

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-521

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Spring
Supp.

West Group
Publisher

To amend the Human Rights Act of 1977 to establish the Commission on Human Rights as a statutory agency and to define the purpose, functions, composition, appointment, and organization of the Commission.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Commission on Human Rights Establishment Amendment Act of 2004".

Sec. 2. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 2-1401.02) is amended as follows:

Amend
§ 2-1401.02

(1) Subsection (d) is amended by striking the phrase "District of Columbia Commission on Human Rights, as established by Commissioner's Order No. 71-224, dated July 8, 1971" and inserting the phrase "Commission on Human Rights, as established under Title IV" in its place.

(2) Subsection (s) is amended by striking the phrase "District of Columbia Commission on Human Rights, as established by Commissioner's Order No. 71-224, dated July 8, 1971" and inserting the phrase "Office of Human Rights" in its place.

(b) A new Title IV is added to read as follows:

"Title IV. Commission on Human Rights.

"Sec. 401. Establishment of the Commission on Human Rights.

"There is hereby established, in the Executive Branch of the District government, a Commission on Human Rights.

"Sec. 402. Purpose and functions.

"The Commission shall serve as an impartial forum for the hearing and deciding of cases of unlawful discrimination in employment, real estate transactions, public accommodations, or educational institutions. The Commission shall hear such cases following a determination by the Office that there is probable cause to believe that an act of unlawful discrimination has

ENROLLED ORIGINAL

occurred. In hearing and deciding such cases, the Commission shall follow the procedures set forth and use, in its discretion, the powers and authority provided in Title III.

“Sec. 403. Composition and appointment.

“(a) The Commission shall consist of 15 members, appointed by the Mayor and confirmed by the Council, in accordance with the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01).

“(b) The Commission members shall be residents of the District of Columbia who have a demonstrated background or interest in human rights.

“(c) The Commission members shall serve 3-year terms. The terms shall be staggered so that 5 positions expire on December 31 of each year.

“(d) The Mayor shall designate one member to serve, at the Mayor’s pleasure, as Chairperson of the Commission.

“(e) Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of the term.

“(f) Commission members who began their service before the effective date of this title shall serve the remainder of their terms.

“(g) Commission members shall serve without compensation, but shall be eligible for reimbursement of expenses as provided in section 1108(d) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08(d)).

“Sec. 404. Organization.

“(a) At the initial meeting of each year, the Commission shall determine its organization and name its officers, other than the Chairperson. The officers serving on the effective date of this title shall serve until the initial meeting of the following year.

“(b) The Commission shall meet at the invitation of the Chairperson or a majority of the members.

“(c) The Commission may establish subcommittees to review issues and make recommendations to the Commission.”.

Sec. 3. Conforming amendment.

Section 2(e)(8) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)(8)), is amended to read as follows:

Amend
§ 1-523.01

“(8) The Commission on Human Rights, established by section 401 of the Human Rights Act of 1977, passed on 2nd reading on July 13, 2004 (Enrolled version of Bill 15-51);”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal

ENROLLED ORIGINAL

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. 5. 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
August 2, 2004

AN ACT

D.C. ACT 15-522

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Spring
Supp.

West Group
Publisher

To amend the District of Columbia Employee Non-Liability Act and the Office of Administrative Hearings Establishment Act of 2001 to provide members of the Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings with protection from liability in the case of a lawsuit filed in connection with the performance of their official duties; to amend the Office of Administrative Hearings Establishment Act of 2001 to clarify the office's jurisdiction over tax assessment protests and to provide that a person who has chosen to challenge a proposed tax assessment by appealing to the office is deemed to have waived a challenge to the proposed tax assessment in any other forum, and to provide that a board or commission may delegate its authority to hear occupational or professional licensing and discipline cases to the office, with the office's final order appealable to the board or commission; and to amend Title 47 of the District of Columbia Official Code to make conforming changes to reflect the Office of Administrative Hearings' jurisdiction for tax assessment protests.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Administrative Hearings Establishment Amendment Act of 2004".

Sec. 2. Section 6 of the District of Columbia Employee Non-Liability Act, approved July 14, 1960 (74 Stat. 520; D.C. Official Code § 2-415), is amended by adding a new subsection (b-1) to read as follows:

Amend
§ 2-415

"(b-1) The District of Columbia shall defend and indemnify members of the Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings, established by section 9 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.06), from claims and suits in law or equity arising from acts or omissions in the course and scope of their official duties, other than willful or bad faith misconduct."

Sec. 3. The Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*), is amended as follows:

(a) Section 6 (D.C. Official Code § 2-1831.03) is amended as follows:

Amend § 2-1831.03

(1) Subsection (b)(4) is amended to read as follows:

"(4) All adjudicated cases of the Office of Tax and Revenue arising from tax protests filed pursuant to D.C. Official Code § 47-4312."

(2) Subsection (c) is amended by striking the word "agencies" and inserting the phrase "agencies, boards, and commissions" in its place.

(3) New subsections (i) and (j) are added to read as follows:

"(i)(1) A board or commission with authority to issue professional or occupational licenses may delegate to the Office its authority to conduct a hearing and issue an order on the proposed denial, suspension, or revocation of a license or on any proposed disciplinary action against a licensee or applicant for a license. The Office's order shall be appealable to the board or commission pursuant to section 19(b).

"(2) A case that was delegated by a board or commission to an administrative law judge or hearing examiner employed by an agency subject to this act shall be deemed to have been delegated to the Office pursuant to this section as of the date that the agency's adjudicated cases became subject to this act.

"(j) A person who has filed a protest of a proposed assessment under D.C. Official Code § 47-4312 and requested a hearing with the Office shall be deemed to have elected adjudication by the Office as the exclusive means of adjudication of all challenges to the proposed assessment, and to have waived any right to adjudication of a challenge to the proposed assessment in any other forum. Nothing in this subsection limits the right of any person to judicial review of an order of the Office pursuant to section 19."

(b) Section 9 (D.C. Official Code § 2-1831.06) is amended by adding a new subsection (d) to read as follows:

Amend § 2-1831.06

"(d) Commission members shall have protection from liability as provided in section 6(b-1) of the District of Columbia Employee Non-Liability Act, approved July 14, 1960 (74 Stat. 520; D.C. Official Code § 2-415(b-1))."

(c) Section 19(b) (D.C. Official Code § 2-1831.16(b)) is amended by adding the following sentence at the end of the subsection:

Amend § 2-1831.16

"A board or commission that delegates a matter pursuant to section 6(i) shall have jurisdiction of any appeal by any party from an order of an Administrative Law Judge issued in that matter."

Sec. 4. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1528 is amended to read as follows:

Amend § 47-1528

"§ 47-1528. Deficiency; request for hearing.

"Assessments of any deficiencies in the tax due under this chapter, or any interest and

penalties thereon, shall be governed by § 47-4312.”

(b) Section 47-1812.05 is amended by striking the first 2 sentences, and inserting the following in their place:

Amend § 47-1812.05

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”

(c) Section 47-2019 is amended by striking everything after the first sentence and inserting the following in its place:

Amend § 47-2019

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”

(d) Section 47-2316 is amended by striking everything after the first 2 sentences and inserting the following in their place:

Amend § 47-2316

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”

(e) Section 47-2410 is amended as follows:

Amend § 47-2410

(1) Subsection (a) is amended by striking everything after the first sentence and inserting the following in its place:

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”

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

“(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable.”

(f) Section 47-2412 is amended as follows:

Amend § 47-2412

(1) Strike the word “Mayor” everywhere it appears, except for its first appearance, and insert the phrase “Office of Administrative Hearings” in its place.

(2) Add a sentence at the end to read as follows:

“This section does not authorize the filing of a request for a hearing with respect to any tax, penalty, or interest that was, or could have been, at issue in any prior proceeding that was conducted by the Superior Court of the District of Columbia or the Office of Administrative Hearings.”

(g) Section 47-2413 is amended by striking the word “Any” and inserting the phrase “Except as provided in § 47-4312, any” in its place.

