

<b>Subject:</b> Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week	
<b>Purpose:</b> To receive testimony – no vote expected	
<b>Analyst:</b> Robert H. Drummer, Senior Legislative Attorney	<b>Committee:</b> HHS
<b>Keywords:</b> #MinimumWorkWeek Other search terms: Building Maintenance Worker, Building Maintenance Employee, Minimum Work Week	

### EXPECTED ATTENDEES

None.

### DESCRIPTION/ISSUE

Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building occupying at least 350,000 square feet in the County. The Bill would also apply to a County government employee working as a building maintenance worker in an office building of at least 350,000 square feet. The Bill would not apply to a person working in a building owned by the United States, any State, or any local government.

### SUMMARY OF KEY DISCUSSION POINTS

- How would this Bill affect the operation of large office buildings in the County?
- Would this Bill increase the numbers of County residents with health insurance?
- Should the law permit some part-time workers?

### This report contains:

Staff Report

1

F:\LAW\BILLS\1912 Human Rights - Building Maintenance Worker - Minimum Hours\PH Cover Sheet.docx

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**MEMORANDUM**

June 13, 2019

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week

PURPOSE: Public Hearing – no Council votes required

Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week, sponsored by Lead Sponsor Councilmember Riemer and Co-Sponsors Councilmembers Jawando, Huckler, Council President Navarro and Councilmember Rice, was introduced on May 7, 2019. A Health and Human Services Committee worksession is tentatively scheduled for June 24, 2019 at 9:30 a.m.<sup>1</sup>

**Background**

Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building occupying at least 350,000 square feet in the County. The Bill would also apply to a County government employee working as a building maintenance worker in an office building of at least 350,000 square feet. The Bill would not apply to a person working in a building owned by the United States, any State, or any local government.

A Complaint may be filed with the County Office of Human Rights. The County Human Rights Commission may award a range of compensatory damages for a violation, including attorney's fees and equitable relief. The Bill would not apply to an employee:

- (1) who earns more than twice the living wage;
- (2) who works as a security officer only on Saturday or Sunday;
- (3) who temporarily replaces a building maintenance worker who is absent for less than one week; and
- (4) of a Federal, State, or local government other than the County.

The Bill would take effect on July 1, 2020.

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<sup>1</sup>#MinimumWorkWeek

## **Fiscal and Economic Impact**

OMB estimated that the Bill would not affect County employees because all Department of General Services employees working in the covered positions are scheduled for 40 hours per week. However, the Bill might affect County contractors providing building services at County owned buildings that occupy more than 350,000 square feet (©9-11). OMB was unable to estimate the fiscal impact on the County due to possible changes in contract prices due to Bill 12-19.

Finance estimated the potential positive effect of increased wages earned by building services workers who were scheduled for 30 hours/week instead of 20 hours/week. Finance was unable to estimate the Bill's effect on the County's economy despite the potential increased wages paid to some workers with more hours because some workers may lose their jobs due to the Bill and the cost to maintain large office buildings may increase (©12-14).

This packet contains:	<u>Circle #</u>
Bill 12-19	1
Legislative Request Report	7
Fiscal and Economic Impact Statement	8

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Bill No. 12-19  
Concerning: Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week  
Revised: May 13, 2019 Draft No. 2  
Introduced: May 7, 2019  
Expires: November 7, 2020  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: July 1, 2021  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Riemer  
Co-Sponsors: Councilmembers Jawando, Hucker, Council President Navarro and Councilmember Rice

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**AN ACT** to:

- (1) require certain employers in the County to provide certain building maintenance workers with a minimum work week;
- (2) provide enforcement by the Office of Human Rights and the Human Rights Commission;
- (3) authorize the Human Rights Commission to award certain relief; and
- (4) generally regulate the minimum work week for certain workers in the County.

By amending

Montgomery County Code  
Chapter 27, Human Rights and Civil Liberties  
Sections 27-7 and 27-8, and

By adding

Montgomery County Code  
Chapter 27, Human Rights and Civil Liberties  
Article XIV, Minimum Work Week for Building Maintenance Workers  
Sections 27-83 and 27-84

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 27-7 and 27-8 are amended and Chapter 27, Article XIV is added as follows:**

**27-7. Administration and enforcement.**

(a) *Filing complaints.* Any person subjected to a discriminatory act or practice in violation of this Article, or any group or person seeking to enforce this Article or Articles X, XI, XII, [or] XIII, or XIV may file with the Director a written complaint, sworn to or affirmed under the penalties of perjury, that must state:

- (1) the particulars of the alleged violation;
- (2) the name and address of the person alleged to have committed the violation; and
- (3) any other information required by law or regulation.

