

AN ACT
D.C. ACT 19-346

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
APRIL 29, 2012

*Codification
District of
Columbia
Official Code*

2001 Edition

2012 Summer
Supp.

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Publisher

To authorize the Commissioner of the Department of Insurance, Securities, and Banking to require fingerprint-based national criminal history record background checks of applicants for certain charters, licenses, and registrations issued by the department; and to amend the 21st Century Financial Modernization Act of 2000 to expand the general powers of the Commissioner.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “DISB Fingerprint-Based Background Check Authorization Act of 2012”.

Title I

Sec. 101. Definitions.

For the purposes of this act, the term:

(1) “Applicant” means an individual, or other person designated by the Commissioner by rule, applying for any of the following:

(A) An initial license as a resident insurance producer pursuant to the Producer Licensing Act of 2002, effective March 27, 2003 (D.C. Law 14-264; D.C. Official Code § 31-1131.01 *et seq.*), or public insurance adjuster pursuant to the Public Insurance Adjuster Licensure Act of 2002, effective March 27, 2003 (D.C. Law 14-256; D.C. Official Code § 31-1631.01 *et seq.*);

(B) A license or registration to be an agent, broker-dealer, investment adviser, or investment adviser representative pursuant to the Securities Act of 2000, effective October 26, 2000 (D.C. Law 13-203; D.C. Official Code § 31-5601.01 *et seq.*);

(C) A charter to open and operate a new bank pursuant to the District of Columbia Regional Interstate Banking Act of 1985, effective November 23, 1985 (D.C. Law 6-63; D.C. Official Code § 26-701 *et seq.*); or

(D) A license, charter, or registration, other than those designated in subparagraphs (A) through (C) of this paragraph, as designated by the Commissioner by rule.

(2) “Commissioner” means the Commissioner of the Department of Insurance, Securities, and Banking.

(3) "Fingerprint" means an impression of the lines on the finger taken for the purpose of identification. The impression may be electronic or in ink converted to an electronic format.

Sec. 102. Fingerprinting and criminal history record background checks.

(a) The Commissioner shall require state and national criminal history record background checks of each applicant for the purpose of determining eligibility for a license, registration, or charter. In order for the Commissioner to obtain and receive national criminal history records from the Federal Bureau of Investigation's Criminal Justice Information Services Division, the Commissioner shall require each applicant to submit a full set of fingerprints, including a scanned electronic or digital fingerprint or a hard copy fingerprint.

(b) The applicant shall bear the cost of administering and processing the fingerprinting and criminal history record background checks. The Commissioner shall establish, by rule, fees to cover the costs associated with the fingerprinting and criminal history record background checks.

(c) The Commissioner may contract for the collection and transmission of fingerprints authorized under this act, including any administrative functions related thereto.

(d) The Commissioner may exchange the fingerprints and other information with, and receive criminal history record background information from, the Metropolitan Police Department and the Federal Bureau of Investigation for the purpose of facilitating determinations regarding eligibility for licensure under this act. The Metropolitan Police Department may exchange this fingerprint data with the Federal Bureau of Investigation.

Sec. 103. Confidentiality.

(a) The Commissioner shall:

(1) Treat and maintain applicants' fingerprints and any criminal history record background information obtained under this act as confidential;

(2) Apply security measures consistent with the Criminal Justice Information Services Division of the Federal Bureau of Investigation's standards for the electronic storage of fingerprints and necessary identifying information; and

(3) Limit the use of records solely for the purposes authorized by this act.

(b) For the purposes of this act, any such records shall:

(1) Not be deemed to be a public record within the meaning of section 3(18) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-502(18));

(2) Not be subject to disclosure, except pursuant to a subpoena issued by order of a court of competent jurisdiction;

(3) Be kept confidential by law and privileged; and

(4) Not be subject to discovery or admissible in any private civil action.

ENROLLED ORIGINAL

Sec. 104. Rules.

The Commissioner, pursuant to the District of Columbia Administrative Procedure Act, approved October 1, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act.

Title II

Sec. 201. The 21st Century Financial Modernization Act of 2000, effective June 9, 2001 (D.C. Law 13-308; D.C. Official Code § 26-551.01 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 26-551.02) is amended by adding a new subsection (7A) to read as follows: Amend
§ 26-551.02

“(7A) “Controlling interest” means:

“(A) More than 50% of the total voting power of all classes of stock of a corporation or more than 50% of the total fair market value of all classes of stock of a corporation;

“(B) More than 50% of the capital or profits in a partnership, association, or other unincorporated entity; or

“(C) More than 50% of the beneficial interests in a trust.”

(b) Section 105 (D.C. Official Code § 26-551.05) is amended by adding a new subsection (b-1) to read as follows: Amend
§ 26-551.05

“(b-1)(1) To determine a financial institution’s eligibility to conduct a regulated activity under the District of Columbia Banking Code, the Commissioner may require each organizer, partner, director, officer, and owner with a controlling interest in the financial institution to submit to the Commissioner his or her fingerprints, contact information, and other identifying information, along with written consent to the performance of a criminal history record background check.

“(2) The Commissioner may exchange the fingerprints and other information with, and receive criminal history record background information from, the Metropolitan Police Department and the Federal Bureau of Investigation for the purposes of facilitating the Commissioner’s determination.

“(3) The individual or financial institution associated with the regulated activity requiring the Commissioner’s determination shall bear the cost of the criminal history record background check and all costs of administering and processing the background check.”

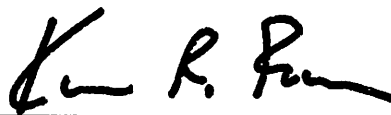
Title III

Sec. 301. Fiscal impact statement.

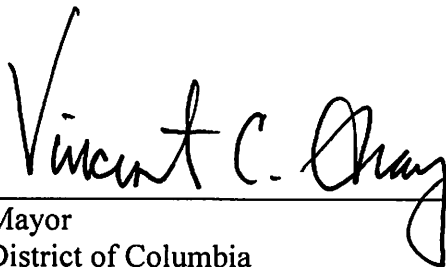
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 302. 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.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
April 29, 2012



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

Docket No. **B19-198**

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 03-06-12

VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

ALL PRESENT

ROLL CALL VOTE – Result _____ (.....)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Brown	X				Catania	X				Orange	X			
Alexander	X				Cheh	X				Wells	X			
Barry	X				Evans	X								
Bowser	X				Graham	X								
Brown, M	X				Mendelson	X								
X – Indicate Vote					AB – Absent					NV – Present, Not Voting				

CERTIFICATION RECORD

Secretary to the Council

4-20-12

Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 04-17-12

VOICE VOTE

RECORDED VOTE ON REQUEST

APPROVED

ABSENT

ALL PRESENT

ROLL CALL VOTE – Result _____ (.....)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Brown	X				Catania	X				Orange	X			
Alexander	X				Cheh	X				Wells	X			
Barry	X				Evans	X								
Bowser	X				Graham	X								
Brown, M	X				Mendelson	X								
X – Indicate Vote					AB – Absent					NV – Present, Not Voting				

CERTIFICATION RECORD

Secretary to the Council

4-20-12

Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

ROLL CALL VOTE – Result _____ (.....)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Brown					Catania					Orange				
Alexander					Cheh					Wells				
Barry					Evans									
Bowser					Graham									
Brown, M					Mendelson									
X – Indicate Vote					AB – Absent					NV – Present, Not Voting				

CERTIFICATION RECORD



Secretary to the Council

Date