Amend § 47-2413

(h) Section 47-3717 is amended as follows:

Amend § 47-3717

(1) Subsection (a) is amended by striking everything after the first sentence and inserting the following in its place:

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”

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

“(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the

Mayor or service of a final order by the Office of Administrative Hearings, as applicable.”.

(3) Subsection (c) is amended by striking the phrase “Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor” and inserting the phrase “Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax” in its place.

(i) Section 47-3908 is amended as follows:

Amend § 47-3908

(1) Subsection (a) is amended by striking everything after the first sentence and inserting the following in its place:

“Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.”.

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

“(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable.”.

(3) Subsection (c) is amended by striking the phrase “Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor” and inserting the phrase “Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax” in its place.

(j) Section 47-4217 is amended as follows:

Amend § 47-4217

(1) Subsection (f) is amended to read as follows:

“(f)(1) Assessment of any penalty under this section shall be governed by § 47-4312.

“(2) Any assessment of a penalty that has become final pursuant to § 47-4312 shall be due and payable within 30 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable.”.

(2) Subsection (g) is repealed.

(k) Section 47-4303 is amended by striking the phrase “court,” and inserting the phrase “court, and for the period between the filing of a protest in the Office of Administrative Hearings pursuant to § 47-4312 and the issuance of a final order by the Office of Administrative Hearings,” in its place.

Amend § 47-4303

(l) Section 47-4312 is amended to read as follows:

Amend § 47-4312

“§ 47-4312. Protest of assessment.

“(a) Unless otherwise provided in this title, before a final assessment of a deficiency, interest, or penalties against a person, the Mayor shall send the person a proposed assessment. No later than 30 days after the proposed assessment is sent, the person may file a protest with the Office of Administrative Hearings, and shall serve a copy on the Mayor. The protest shall explain why the deficiency, interest, and penalties should not be assessed.

“(b) If the person fails to file a protest in a timely manner under subsection (a) of this section, the Mayor shall send the person a final assessment of the deficiency, interest, or penalties.

“(c) If a protest is filed in a timely manner under subsection (a) of this section, the

ENROLLED ORIGINAL

Mayor may not issue a final assessment of the deficiency, interest, or penalties, and the Office of Administrative Hearings shall decide, after providing an opportunity for a hearing, whether the deficiency, interest, or penalties are proper. Filing a protest shall be deemed to be an election that the Office of Administrative Hearings shall be the exclusive forum to adjudicate all challenges to the proposed assessment, and shall be deemed to be an irrevocable waiver of any right to adjudication of all such challenges in any other forum. Nothing in this subsection limits the right of any person to judicial review pursuant to § 2-1831.16.

“(d) Nothing in this section or in § 2-1831.03(b)(4) shall limit or preclude any person from appealing any assessment to the Superior Court of the District of Columbia pursuant to § 47-3303, or other applicable law, as an alternative to filing a protest with the Office of Administrative Hearings.

“(e) Except with respect to the election of remedy and the waiver of rights required by subsection (c) of this section and by § 2-1831.03(j), a final order of the Office of Administrative Hearings in any matter in which a protest has been filed shall have the same effect as a final assessment of a deficiency, interest, or penalties, and the Mayor may undertake any lawful collection efforts for any amount that such final order determines is due from any person.

“(f) By October 7, 2004, the Office of Tax and Revenue shall notify in writing any person who filed a timely protest of a proposed assessment with the Office of Tax and Revenue on or before September 30, 2004, of his or her right to file a request for a hearing with the Office of Administrative Hearings on or before November 1, 2004. If any such person does not file a timely request for a hearing pursuant to this subsection, the Mayor shall send the person a final assessment of any deficiency, interest, or penalties.”

(m) Section 47-4406(b) is amended by striking the word “Mayor” and inserting the phrase “Mayor, the Office of Administrative Hearings,” in its place.

Amend
§ 47-4406

(n) Section 47-4433 is amended as follows:

(1) The second sentence of subsection (a) is amended by striking the phrase “and provide a period of at least 30 days after the notice is sent to the taxpayer to file a protest.” and inserting the phrase “that he or she may file a protest with the Office of Administrative Hearings to challenge the proposed refund offset within 30 days of service of the notice.” in its place.

Amend
§ 47-4433

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

“(b) Any notice of refund offset described in subsection (a) of this section shall be governed by the procedures set forth in § 47-4312 for assessments of deficiencies.”

(3) Subsection (c) is amended by striking the word “Mayor” and inserting the phrase “Office of Administrative Hearings” in its place.

(o) Section 47-4451(b) is amended to read as follows:

“(b) If a jeopardy assessment has been made, the taxpayer shall have the right to file, within 5 business days, a protest of the assessment of tax, the seizure of property, or both. The protest shall be governed by the procedures set forth in § 47-4312, except that the 30-day filing

Amend
§ 47-4451

deadline established in § 47-4312(a) shall not apply. If a timely protest is filed, the property seized for the collection of the tax shall not be sold until completion of the proceedings in the Office of Administrative Hearings.”

(p) Section 47-4452(b) is repealed.

Amend
§ 47-4452

Sec. 5. Applicability.

Section 4 shall apply as of October 1, 2004.

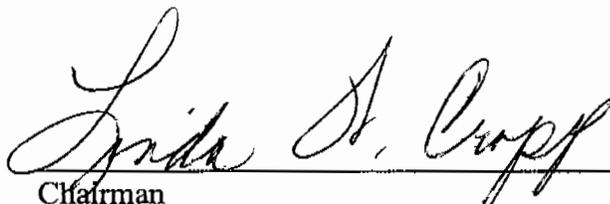
Note,
§ 47-4312

Sec. 6. Fiscal impact statement.

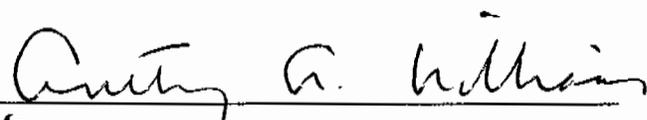
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 7. 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
August 2, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-523

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
AUGUST 2, 2004

Codification
District of
Columbia
Official Code

2001 Edition

2005 Spring
Supp.

West Group
Publisher

To amend the District of Columbia Election Code of 1955 to bring the District of Columbia into compliance with the Help America Vote Act of 2002.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Help America Vote Amendment Act of 2004".

Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code §1-1001.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-1001.02) is amended by adding new paragraphs (22) and (23) to read as follows:

Amend
§ 1-1001.02

“(22) The term “voting system” means:

“(A) The combination of mechanical, electromechanical, or electronic equipment, including the software, firmware, and documentation required to program, control, and support the equipment used to:

- “(i) Define ballots;
- “(ii) Cast and count votes;
- “(iii) Report or display elections results; and
- “(iv) Maintain and produce a permanent record; and

“(B) The practices and documentation used to:

- “(i) Identify system components and versions of components;
- “(ii) Test the system during its development and maintenance;
- “(iii) Maintain records of system errors and defects;
- “(iv) Determine necessary system changes after the initial qualification of the system; and

“(v) Provide voters with notices, instructions, forms, paper ballots, or other materials.

“(23) The term “Help America Vote Act of 2002” means the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat. 1666; 42 U.S.C. § 15301 *et seq.*).”

(b) Section 5 (D.C. Official Code § 1-1001.05) is amended as follows:

Amend
§ 1-1001.05

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

“(a)(1) Accurately maintain a uniform, interactive computerized voter registration list which shall serve as the official voter registration list for all elections in the District, and shall contain the name, registration information, and a unique identifier assigned for every registered voter in the District. The voter registration list shall be administered pursuant to the Help

ENROLLED ORIGINAL

America Vote Act of 2002 and pertinent federal and local law, and shall be coordinated with other District agency databases;”

(B) Paragraph (10) is amended to read as follows:

“(10) Provide information regarding procedures for voter registration and absentee ballots to absent uniformed services voters and overseas voters in federal elections, accept valid voter registration applications, absentee ballot applications, and absentee ballots including write-in ballots from all of those voters, and comply with the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1966 (100 Stat. 924; 42 U.S.C. § 1873ff *et seq.*)”

(C) Paragraph (13) is repealed.