\* \* \*

(f) *Initial determination, dismissal before hearing.*

- (1) The Director must determine, based on the investigation, whether reasonable grounds exist to believe that a violation of this Article or Articles X, XI, XII, [or] XIII, or XIV occurred and promptly send the determination to the complainant and the respondent.
- (2) If the Director determines that there are no reasonable grounds to believe a violation occurred, and the complainant appeals the determination to the Commission within 30 days after the Director sends the determination to the complainant, the Director promptly must certify the complaint to the Commission. The Commission must appoint a case review board to consider the appeal. The board may hear oral argument and must:
  - (A) dismiss the complaint without a hearing;
  - (B) order the Director to investigate further; or

28 (C) set the matter for a hearing by a hearing examiner or the  
 29 board itself, and consider and decide the complaint in the  
 30 same manner as if the Director had found reasonable  
 31 grounds to believe that a violation of this Article or Articles  
 32 X, XI, XII, [or] XIII, or XIV occurred.

33 (3) If the Director determines that there are reasonable grounds to  
 34 believe a violation occurred, the Director must attempt to  
 35 conciliate the matter under subsection (g).

36 \* \* \*

37 **27-8. Penalties and relief.**

38 (a) *Damages and other relief for complainant.* After finding a violation  
 39 of this Article or Articles X, XI, [or] XIII, or XIV, the case review board  
 40 may order the payment of damages (other than punitive damages) and  
 41 any other relief that the law and the facts warrant, such as:

- 42 (1) compensation for:
  - 43 (A) reasonable attorney's fees;
  - 44 (B) property damage;
  - 45 (C) personal injury;
  - 46 (D) unreimbursed travel or other reasonable expenses;
  - 47 (E) damages not exceeding \$500,000 for humiliation and  
 48 embarrassment, based on the nature of the humiliation and  
 49 embarrassment, including its severity, duration,  
 50 frequency, and breadth of observation by others;
  - 51 (F) financial losses resulting from the discriminatory act or a  
 52 violation of Article X or XIV; and
  - 53 (G) interest on any damages from the date of the discriminatory  
 54 act or violation, as provided in subsection (c);

- 55 (2) equitable relief to prevent the discrimination or the violation of
- 56 Articles X, XI, [or] XIII, or XIV and otherwise effectuate the
- 57 purposes of this Chapter;
- 58 (3) consequential damages, such as lost wages from employment
- 59 discrimination or a violation of Article X or higher housing costs
- 60 from housing discrimination, for up to 2 years after the violation,
- 61 not exceeding the actual difference in expenses or benefits that the
- 62 complainant realized while seeking to mitigate the consequences
- 63 of the violation (such as income from alternate employment or
- 64 unemployment compensation following employment
- 65 discrimination); and
- 66 (4) any other relief that furthers the purposes of this Article or Articles
- 67 X, XI, [or] XIII, or XIV, or is necessary to eliminate the effects of
- 68 any discrimination prohibited under this Article.

\* \* \*

**ARTICLE XIV. MINIMUM WORK WEEK FOR BUILDING**  
**MAINTENANCE WORKERS.**

**27-83. Definitions.**

As used in this Article:

Building maintenance worker means an individual employed at a covered location as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent. A building maintenance worker does not include:

- (1) a managerial or confidential employee;
- (2) an employee who works in an executive, administrative, or professional capacity;

81           (3) an employee who earns more than twice the wage requirement  
82           established under Section 11B-33A;

83           (4) an employee who works as a security officer solely on Saturday or  
84           Sunday; or

85           (5) an employee who temporarily replaces a building maintenance worker  
86           who is absent for less than one week.

87           Covered employer means any person, individual, proprietorship, partnership,  
88           joint venture, corporation, Limited Liability Company, trust, association, or  
89           other entity operating and doing business in the County that employs one or  
90           more persons as a building maintenance worker at a covered location in the  
91           County. Covered employer includes the County government, but does not  
92           include the United States, any State, or any other local government.

93           Covered leave means paid or unpaid leave voluntarily used by a building  
94           maintenance worker as authorized by Federal, State, or County law, a collective  
95           bargaining agreement, or a written employee handbook.

