. In 1791, President Washington promulgated the first regulations on buildings in the city, which included “that the wall of no house [is] to be higher than forty feet to the roof, in any part of the city; nor shall any be lower than thirty-five feet on any of the avenues.” These regulations were later suspended until December 1800 due to cost restraints.

In 1894, following the construction of the 164-foot Cairo Hotel in Northwest Washington, the DC Board of Commissioners approved new regulations restricting building heights in the city. These regulations generally prohibited buildings from being erected whose height exceeded the width of the street in front, and limited the height of residential buildings to fewer than 90 feet and commercial buildings to fewer than 110 feet.

In 1899 and again in 1910, legislation was enacted restricting building heights in the District of Columbia. The 1899 law slightly modified and codified the regulations the Board of Commissioners set five years earlier. The law also allowed for certain architectural elements to be built higher than the limitations. Although the popular belief is that Congress acted to preserve and protect views of the monuments, memorials, and other significant national landmarks in the city, it is more likely that the principal cause for legislation was to address environmental and public safety concerns, as the concept of “skyscrapers” was still new to the country. In fact, the Committee report accompanying the bill cited these concerns.

The 1910 law modified the maximum heights for buildings, added enforcement measures, and for the first time highlighted Congressional interest in maintaining certain characteristics of federal architectural interests within the city. Under the law, no building could be erected higher than the width of the adjoining street plus 20 feet; in residential areas, no building could be constructed higher than 85 feet; in commercial areas, no building could be erected greater than 130 feet; and between First and Fifteenth streets, NW on the North side of Pennsylvania Avenue, the height restriction was capped at 160 feet.

These laws paralleled limitations in many U.S. cities during that time. However, unlike other cities that began modifying height restrictions in 1915, the District of Columbia’s law has been largely unchanged in over 100 years—with the exception that residential buildings are currently permitted to go up to 90 feet. In many instances, however, specific construction projects have been granted exemptions from the law.

On July 19, 2012, the DC Subcommittee held the first hearing on the Height Act. Outside of one witness, the panel generally agreed that some modifications to the law could be beneficial to the city and its residents.

On October 3, 2012, Chairman Issa wrote to Mayor Gray and NCPC Chairman Bryant requesting that they jointly examine the law and offer recommendations on potential changes. On December 2, 2013, the full Committee held a second hearing on the report and recommendations.

Although the city and NCPC came up with separate proposals, an agreement was struck to make this modest change to the law.

SECTION-BY-SECTION

Section 1. Clarification of the rules applying to human occupancy of penthouses in District of Columbia buildings

This section strikes current law that prohibits human occupancy in “mechanical penthouses” on DC buildings. It allows for these penthouses to have human occupancy; and sets the limit for such penthouses at 20 feet or one story.

EXPLANATION OF AMENDMENTS

No amendments were offered.

COMMITTEE CONSIDERATION

On March 12, 2014, the Committee met in open session and ordered reported favorably the bill, H.R. 4192, by voice vote, a quorum being present.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill permits certain human occupancy penthouses to be erected in the District of Columbia to a height that exceeds the statutory limits. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goals and objectives are reflected in the descriptive portions of this report.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 4192 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section

21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 4192 does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 4192 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 4192. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4192 from the Director of Congressional Budget Office:

MARCH 21, 2014.

Hon. DARRELL ISSA,
Chairman, Committee on Oversight and Government Reform
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4192, a bill to amend the Act entitled “An Act to regulate the height of buildings in the Dis-

trict of Columbia” to clarify the rules of the District of Columbia regarding human occupancy of penthouses above the top story of the building upon which the penthouse is placed.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 4192—A bill to amend the Act entitled “An Act to regulate the height of buildings in the District of Columbia” to clarify the rules of the District of Columbia regarding human occupancy of penthouses above the top story of the building upon which the penthouse is placed

CBO estimates that enacting H.R. 4192 would have no effect on the federal budget. The legislation would amend the Height of Buildings Act of 1910, which limits the height of buildings in Washington, D.C. The legislation would allow human occupancy of certain building penthouses that are currently limited to mechanical uses (such as climate control or elevators). Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 4192 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SECTION 6-601.05, DISTRICT OF COLUMBIA OFFICIAL CODE

§ 6-601.05. Street width to control building height; business streets; residence streets; specified properties; structures above top story of building

(a) * * *

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(h) Spires, towers, domes, minarets, pinnacles, penthouses over elevator shafts, ventilation shafts, chimneys, smokestacks, and fire sprinkler tanks may be erected to a greater height than any limit prescribed in this subchapter when and as the same may be approved by the Mayor of the District of Columbia; provided, however, that such structures when above such limit of height shall be fireproof, [and no floor or compartment thereof shall be constructed or used for human occupancy above the top story of the building upon which such structures are placed] *and, except in the case of a penthouse which is erected to a height of one story of 20 feet or*

less above the level of the roof, no floor or compartment thereof shall be constructed or used for human occupancy above the top story of the building upon which such structures are placed; and provided, that penthouses, ventilation shafts, and tanks shall be set back from the exterior walls distances equal to their respective heights above the adjacent roof; and provided further, that a building be permitted to be erected to a height not to exceed 130 feet on lots 15, 804, and 805, square 322, located on the southeast corner of 12th and E Streets Northwest, said building to conform in height and to be used as an addition to the hotel building located to the east thereof on lot 18, square 322; and further provided, that the building to be erected on lots 813, 814, and 820, in square 254, located on the southeast corner of 14th and F Streets Northwest, be permitted to be erected to a height not to exceed 140 feet above the F Street curb; and provided further, that the building to be erected on property known as the Dean Tract, comprising nine and one-fourth acres, bounded on the west by Connecticut Avenue and Columbia Road, on the south by Florida Avenue, and the east by 19th Street, and on the north by a property line running east and west 564 feet in length, said building to cover an area not exceeding 14,000 square feet and to be located on said property not less than 40 feet distant from the north property line, not less than 320 feet distant from the Connecticut Avenue property line, not less than 160 feet distant from the 19th Street property line, and not less than 360 feet distant from the Florida Avenue line, measured at the point on the Florida Avenue boundary where the center line of 20th Street meets said boundary, be permitted to be erected to a height not to exceed 180 feet above the level of the existing grade at the center of the location above described; and provided further, that the design of said building and the layout of said ground be subject to approval by the Fine Arts Commission and the National Capital Planning Commission, both of the District of Columbia; and further provided, that the building to be erected by the Georgetown University for a hospital as a part of the Georgetown University Medical School on parcels 28/31, 28/36 and 28/37 located on the south side of Reservoir Road Northwest in the District of Columbia, approximately opposite 39th Street, plans for which building are on file in the Office of the Inspector of Buildings of the District of Columbia, be permitted to be erected to a height of not to exceed 110 feet above the finished grade of the land, as shown on said plans, at the middle of the front of the building.

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