(2) A new subsections (i) and (j) are added to read as follows:

“(i) The Board shall cause the following information to be posted at each polling place on the day of each election for federal office:

“(1) A sample version of the ballot that will be used for the election;

“(2) The election and the hours during which polling places will be open;

“(3) Instructions on the proper manner of completing a ballot, including a special ballot;

“(4) Instructions for mail-in registrants and first-time voters under section 303(b) of the Help America Vote Act of 2002;

“(5) General information on voting rights under applicable federal and District laws, including the right to cast a special ballot and instructions to contact the appropriate officials if these rights are alleged to have been violated, and;

“(6) General information on federal and District law regarding prohibitions on acts of voter fraud and misrepresentation.

“(j) Not later than 90 days after the date of each regularly scheduled general election for federal office, the Board shall submit to the Mayor a report, in the format established by the Federal Election Assistance Commission, on the number of absentee ballots sent to absent uniformed services voters and overseas voters for the election and the number of ballots which were returned by those voters to the Board. The report shall be transmitted by the Mayor to the Election Assistance Commission, and shall be made available to the general public.”

(c) Section 7 (D.C. Official Code § 1-1001.07) is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

“(a-1)(1) No application for voter registration may be accepted or processed by the Board unless the application includes:

“(A) The driver’s license number of the applicant, or

“(B) The last 4 digits of the social security number of an applicant who has not been issued a current and valid driver’s license.

“(2) If an applicant has not been issued a current and valid driver’s license or a social security number, the Board shall assign the applicant the unique identifier assigned pursuant to section 5(a)(1).”

(2) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “Federal Election Commission” and inserting the phrase “Help America Vote Act of 2002” in its place.

(B) Paragraph (2) is amended as follows:

(i) Add the phrase “shall meet the requirements of the National Voter Registration Act of 1993, approved May 20, 1993 (107 Stat. 77; 42 U.S.C. § 1973gg *et seq.*) and the Help America Vote Act of 2002,” after the phrase “approved by the Board”.

Amend
§ 1-1001.07

ENROLLED ORIGINAL

(ii) Add the word "and" after the phrase "approved by the Board".

(iii) Add a sentence to the end to read as follows: "If an applicant fails to properly complete the registration form, the Board's registrar shall notify the applicant and provide the applicant with an opportunity to complete the form in a timely manner prior to the next election."

(3) Subsection (c)(1) is amended by adding a new subparagraph (K) to read as follows:

"(K) The Board and the Bureau of Motor Vehicle Services shall match information in their respective databases to enable each agency to verify the accuracy of the information on applications for voter registration."

(4) Subsection (g) is amended by adding a new paragraph (2A) to read as follows:

"(2A) The Board shall process faxed postcard applications from persons eligible to vote absentee in federal elections in the District of Columbia pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1966 (100 Stat. 924; 42 U.S.C. § 1973ff *et seq.*), which are faxed not later than the 30th day preceding any election."

(5) Subsection (i) is amended by adding a new paragraph (6) to read as follows:

"(6) Each individual who has not previously voted in a federal election in the District and who registers to vote by mail shall present, either at the time of registration, at the polling place, or when voting by mail, a copy of a current and valid government photo identification or a copy of a current utility bill, bank statement, government check, or pay check that shows the name and address of the voter. Individuals who fail to present this identification shall vote by special ballot. This paragraph shall not apply to:

"(A)(i) Individuals whose registration application includes a driver's license number or at least the last 4 digits of the individual's social security number, and matches an existing identification record bearing the same number, name, and date of birth as the application; or

"(ii) Individuals entitled to vote otherwise than in person under federal law."

(d) Section 9 (D.C. Official Code § 1-1001.09) is amended as follows:

(1) A new subsection (d-2) is added to read as follows:

"(d-2) Any individual who votes in a federal election as a result of a court order or other order that extends the time established for closing the polls by a District law in effect 10 days before the date of that election shall vote in that election by casting a special ballot. Any ballot cast under this subsection shall be separated and held apart from other special ballots not affected by the order."

Amend
§ 1-1001.09

(2) Subsection (e) is amended as follows:

(A) Paragraph (2) is amended to read as follows:

"(2) Not later than the Tuesday following the election, the Board shall maintain a toll-free telephone service during regular business hours for any person who has voted by a challenged or special ballot to learn the Board's preliminary decision whether to count or reject his or her ballot and the reason for each decision."

(B) Paragraph (3) is amended to read as follows:

"(3) If the Board has made a preliminary determination that a challenged ballot shall not be counted, it shall afford the challenged voter an opportunity to contest that determination in a hearing before the Board. The hearings authorized pursuant to this paragraph shall take place not earlier than 8 days and not later than 10 days after that election. The Board

ENROLLED ORIGINAL

shall inform the voter of the date scheduled for the hearing and the manner by which he or she may learn the Board's final decision to count or reject the voter's challenged ballot. The notice shall be in writing and shall be provided to the voter at the time of voting. At the hearing, the voter may appear and testify. The Board shall make a final determination within 2 days after the date of the hearing. The voter may appeal the decision of the Board to the Superior Court of the District of Columbia within 3 days after the date of the Board's decision. The decision of the court shall be final and not appealable."

(4) A new subsection (k) is added to read as follows:

"(k) Each voting system used in an election in the District shall meet or exceed the voting system standards set forth in the Help America Vote Act of 2002. The Board may implement additional standards provided they do not conflict with those set forth in the Help America Vote Act of 2002."

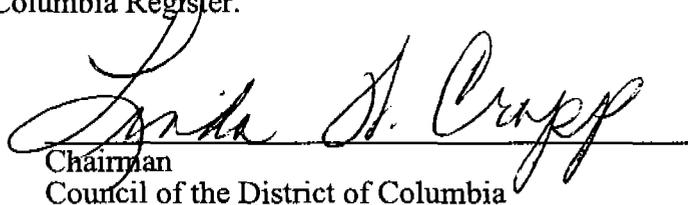
(e) Section 10 (b)(1) (D.C. Official Code § 1-1001.10(b)(1)) is amended by adding the phrase ", except in instances when the time established for closing the polls is extended pursuant to a federal or District court order or any other order." after the phrase "7:00 a.m. to 8:00 p.m."

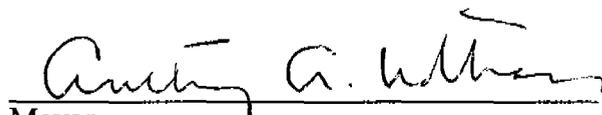
Amend
§ 1-1001.10

Sec. 3. 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. 4. This act shall take effect following approval by the Mayor (or in 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
August 2, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-524

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.

West Group
Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004

To amend, on an emergency basis, due to Congressional review, the District of Columbia Campaign Finance Reform and Conflict of Interest Act to allow members of the Board of Education to receive honoraria without restriction.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Honoraria Congressional Review Emergency Amendment Act of 2004".

Sec. 2. Section 801(a) of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, effective October 18, 1989 (D.C. Law 8-41; D.C. Official Code § 1-1108.01(a)), is amended by striking the phrases "or of the Board of Education" and "or a member of the Board of Education".

Note,
§ 1-1181.01

Sec. 3. Applicability.

This act shall apply as of July 20, 2004.

Sec. 4. Fiscal impact statement.

This act will have no fiscal impact. It amends a limitation as to honoraria received by members of the Board of Education. It does not amend the requirement to report to the Office of Campaign Finance pursuant to section 602(a) of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 467; D.C. Official Code § 1-1106.02(a)), and therefore has no effect on the Office's workload.

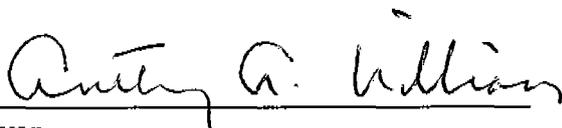
Sec. 5. Effective date.

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), and shall remain in effect for 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the

ENROLLED ORIGINAL

District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
August 2, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-525

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
AUGUST 2, 2004

To authorize, on an emergency basis, the award of Contract No. DS-C-0-920-S-098 and payment for technical support and staffing services already received under the contract.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. DS-C-0-920-S-098 Approval and Payment Authorization Emergency Act of 2004".