96           Covered location means an office building or contiguous group of office  
97           buildings under common ownership or management occupying a total of  
98           350,000 square feet or more in the County. Covered location does not include  
99           an office building or group of office buildings owned by the United States, any  
100           State, or any local government.

101           Director means the Executive Director of the Office of Human Rights and  
102           includes the Executive Director's designee.

103           Employ means to engage a person to work for compensation.

104           Minimum work week means the minimum number of compensated hours  
105           provided to a building maintenance worker in any work week.

106           Office means a room, set of rooms, or a building where the business of a  
107           commercial or industrial organization or of a professional person is conducted.

108 Work week means a fixed regularly recurring period of 168 hours or 7  
109 consecutive 24 hour periods.

110 **27-84. Minimum work week; enforcement.**

111 (a) Minimum work week. The minimum work week for each employee  
112 working as a building maintenance worker at a covered location for a  
113 covered employer must be at least 30 hours unless the employee is taking  
114 covered leave.

115 (b) Complaints. A building maintenance worker who is aggrieved by a  
116 violation of this Article may file a complaint with the Director under  
117 Section 27-7.

118 (c) Retaliation prohibited. A person must not:

119 (1) retaliate against any person for:

120 (A) lawfully opposing any violation of this Article; or

121 (B) filing a complaint, testifying, assisting, or participating in  
122 any manner in an investigation, proceeding, or hearing  
123 under this Article; or

124 (2) obstruct or prevent enforcement or compliance with this Article.

125 **Sec. 2. Effective date.**

126 This Act takes effect on July 1, 2020.

127 *Approved:*

128

\_\_\_\_\_  
Nancy Navarro, President, County Council

\_\_\_\_\_  
Date

129 *Approved:*

130

\_\_\_\_\_  
Marc Elrich, County Executive

\_\_\_\_\_  
Date

## LEGISLATIVE REQUEST REPORT

Bill 12-19

*Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week*

**DESCRIPTION:** Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorman, handyperson, or building superintendent at an office building occupying at least 350,000 square feet in the County. The Bill would also apply to a County government employee working as a building maintenance worker in an office building of at least 350,000 square feet. The Bill would not apply to a person working in a building owned by the United States, any State, or any local government.

**PROBLEM:** Employers of building maintenance workers often schedule a building maintenance worker for less than 30 hours per week to avoid providing health insurance under the Affordable Care Act.

**GOALS AND OBJECTIVES:** Increase the availability of full-time work with health insurance for these workers.

**COORDINATION:** Human Rights, DGS, County Attorney, Office of Procurement

**FISCAL IMPACT:** Office of Management and Budget

**ECONOMIC IMPACT:** Finance

**EVALUATION:** To be done.

**EXPERIENCE ELSEWHERE:** To be researched.

**SOURCE OF INFORMATION:** Robert H. Drummer, Senior Legislative Attorney

**APPLICATION WITHIN MUNICIPALITIES:** N/A

**PENALTIES:** Compensatory damages and attorney's fees.



OFFICE OF MANAGEMENT AND BUDGET

Marc Elrich  
County Executive

Richard S. Madaleno  
Director

MEMORANDUM

May 31, 2019

TO: Nancy Navarro, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*  
Michael Coveyou, Acting Director, Department of Finance *MJC*

SUBJECT: FEIS for Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker – Minimum Work Week

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

cc: Andrew Kleine, Chief Administrative Officer  
Fariba Kassiri, Deputy Chief Administrative Officer  
Debbie Spielberg, Special Assistant to the County Executive  
Dale Tibbitts, Special Assistant to the County Executive  
Lisa Austin, Office of the County Executive  
Barry Hudson, Director, Public Information Office  
David Platt, Department of Finance  
Dennis Hetman, Department of Finance  
Monika Coble, Office of Management and Budget  
Naeem Mia, Office of Management and Budget  
Chrissy Mireles, Office of Management and Budget  
Phil Weeda, Office of Management and Budget

Office of the Director

101 Monroe Street, 14th Floor • Rockville, Maryland 20850 • 240-777-2800  
[www.montgomerycountymd.gov/omb](http://www.montgomerycountymd.gov/omb)

**Fiscal Impact Statement**  
**Council Bill 12-19 Erosion, Human Rights and Civil Liberties – Building Maintenance Workers – Minimum Wage Work**

**1. Legislative Summary.**

The bill requires an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, door person, handy person or building superintendent at an office building occupying at least 350,000 square feet in the County. The bill would also apply to County Government employees working as building maintenance workers in an office building of at least 350,000 square feet. The bill would not apply to a person working in a building owned by the United States, any state, or any local government.