Sec. 2. Notwithstanding the requirements of section 105a of the District of Columbia Procurement Practices Act of 1985, effective March 8, 1991 (D.C. Law 8-257; D.C. Official Code § 2-301.05a), Contract No. DS-C-0-920-S-098 for technical support and staffing services is hereby approved and payment is authorized for services rendered under that contract in the amount of \$2,208,638.99, the full amount owed.

Sec. 3. Fiscal impact statement.

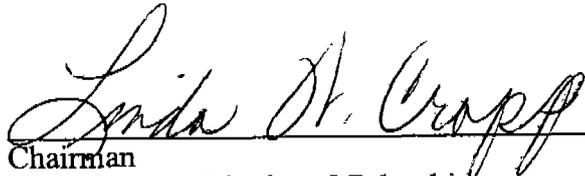
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

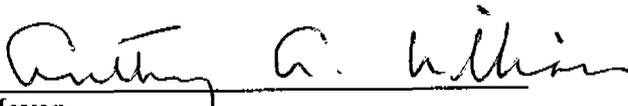
Sec. 4. Effective date.

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), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

ENROLLED ORIGINAL

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
August 2, 2004

ENROLLED ORIGINAL

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.

West Group
Publisher

AN ACT

D.C. ACT 15-526

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 2, 2004

To amend, on an emergency basis, due to Congressional review, Chapter 5 of Title 21 of the District of Columbia Official Code to provide that the commitment of a person for an indeterminate period under section 21-545 of the District of Columbia Official Code shall expire 548 days after the effective date of a federal law enacting provisions of the Mental Health Civil Commitment Act of 2002 that will make all subsequent commitments for a one-year period, unless the chief clinical officer of the Department, facility, hospital, or mental health provider has petitioned for recommitment of the person.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Mental Health Civil Commitment Extension Congressional Review Emergency Act of 2004".

Sec. 2. Chapter 5 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by striking the phrase "21-589.01. Interim provisions for term of commitment for persons committed prior to January 1, 2003." and inserting the phrase "21-589.01. Interim provisions for term of commitment." in its place.

(b) Section 21-589.01 is amended to read as follows:

"§ 21-589.01. Interim provisions for term of commitment.

"(a) The commitment of a person committed under section 21-545 for an indeterminate period of time shall expire 548 days after the effective date of the federal law enacting section 2(d), (e), (l)(2), (r)(3) and (4), (t), and (u) of the Mental Health Civil Commitment Act of 2002, effective April 4, 2003 (D.C. Law 14-283; 50 DCR 917), unless the chief clinical officer of the Department, facility, hospital, or mental health provider has petitioned for recommitment of the person.

Note,
§ 21-589.01

ENROLLED ORIGINAL

“(b) A petition for recommitment under this section shall be subject to the provisions for a petition for renewal of commitment brought under section 21-545.01 unless the provision is inconsistent with this section.

“(c) A petition for recommitment may be filed at any time during the 548-day period, but not later than 60 days prior to the expiration of the 548-day period. For good cause shown, a petition for recommitment may be filed within the last 60 days of the 548-day period.

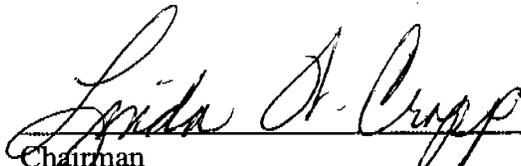
“(d) If a petition for recommitment is pending at the expiration of the 548-day period, the period of commitment shall be extended pending resolution of the petition.”.

Sec. 3. Fiscal impact statement.

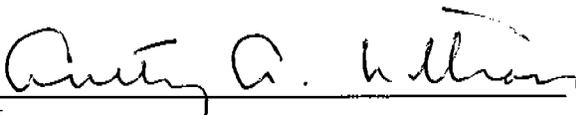
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 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), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
August 2, 2004

ENROLLED ORIGINAL

AN ACT
D.C. ACT 15-527

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
AUGUST 5, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Spring
Supp.

West Group
Publisher

To establish the Anacostia Waterfront Corporation as a corporate body and independent instrumentality of the District government responsible for the development, redevelopment, and revitalization of the lands adjacent to the Anacostia River and associated waterways and for the environmental restoration of the Anacostia River and associated waterways; to amend the National Capital Corporation Act of 1998 to specify the distribution of income between the National Revitalization Capital Corporation, the RLA Revitalization Corporation, and the District; and to amend the Confirmation Act of 1978 to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Anacostia Waterfront Corporation Act of 2004".

TITLE I. ANACOSTIA WATERFRONT CORPORATION
SUBTITLE A. DEFINITIONS.

Sec. 101. Definitions.

For the purposes of this title, the term:

(1)(A) "Anacostia Waterfront" means:

(i) Interstate 395 and all rights of way of Interstate 395, except for the portion of Interstate 95 that is north of E Street, N.W. or N.E.;

(ii) All land, including federal, District, and privately-owned land, between the portion of Interstate 395 that is south of E Street, N.W., or N.E., and the Washington Channel;

(iii) All land, including all federal, District, and privately-owned land, between the portion of Interstate 395 that is south of E Street, N.W. or N.E., and the Anacostia River;

(iv) The portion of Interstate 295 that is north of the Anacostia River and all rights of way of that portion of Interstate 295;

(v) All land, including federal, District, and privately-owned land, between the portion of Interstate 295 that is north of the Anacostia River and the Anacostia River;

ENROLLED ORIGINAL

(vi) The portion of the Anacostia Freeway that is north or east of the intersection of the Anacostia Freeway and Defense Boulevard and all rights of way of that portion of the Anacostia Freeway;

(vii) All land, including federal, District, and privately-owned land, between the portion of the Anacostia Freeway described in sub-subparagraph (vi) of this subparagraph and the Anacostia River;

(viii) All land, including federal, District, and privately-owned land, that is adjacent to the Anacostia River, and designated as parks, recreation, and open space on the District of Columbia Generalized Land Use Map dated January 2002, except for land that is:

- (I) North of New York Avenue, N.E.;
- (II) East of the Anacostia Freeway;
- (III) Contiguous to the portion of the Suitland Parkway

that is south of Martin Luther King Jr. Avenue;

(IV) South of a line drawn along, and as a continuation both east and west of, the center line of the portion of Defense Boulevard between Brookley Avenue, S.W., and Mitscher Road, S.W.;

(ix) All land, including federal, District, and privately-owned land, but excluding Eastern High School, that is:

(I) Adjacent to the land described in sub-sub paragraph (vi) of this subparagraph;

(II) West of the Anacostia River; and
(III) Designated as a local public facility on the District of Columbia Generalized Land Use Map;

(x) All land, including federal, District, and privately-owned land, that is:

(I) South or east of the portion of Potomac Avenue, S.E., between I-295 and 19th Street, S.E.; and

(II) West or north of the Anacostia River;

(xi) The portion of the Anacostia River within the District; and

(xiii) The Washington Channel.

(B) For the purposes of advocacy, technical assistance, and liaison with the federal government only, the term "Anacostia Waterfront" also means the area bounded by the Potomac River to the south; the Key Bridge to the west; the northern edge of the northern sidewalk of Water Street, N.W., to the north; and the eastern edge of the eastern sidewalk of Wisconsin Avenue, N.W., to the east.

(2) "Board" means the Board of Directors of the Corporation.

(3) "Bonds" means revenue bonds, refunding bonds, notes, or other obligations that may be issued by the Corporation under the provisions of this title.

(4) "Chair" means the Chair of the Board.

ENROLLED ORIGINAL

- (5) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia.
- (6) "Code" means the Internal Revenue Code of 1986 and any successor thereto.
- (7) "Corporation" means the Anacostia Waterfront Corporation.
- (8) "Development costs" means all costs and expenses incurred in the purchase, acquisition, protection, financing, construction, expansion, reconstruction, restoration, rehabilitation, repair, interpretation, furnishing, equipping, and operation of an eligible project, including:
- (A) The purchase or lease of land, structures, real property, personal property, rights, rights-of-way, roads, franchises, easements, and interests that are acquired or used for or in connection with an eligible project;
 - (B) The costs and expenses of demolishing or removing buildings or structures in connection with an eligible project;
 - (C) The costs and expenses of acquiring lands to which buildings or structures may be moved or relocated in connection with an eligible project;
 - (D) Utility lines, structures for the delivery of utilities, and equipment charges;
 - (E) Interest costs and expenses incurred before and during construction of an eligible project;
 - (F) Interest costs and expenses incurred during the operation of an eligible project;
 - (G) Reserves for principal and interest for extensions, enlargements, additions, improvements, and extraordinary repairs and replacements;
 - (H) Architectural, engineering, design, consulting, financial, and legal services;
 - (I) Fees for letters of credit, bond insurance, debt service reserve insurance, surety bonds, or similar credit or liquidity enhancement instruments;
 - (J) Costs and expenses of studies, plans, surveys, analyses, and estimates of expenses and revenues in connection with an eligible project;
 - (K) Costs and expenses of issuing bonds;
 - (L) Costs and expenses of determining the feasibility and fiscal impact of financing the acquisition, construction, or development of an eligible project;
 - (M) Initial working capital;
 - (N) Proper allowance for contingencies; and
 - (O) Other forms of assistance.
- (9) "District government" means the government of the District of Columbia.
- (10) "Eligible project" means a project within the Anacostia Waterfront that furthers the purposes of this title and is eligible for assistance under this title.
- (11) "Enhanced services" means, with respect to an area within the District, services of a generally public nature, including the capital costs and operating expenses related

ENROLLED ORIGINAL

to the services, supplementing or in addition to those normally performed or provided by the District government within or benefiting the area. The term "enhanced services" includes:

- (A) Public safety and personal security;
- (B) Fire protection;
- (C) Waste and trash removal;
- (D) Lighting of public rights-of-way and grounds;
- (E) Public transportation;
- (F) Cleaning and clearing of streets, sidewalks, and public grounds;
- (G) Cleaning, painting, repairing, and replacing of public signs, street and park furniture, fountains, rest areas and rest rooms, kiosks, waste receptacles, barriers, and lighting fixtures;
- (H) Repairing, replacing, and marking curbs, gutters, pedestrian ramps, walkways, and parking areas;
- (I) Traffic control;
- (J) Developing standards and designs for, and assistance with, streetscape and storefront improvements; and
- (K) Designing, specifying, installing, planting, removing, maintaining, and replacing landscaping.

(12) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.01 *et seq.*).

SUBTITLE B. ESTABLISHMENT OF ANACOSTIA WATERFRONT CORPORATION; PURPOSES; GENERAL POWERS.

Sec. 102. Establishment of the Corporation; purposes.

(a) The Anacostia Waterfront Corporation is established as a corporate body and independent instrumentality of the District to effectuate public purposes provided for in this title, but with a legal existence separate from that of the District government.

(b) The general purposes of the Corporation are to:

- (1) Develop, redevelop, and revitalize the Anacostia Waterfront;
- (2) Induce, assist, and facilitate efforts to improve the environmental integrity of waterways within the Anacostia Waterfront;
- (3) Promote and advocate for the development, redevelopment, and revitalization of the Anacostia Waterfront;
- (4) Aggregate resources for the development, redevelopment, and revitalization of the Anacostia Waterfront;
- (5) Induce, assist, facilitate, and coordinate public and private investment in the development, redevelopment, and revitalization of the Anacostia Waterfront;
- (6) Represent the District before all federal, regional, state, and District bodies, both public and private, on matters related to the Anacostia Waterfront; and
- (7) Implement, induce, assist, facilitate, and coordinate implementation of the Anacostia Waterfront Framework Plan and small area plans within the Anacostia Waterfront.

ENROLLED ORIGINAL

Sec. 103. Waterfront Framework Plan; consistency with other plans.

(a)(1) The Corporation shall be guided by the Anacostia Waterfront Framework Plan, dated November 2003, as amended or supplemented ("Framework Plan").

(2) The Corporation may amend or supplement the Framework Plan; provided, that a proposed amendment or supplement shall be:

(A) Made available by the Corporation to the public for a 30-day period of public review and comment;

(B) Submitted to the Council for 45-day period of review, excluding Saturdays, Sundays, legal, holidays, and days of Council recess. If the Council does not approve the proposed resolution within the 45-day period, the proposed resolution and the proposed amendment or supplement to the Framework Plan shall be deemed disapproved.

(b) In implementing the Framework Plan, the Corporation shall:

(1) Work to achieve a fair and equitable balance in bringing benefits to and locating projects within all parts of the Anacostia Waterfront;

(2) Ensure that a substantial investment is made in the revitalization of the portion of the Anacostia Waterfront which is east of the Anacostia River; and

(3) Work to provide for the investment of tax increments and other financial benefits from the development, redevelopment, and revitalization of the Anacostia Waterfront in neighborhoods east of the Anacostia River.

(c) The Corporation shall act in a manner consistent with the Framework Plan and any small area plan approved by the Council for an area within the Anacostia Waterfront, and not inconsistent with the Comprehensive Plan of the District.

Sec. 104. General powers of the Corporation.

(a) Notwithstanding any other provision of District law, the Corporation shall have the power to:

(1) Have succession until dissolved as provided in section 132;

(2) Sue and be sued, and complain and defend in its own name;

(3) Adopt, amend, and repeal bylaws, rules, procedures, and regulations as it determines appropriate for the governance and administration of its affairs and the conduct of its business;

(4) Establish subsidiary corporations in accordance with section 113 and consistent with the purposes of this title;

(5) Adopt, alter, and use a corporate seal which shall be judicially noticed; provided, that the absence of the seal on any contract or other document shall not affect its validity;

(6) Maintain offices at the place or places in the District it determines appropriate;

(7) Cooperate with any federal or District governmental or quasi-governmental authority;

ENROLLED ORIGINAL

(8) Act as agent of the District or federal government or their instrumentalities or agencies to undertake development or redevelopment of the Anacostia Waterfront as delegated by these governmental entities;

(9) Take all actions, including contracting with the District or federal government, to facilitate the furnishing, planning, replanning, constructing, installing, opening or closing of streets, roads, alleys, sidewalks, or other places or facilities within the Anacostia Waterfront by the District or federal government;

(10) Take all actions to facilitate the acquisition by the District or the federal government of property options or property rights or to furnish property or services in connection with an eligible project;

(11) Take all actions to facilitate the provision and maintenance of parks, recreational centers, schools, sewerage, transportation, water and other municipal facilities adjacent to or in connection with an eligible project, including contracting with the District or federal government;

(12) Facilitate the planning, re-planning, zoning, or rezoning by the District government of an area within the Anacostia Waterfront;

(13) Assemble, purchase, obtain options on, or acquire by gift, grant, bequest, devise or otherwise, any real or personal property or any interest in real or personal property from any person, firm, authority, municipality or government;

(14) Pursuant to the provisions of this title, acquire by eminent domain real property within the Anacostia Waterfront;

(15) Own, hold, clear, improve, redevelop, rehabilitate, alter, and manage real property within the Anacostia Waterfront;

(16) Pursuant to the provisions of this title, sell, lease or otherwise transfer any real property included as a part of an eligible project;

(17) Procure insurance or guarantees from the District or federal government of the payment of any debts or parts of the debts incurred by the Corporation, and pay premiums in connection therewith;

(18) Borrow from private lenders, the District or federal government, or any other person funds necessary for the operation of the Corporation;

(19) Invest funds held in reserves or sinking funds or any funds not required for immediate disbursement in such investments as may be lawful for executors, administrators, guardians, trustees, and other fiduciaries;

(20) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Corporation;

(21) Consistent with the provisions of this title, hire employees necessary or desirable to fulfill the purposes of the Corporation and fix and adjust their compensation;

(22) Consistent with the provisions of this title, contract with the District or federal government for the services of either of their employees;

ENROLLED ORIGINAL

(23) Engage experts, including advisers, consultants, legal counsel, accountants, general agents, and fiscal agents to aid the Corporation in carrying out the purposes of this title, and fix and adjust their compensation;

(24) Receive grants, appropriations, pledged revenues, or other funds from the District or federal government or instrumentality thereof;