A complaint may be filed with the Office of Human Rights. The County Human Rights Commission may award a range of compensatory damages for a violation of the law, including attorney's fees and equity relief. The bill would not apply to an employee:

- (1) who is earning twice the minimum wage;
- (2) working as a security officer only on Saturday or Sunday;
- (3) temporarily replacing a building service worker who is absent for less than one week; and
- (4) of a Federal, State, or local government other than the County.

The bill will take effect on July 1, 2020.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

The bill should not impact the County. The Department of General Services (DGS) reports existing staff positions that provide custodial services are based on time schedules of 40 hours/week, exceeding the proposed legislation's minimum work week schedule of at least 30 hours. However, the bill may impact current or future vendors providing custodial services on a time and material basis at the Judicial Center, Judicial Center Annex, the Public Safety Headquarters buildings and any other building that the County leases or acquires, which exceeds the square footage (350,000 sq. ft.) established by the proposed legislation. DGS does not certify the contractor's work schedules.

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

Not applicable

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

The proposed legislation will not affect retiree pensions or group insurance costs.

- 5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not Applicable

- 6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

The proposed legislation does not propose future spending.

- 7. An estimate of the staff time needed to implement the bill.**

Per the review of several civil and human rights agencies nationally, with the exception of the District of Columbia (DC), none of them perform the exact function or responsibility required of this legislation. The DC law enacted in 2016, the Building Services Employees Minimum Work Week Act, defines the minimum work week at 30 hours and minimum building size at 350,000 square feet, but does not cover security officers, concierge, door person, handy person, and building superintendents. The Office of Human Rights would require additional staff to implement and enforce this proposed law. The office is unable to estimate its staffing needs as it cannot accurately forecast the number of complaints.

- 8. An explanation of how the addition of new staff responsibilities would affect other duties.**

Not applicable

- 9. An estimate of costs when an additional appropriation is needed.**

Not applicable

- 10. A description of any variable that could affect revenue and cost estimates.**

The number of buildings that have 350,000 square feet or more and the number of potential employers and employees that would be impacted by the proposed legislation could affect both cost and any projected revenues.

- 11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not applicable

- 12. If a bill is likely to have no fiscal impact, why that is the case.**

See number 2 and number 10

- 13. Other fiscal impacts or comments.**

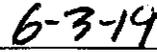
None

**14. The following contributed to and concurred with this analysis:**

James Stowe, Office of Human Rights  
David Dise, Department of General Services  
Karen Plucinski, Office of Human Resources  
Edward Lattner, County Attorney's Office  
Philip Weeda, Office of Management and Budget



Richard S. Madaleno, Director  
Office of Management and Budget



Date

**Economic Impact Statement**  
**Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker –**  
**Minimum Work Week**

**Background:**

This legislation would require certain employers in the County to provide certain building maintenance workers within a minimum work week; provide enforcement by the Office of Human Rights and the Human Rights Commission; and authorize the Human Rights Commission to award certain relief.

Specifically, Bill 12-19 would require an employer to provide a minimum work week of at least 30 hours for each employee working as a janitor, building cleaner, security officer, concierge, doorperson, handyperson, or building superintendent at an office building occupying at least 350,000 square feet. The Bill would also apply to a County government employee but exclude an employee working in a building owned by the federal government, any state government, or any local government.

**1. The sources of information, assumptions, and methodologies used.**

Source of information and data include:

- the Occupational Employment Statistics Program (OESP), Office of Workforce Information & Performance, Maryland Department of Labor, Licensing and Regulation (DLLR), and
- the Annual Report on Benchmarking, Montgomery County Department of Environmental Protection (DEP).

The Department of Finance (Finance) assumes employees in occupations identified under Article XIV, Section 27-83, of the proposed legislation currently work a twenty-hour work week. According to data from DLLR's OESP 2018 report, there are approximately 39,000 employees in the County employed in the occupations noted in the proposed legislation. The hourly wage ranges from \$13.65 to \$22.54 per hour. Assuming the twenty-hour work week, total annual wage income is estimated at approximately \$600 million. Raising the average work week from 20 hours per week to 30 hours per week, the total annual wage income increases from an estimated \$600 million to approximately \$900 million. This assumes no change in the average hourly rate and change in employment.

According to DEP's Annual Report on Benchmarking data January 2018, a building at or above 350,000 square feet gross floor area (GFA) constitute nearly 25 percent of the total building inventory provided by the DEP report.