(25) Pursuant to the provisions of this title, make, directly or indirectly, secured or unsecured loans to any purchaser or owner of an eligible project to finance the purchase, construction, rehabilitation, demolition or equipping of an eligible project;

(26) Pursuant to the provisions of this title, make loans to or deposits with any financial institution, with or without requiring collateral security, to enable the financial institution to finance the acquisition, construction, rehabilitation, or equipping of an eligible project; receive interest on deposits with the financial institution; purchase and hold notes or other obligations secured by mortgages, deeds of trust, or security interests in eligible projects or property used as additional security; sell, assign, pledge, or encumber any security, including mortgages or other security agreements held by, granted, or received for the financing of eligible projects; and grant the security, or any rights or remedies related to the security, to any trustee;

(27) Charge and collect fees or charges determined by the Corporation to be appropriate in connection with assistance and enhanced services provided by the Corporation;

(28) Pursuant to the provisions of this title, issue bonds and secure their payment or any part thereof by pledge, mortgage, or deed of trust of all or any part of the property, revenues, or receipts of the Corporation; make agreements with the purchasers or holders of the bonds or others in connection with the bonds, whether issued or to be issued; provide for the security of the bonds by mortgage, pledge or otherwise; and provide for the security of the rights of bond holders;

(29) Settle, adjust, and compromise, and with or without consideration or benefit to the Corporation, release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation;

(30) Indemnify or insure Board members and officers of the Corporation as it determines appropriate;

(31) Reimburse the reasonable removal expenses of any persons who have been displaced as a result of any other government activities related to the development or redevelopment of an eligible project or any activities of the Corporation in accordance with section 209 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, effective January 2, 1971 (84 Stat. 1899; D.C. Official Code § 6-333.01);

(32) Purchase insurance or self-insure against any loss in connection with its property, other assets, or other risks in amounts from insurers as it deems appropriate;

(33) Establish advisory committees or working groups of Board members, professionals, and citizens to aid the Corporation in carrying out the purposes of this title;

(34) Solicit, apply for, accept, receive, hold, administer, use, and dispose of gifts, bequests, donations, grants, trusts, or subsidies of money, services, or property (real,

ENROLLED ORIGINAL

personal, or mixed) from any source to aid the Corporation in carrying out the purposes of this title;

(35) Provide assistance to the District government through information, advice, guidelines, and suggestions for implementing, reorganizing, realigning, or improving programs and services of the District government;

(36) Prepare, publish, and distribute, with or without charge, studies, plans, reports, bulletins, manuals, maps, data, solicitations, promotional products, management software, and other materials relating to the development or redevelopment of an eligible project;

(37) Form or join associations, partnerships, or joint ventures;

(38) Provide enhanced services in connection with eligible projects;

(39) Provide, by vote of the Board, grants or other assistance for the development costs of eligible projects, directly or in participation with any applicant, financial institution, fund, person, or other private or public source of financing, including any department, agency, office, or instrumentality of the federal or District government, and enter into any contract, agreement, or commitment of assistance that the Board determines appropriate;

(40) Take all actions and do all things necessary or convenient to carry out the functions of the Corporation that are not inconsistent with applicable federal or District laws; and

(41) Exercise any other power usually possessed by, and incident to, public enterprises performing similar functions or private business organizations organized under the business laws of the District, respectively, to the extent that the exercise of such powers is not inconsistent with applicable federal or District law or the purposes of this title.

(b) The powers conferred by this title are for public uses and purposes for which public powers may be employed, public funds may be expended, and the power of eminent domain and the police power may be exercised. The granting of such powers is necessary and in the public interest.

SUBTITLE C. BOARD OF DIRECTORS; OFFICERS AND EMPLOYEES.

Sec. 105. Board of Directors — establishment; powers; membership; terms; delegation; compensation.

(a) The powers of the Corporation shall be vested in a Board of Directors which shall consist of the following 12 members:

(1)(A) Seven public citizen voting Board members appointed by the Mayor with the advice and consent of the Council, in accordance with section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code §1-523.01). The nomination of each public citizen Board member shall be submitted to the Council for a 60-day period of review, excluding days of Council recess. If the Council does not approve the nomination by resolution within this 60-day review period, the nomination shall be deemed disapproved.

ENROLLED ORIGINAL

(B) Each public citizen Board member shall be an individual who:

(i) Has demonstrated knowledge of, and competence in, business or entrepreneurial development, labor issues, environmental issues, commercial or residential development, real estate finance or management, community-based redevelopment policies or activities, public management or administration, personnel or procurement administration, municipal finance or law, banking, or finance;

(ii) Is not an officer or employee of the federal government or the District government; and

(iii) Maintains a primary residence in the District throughout the term of the member's incumbency on the Board.

(C) One public citizen Board member shall be selected from the members of the Board of Directors of the National Capital Revitalization Corporation ("NCRC"). A member appointed under this subparagraph shall serve on the Board only during the member's incumbency on the Board of the NCRC.

(D) At least 2 public citizen Board members shall be persons who reside east of the Anacostia River.

(2) Two ex-officio voting Board members who shall be:

(A) The Mayor, or a designee of the Mayor, who shall be a District resident; and

(B) The Chief Financial Officer, or a designee of the Chief Financial Officer, who shall be a District resident; and

(3) Three ex-officio non-voting Board members who shall be:

(A) The Chairman of the National Capital Planning Commission, or a designee of the Chairman;

(B) The Secretary of the United States Department of the Interior, or a designee of the Secretary; and

(C) The Administrator of the United States General Services Administration, or a designee of the Administrator.

(b) Board members shall serve their terms in office as follows:

(1) Each public citizen Board member shall be appointed to a term of 5 years, except that the terms of the first 5 public citizen Board members shall be staggered so that the terms of 2 members expire 5 years after the date of appointment, the term of one member expires 4 years after the date of appointment, and the term of 2 other members expire 3 years after the date of appointment.

(2) The ex-officio Board members shall serve by virtue of their incumbency in their government offices.

(3) A public citizen Board member appointed to fill a vacancy occurring before the end of the term to which that member's predecessor was appointed shall be appointed only for the remainder of the term.

(4) Any public citizen Board member may resign by filing a notice of resignation with the Corporation.

ENROLLED ORIGINAL

(5) When necessary, the Mayor shall remove a public citizen Board member for inefficiency, neglect of duty, malfeasance in office, or conduct bringing disrespect to or impugning the character of the Board or the Corporation.

(c) The Mayor may reappoint a public citizen Board member.

(d) A vacancy on the Board shall be filled in the same manner in which the original appointment was made.

(e) No public citizen Board member may delegate his or her duties to any other person.

(f) Board members shall serve without compensation for their membership and may receive travel, per diem, and other actual, reasonable, and necessary expenses incurred in the performance of their official duties as Board members to the same extent as employees of the District government classified at a grade 15, step 1 of the District Services ("DS") Salary Schedule for Non-Union Employees. No Board member shall receive more than \$10,000 in any calendar year.

Sec. 106. Board of Directors — officers; bylaws and procedures.

(a) The Board shall elect a Chair from among its voting members; provided, that the Mayor shall appoint the initial Chair and the appointment shall be subject to the review and approval of the Council by resolution. The Chair shall serve for a term of 2 years from the date of election or appointment and preside over all meetings of the Board.

(b) The Board shall elect a Vice Chair from among its voting members. The Vice Chair shall serve for a term of 2 years from the date of election and preside over meetings of the Board in the absence of the Chair.

(c) The Board may elect or the Chair may appoint other officers of the Board as the Board determines appropriate. The officers shall be District residents. The officers shall have duties, not inconsistent with this title, as provided in the bylaws of the Corporation or as otherwise determined by the Board.

(e) As soon as practicable after appointment or designation of a majority of its members, the Board shall adopt bylaws to govern its affairs and the conduct of its business.

Sec. 107. Board of Directors — quorum; meetings.

(a) A majority of voting Board members designated or appointed under section 105 shall constitute a quorum for the conduct of business; provided, that a quorum shall consist of not less than 4 of these voting Board members.

(b) The Board shall meet at the times specified in its bylaws, which shall not be less than quarterly each year, and at other times at the call of the Chair or as provided in the bylaws.

(c) All meetings of the Board at which official action is to be taken shall be open to the public; except, the Board may close a meeting to the public when the Board is discussing:

- (1) Personnel matters;
- (2) Communications with legal counsel or attorney work-product;
- (3) Transactions currently in negotiation;
- (4) Agreements containing confidentiality requirements;

ENROLLED ORIGINAL

- (5) Pending litigation;
 - (6) Pending matters involving formal proceedings for enforcement of the Board's bylaws, rules, or regulations; or
 - (7) Information the disclosure of which may constitute a violation of law.
- (d)(1) Minutes shall be recorded, and subject to paragraph (3) of this subsection, shall be made reasonably available for examination by Board members, members of the Council, and members of the public at convenient hours on business days that shall be set and announced for general knowledge.
- (2) Upon request, a Board member or member of the Council shall, subject to paragraph (3) of this subsection, be provided a copy of the books, records, or minutes of the Board.
- (3) The Board may withhold from examination or copying by a Board member or any other person books, records, and minutes regarding:
- (A) Personnel matters;
 - (B) Communications with legal counsel or attorney work-product;
 - (C) Transactions currently in negotiation;
 - (D) Agreements containing confidentiality requirements;
 - (E) Pending litigation;
 - (F) Pending matters involving formal proceedings for enforcement of the Board's bylaws, rules, or regulations; or
 - (G) Information the disclosure of which may constitute a violation of law.

Sec. 108. Officers and employees; personnel system; compensation; benefits.

(a) 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.*) shall not apply to employees of the Corporation, except as otherwise provided in this title.

(b)(1) The Corporation shall establish for all employees, including the chief executive officer and all other officers, a personnel system and adopt written rules and procedures relating to employment matters including appointments, compensation, leave, workers' compensation, employee education and training, promotions, retirement, voluntary and involuntary separations, and other adverse actions. This personnel system and these written rules and procedures shall be submitted to the Council as a proposed resolution for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve the proposed resolution within the 45-day period, it shall be deemed disapproved.

(2) Once the Council has approved the personnel system with its written rules and procedures, any compensation for the chief executive officer or other officer or employee of the Corporation that exceeds the compensation range for salary, benefits, and retirement established in the Corporation's personnel system shall be submitted to the Council as a proposed resolution for a 45-day period of review excluding Saturdays, Sundays, legal

ENROLLED ORIGINAL

holidays, and days of Council recess. If the Council does not approve the proposed resolution within the 45-day period, it shall be deemed disapproved.

(c)(1) The Board shall fix, adjust, and administer the compensation and benefits of the chief executive officer; provided, that the Mayor may fix, adjust, and administer the initial compensation and benefits of the initial chief executive officer. The Board may terminate the employment of the chief executive officer, including the initial chief executive officer.

(2) The Board may fix, adjust, and administer the compensation and benefits for the chief financial officer, the general counsel, or other officer of the Corporation or may delegate to the chief executive officer the authority to fix, adjust, and administer the compensation and benefits for the chief financial officer, the general counsel, or other officer of the Corporation.

(3) Except as provided in paragraphs (1) and (2) of this subsection, the chief executive officer shall fix, adjust, and administer the compensation and benefits for all officers and employees of the Corporation.

(d) The Corporation is authorized to establish and administer its own employment benefits programs for individuals who become employed by the Corporation other than individuals who make an election under subsection (e) of this section.

(e) Each employee of the District government with accrued and vested benefits under health, life, and retirement benefit plans of the District government pursuant to subchapters XXI, XXII, and XXVI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-621.01-1-621.15, 1-622.01-1-622.14 and 1-626.01-1-626.14), who becomes and remains continuously employed by the Corporation may elect to be treated, for the purposes of these District benefit programs, as if the employee had remained continuously in the employ of the District government with all attendant rights, benefits, and privileges that have accrued to and vested in the employee. Any employee whose employment with the District government is restored, shall be entitled to have that employee's service with the Corporation treated, for purposes of determining the applicable leave accrual rate and other benefits, as if the service with the Corporation had been with the District government.

(f) An election made under subsection (e) of this section shall not be effective unless it is made before the employee separates from prior service with the District government, and the employee's service with the Corporation commences within 30-calendar days after so separating (not counting any holiday observed by the District government). If an employee makes an election, the Corporation shall make the same deductions from pay and the same employer contributions for the corresponding programs as would be made if the Corporation were the agency of the District government that employed the employee.

(g) Any regulations necessary to carry out the provisions of subsections (e) and (f) of this section may be promulgated by the Mayor.

(h) No political test or qualification shall be used in selecting, appointing, assigning, promoting, or taking other personnel actions with respect to officers and employees of the Corporation.

ENROLLED ORIGINAL

Sec. 109. Chief executive officer; additional officers.

(a)(1) Except as provided in paragraph (2) of this subsection, the Board shall appoint a chief executive officer, who shall direct and supervise the general management and administrative affairs of the Corporation under terms and conditions prescribed by the Board.

(2) Prior to the appointment of the initial Board members, the Mayor may appoint the initial chief executive officer; provided, that the Mayor shall submit to the Council a proposed resolution to approve the appointment and the compensation and including benefits of a chief executive officer appointed under this paragraph. If the Council does not approve or disapprove the proposed resolution within 60 days, excluding days of Council recess, the proposed resolution shall be deemed disapproved.

(3) The chief executive officer shall be a resident of the District or shall become a resident within 6 months of his or her hiring date and shall remain a District resident for the duration of his or her employment by the Corporation.

(4) The compensation and benefits of the chief executive officer shall be fixed, adjusted, and administered as set forth in section 108.

(b) The Board may appoint other senior officers as the Board deems necessary or desirable. The chief executive officer may appoint additional officers and employees as he or she determines appropriate, subject to the budget of the Corporation.

Sec. 110. Officers and employees — other government employees; outside services.

(a) Upon the request of the Corporation, the Mayor or the governing officer or body of an instrumentality of the District may by delegation, contract, or agreement direct that personnel or other resources of a District department, office, agency, establishment, or instrumentality be made available to the Corporation on a reimbursable or other paid basis to carry out the Corporation's duties. Personnel detailed to the Corporation under this subsection shall not be considered employees of the Corporation, but shall remain employees of the department, office, agency, establishment, or instrumentality from which the employee is detailed.

(b) With the consent of an executive agency, department, or independent agency of the federal government, the Corporation may utilize the information, services, staff, and facilities of that department or agency on a reimbursable or other basis.

(c) In carrying out the Corporation's duties, the Corporation may utilize, to the maximum extent possible, both contract services and pro bono services; provided, that these services shall be itemized in the annual report of the Corporation.

SUBTITLE D. OTHER POWERS AND AUTHORITIES OF THE CORPORATION.

Sec. 111. Assistance for eligible projects.

(a) The Corporation may, upon the approval of the Board, provide economic assistance for eligible projects through the issuance of bonds under section 116, the making of loans or grants, or in any other manner authorized by this title.

ENROLLED ORIGINAL

(b) The Corporation and the person receiving the economic assistance shall enter into a written agreement that shall include a description of the eligible project, the purpose of the assistance, and any terms and conditions related to the provision of the economic assistance.

(c) The Corporation shall establish written criteria for approving, disapproving, or taking no action regarding applications for assistance, and for the types and amounts of assistance to be provided to a project.

(d) The criteria established under subsections (b) and (c) of this section shall be consistent with the law authorizing the provision of the assistance.

(e) Council approval for assistance to an eligible project shall be governed by the law authorizing the provision of the assistance.

Sec. 112. Eminent domain.

(a) The Corporation may acquire and assemble land, real property, easements, and other interests in real property through condemnation of property by eminent domain in furtherance of the public purposes of this title, in accordance with D.C. Official Code § 16-1301 *et seq.* Any exercise of eminent domain power by the Corporation shall require the affirmative vote of a majority of the Board members. The condemnation proceedings shall be brought in the name of the Corporation, and title to the properties shall be taken in the name of the Corporation. The Corporation may not delegate the power of eminent domain to any subsidiary.