Not all employment in occupations identified in the legislation work in buildings with over 350,000 GFA. This is the maximum estimated impact as Bill 12-19 is based on where someone works.

**Economic Impact Statement**  
**Bill 12-19, Human Rights and Civil Liberties – Building Maintenance Worker –**  
**Minimum Work Week**

**2. A description of any variable that could affect the economic impact estimates.**

The variables that could affect the economic impact estimates are the number of employees in occupations identified in the proposed legislation, the average hourly wage, the assumption of the current twenty-hour workweek, and the number of buildings with at least 350,000 square feet.

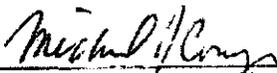
**3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

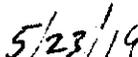
Assuming no change in the number of employees and hourly wage rates, Bill 12-19 could have a positive economic impact on those employees whose weekly hours increased from twenty to thirty hours per week. Based on the DLLR data and calculations by Finance, the annual income could increase by \$7,800. However, the economic impact from that increase in employee income would be offset by an increase in costs to owners of the buildings. Moreover, some building owners may reduce staffing levels by having some employees serve several buildings within their portfolio. The amount of that offset and any reduction in staffing levels is uncertain and cannot be determined at this time.

**4. If a Bill is likely to have no economic impact, why is that the case?**

Please see paragraph 3.

**5. The following contributed to or concurred with this analysis: David Platt, Mary Casciotti, and Rob Hagedoorn, Finance.**

  
\_\_\_\_\_  
Michael Coveyou, Acting Director  
Department of Finance

  
\_\_\_\_\_  
Date

<b>Forty Hour Work Week</b>	<b>Occupation Code</b>	<b>Mean Wage</b>	<b>Annual Hours(1)</b>	<b>Hour Wage</b>	<b>Employment</b>	<b>Total Wages</b>
Security Guards	33-9032	\$44,191	2,080	\$21.25	3,690	\$163,064,790
Supervisor	37-1011	\$46,893	2,080	\$22.54	970	\$45,486,210
Janitor and Cleaners	37-2011	\$28,093	2,080	\$13.51	8,980	\$252,275,140
Building Cleaning Workers (1)	37-2000	\$28,389	2,080	\$13.65	12,690	\$360,256,410
Building Cleaning Workers (2)	37-2019	\$30,728	2,080	\$14.77	12,490	\$383,792,720
Concierges- Doorperson	39-6012	\$33,095	2,080	\$15.91	190	\$6,288,050
<b>TOTAL</b>		<b>35,232</b>		<b>\$16.94</b>	<b>39,010</b>	<b>\$1,211,163,320</b>

Notes (1) Forty Hours Per Week

**Assume Twenty Hours per Week**

Security Guards	33-9032	\$22,096	1,040	\$21.25	3,690	\$81,532,395	
Supervisor	37-1011	\$23,447	1,040	\$22.54	970	\$22,743,105	
Janitor and Cleaners	37-2011	\$14,047	1,040	\$13.51	8,980	\$126,137,570	
Building Cleaning Workers (1)	37-2000	\$14,195	1,040	\$13.65	12,690	\$180,128,205	
Building Cleaning Workers (2)	37-2019	\$15,364	1,040	\$14.77	12,490	\$191,896,360	
Concierges- Doorperson	39-6012	\$16,548	1,040	\$15.91	190	\$3,144,025	
<b>TOTAL</b>		<b>17,616</b>				<b>\$605,581,660</b>	<b>\$15,523.75</b>

**Assume Thirty Hour Per Week**

Security Guards	33-9032	\$33,143	1,560	\$21.25	3,690	\$122,298,593	
Supervisor	37-1011	\$35,170	1,560	\$22.54	970	\$34,114,658	
Janitor and Cleaners	37-2011	\$21,070	1,560	\$13.51	8,980	\$189,206,355	
Building Cleaning Workers (1)	37-2000	\$21,292	1,560	\$13.65	12,690	\$270,192,308	
Building Cleaning Workers (2)	37-2019	\$23,046	1,560	\$14.77	12,490	\$287,844,540	
Concierges- Doorperson	39-6012	\$24,821	1,560	\$15.91	190	\$4,716,038	
<b>TOTAL</b>		<b>26,424</b>				<b>\$908,372,490</b>	<b>\$23,285.63</b>
<b>DIFFERENCE THIRTY - TWENTY</b>						<b>\$302,790,830</b>	<b>\$7,761.88</b>

(7)