(b) Any property acquired through eminent domain under this section shall be located within the Anacostia Waterfront and shall be acquired in connection with an eligible project.

(c) Before condemnation proceedings may be brought by the Corporation, the Corporation shall submit to the Council for a 45-day period of review excluding Saturdays, Sundays, and days of Council recess, a proposed resolution to approve the exercise of eminent domain power. If the Council does not approve or disapprove the proposed resolution in whole or in part within the 45-day period, the proposed resolution shall be deemed disapproved.

Sec. 113. Subsidiaries.

(a) The Corporation may establish one or more for-profit or not-for-profit corporate subsidiaries for, or in connection with, providing any one or more types of assistance authorized by this title, including the administration of capital development, programs, and other activities, and to assist or carry out a project. No subsidiary of the Corporation may have any power that the Corporation does not have. Any contemplated provision of assistance to any person by a subsidiary shall require the approval of the Board.

(b) Prior to establishing a subsidiary under this section, the Corporation shall submit to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess, a proposed resolution to approve the establishment of the subsidiary. If the Council does not approve or disapprove the resolution within the 45-day period, the resolution shall be deemed approved.

(c) In establishing subsidiaries, or in regard to their operations and applications of their income or the Corporation's income from them, the Corporation shall have regard for avoiding

ENROLLED ORIGINAL

the disqualification of the Corporation as an organization exempt under section 501 of the Code, or as an issuer of bonds, the interest on which is intended to be excluded from gross income under section 103 of the Code in respect of the basic activities of the Corporation.

SUBTITLE D. FINANCIAL AFFAIRS; BONDING AUTHORITY.

Sec. 114. Establishment of Enterprise Fund.

(a) There is established the Anacostia Waterfront Corporation Enterprise Fund ("Fund") which shall be operated by the Corporation in accordance with generally accepted accounting principles.

(b) Subject to the provisions made by the Corporation pursuant to this title for security of revenue bonds, all revenues, proceeds, and moneys from whatever source derived which are collected or received by the Corporation shall be credited to the Fund and shall not, at any time, be transferred to, lapse into, or be commingled with the General Fund of the District, the Cash Management Pool, or any other funds or accounts of the District.

Sec. 115. Revolving funds; reserve funds.

(a) The Corporation may establish one or more revolving funds to provide any type of assistance authorized by this title, including the administration of capital development programs and other activities.

(b) Payments received by the Corporation as returns on investment from assistance provided by the Corporation from any revolving fund may be deposited into the revolving fund from which assistance was made or into any other revolving fund established by the Corporation as it determines appropriate, and may be transferred between revolving funds as the Board determines appropriate. Funds received by the Corporation from any other source which are not required to be otherwise disposed of may be deposited into any revolving fund established by the Corporation and transferred between revolving funds as the Board determines appropriate. Funds deposited into any revolving fund established by the Corporation shall be available to the Corporation for assistance under this title, including the involvement of the Corporation in partnerships, joint ventures, or other equity arrangements, and to pay all expenses of the Corporation necessary and incident to furthering the purposes of this title.

(c) The Corporation may establish one or more special or reserve funds in furtherance of the purposes of this title. The Corporation may manage its special or reserve funds.

(d) All authority with respect to funds, revolving funds, and accounts shall be subject to any special provisions made in documents pertaining to outstanding bonds of the Corporation.

(e) Subject to provisions contained in the financing documents pertaining to bonds issued by the Corporation and, notwithstanding other laws, all funds and revenues of the Corporation received by the Corporation from any source that are not required to be disposed of shall be held, administered, and invested by the Corporation as the Board shall direct, or deposited with, and invested by, an institution, trustee, fiduciary, or other custodian designated by the Corporation and disbursed as the Corporation shall direct.

ENROLLED ORIGINAL

(f) The Corporation shall have the power to contract with the holders of its bonds as to the custody, collection, security, investment, and payment of any monies of the Corporation and of any monies held in trust or otherwise for the payment of bonds.

Sec. 116. Revenue bonds, notes, or other obligations; loans and grants.

(a) In accordance with section 490 of the Home Rule Act, the Council authorizes the Corporation to approve, by resolution of the Board, the issuance of taxable and tax-exempt revenue bonds, including refunding revenue bonds at or before maturity, to provide assistance in financing, refinancing, and reimbursing development costs of eligible projects, and all undertakings authorized pursuant to section 490(a)(1) of the Home Rule Act, that are in furtherance of, and not inconsistent with, the purposes of this title. For those authorized purposes, the Council delegates to the Corporation its authority to issue bonds under section 490, including the powers thereunder to provide for the authorization, security, sale, and issuance of such bonds consistent with this title. This delegation is not exclusive and does not restrict, impair, or supersede the authority otherwise by law in any District instrumentality.

(b) Prior to issuing bonds under this section, the Corporation shall submit to the Council a resolution of eligible project approval accompanied by a summary description of the proposed project and a listing of the public purpose benefits to be derived from the proposed undertaking for a 60-day period of Council review excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed resolution within the 60-day period of review, the proposed resolution shall be deemed approved.

(c) The Board may delegate to the chief executive officer, chief financial officer, or any one or more officers of the Corporation the authority to prescribe the terms and conditions of the bonds, but the Board by its resolution shall provide for the available revenues to be pledged to secure the bonds.

(d) No member of the Board, officer or employee of the Corporation shall be personally liable by reason of the issuance of bonds.

(e) A pledge by the Corporation of available revenues collected by or on behalf of the Corporation as security for an issue of bonds shall be valid and binding from the time the pledge is made. The available revenues and receipts pledged shall immediately be subject to the lien of the pledge without physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract, or otherwise against the Corporation or the District government irrespective of whether the person has notice. Notwithstanding any other law, the filing or recording of any resolution, trust, agreement, management agreement, financing statement, continuation statement, or other instrument adopted or entered into by the Corporation in any public record is not required in order to perfect the lien against third persons.

(f) The signature of any officer of the Corporation that appears on a bond, including bonds not yet issued or delivered, shall remain valid notwithstanding that person has ceased to hold that office.

ENROLLED ORIGINAL

(g) The Corporation may secure bonds by a trust agreement between the Corporation and a corporate trustee. A trust agreement of the Corporation may contain provisions for protecting and enforcing the rights and remedies of holders of bonds in accordance with the provisions of the resolution authorizing the sale of bonds, and any other provision which may be included in the bond authorizing resolution under this section.

(h) Subject to preexisting agreements with the holders of bonds, the Corporation may redeem or purchase its own bonds which may then be canceled or reissued.

(i) The Corporation may enter into agreements with agents, banks, insurers, or others for the purpose of enhancing the marketability of or security for its bonds.

(j) Bonds of the Corporation are legal investments in which public officers and public bodies of the District, insurance companies and associations and other persons carrying on an insurance business, banks, bankers, banking institutions, including savings and loan associations, investment companies and other persons carrying on a banking business, administrators, guardians, executors, trustees and other fiduciaries, and other persons authorized to invest in bonds or in other obligations of the District, may legally invest funds, including capital, in their control. The bonds are also securities which legally may be deposited with and received by public officers and public bodies of the District or any agency of the District for any purpose for which the deposit of bonds or other obligations of the District is authorized by law.

(k) Bonds of the Corporation shall not constitute an indebtedness of the District. The bonds of the Corporation are not general obligations of the District and are not secured by a pledge of the full faith and credit of the District and the holders of the Corporation's bonds may not require the levy or imposition by the District of any taxes or, except as provided in the applicable District law, the application of any District tax receipts, revenues or funds to the payment of those bonds. All bonds issued by the Corporation shall contain on their faces a statement setting forth the qualifications of this subsection.

(l) Bonds issued pursuant to this title shall be special obligations of the Corporation payable and secured solely from and by the sources, property, and assets provided for the purpose pursuant to this title and any related District law and to the extent provided for in the financing documents relating to the bonds.

(m) Regardless of their form or character, bonds of the Corporation are negotiable instruments for all purposes of subtitle I of title 28 of the District of Columbia Official Code, subject only to the provisions of the bonds for registration.

(n) Bonds issued by the Corporation and the interest thereon are exempt from District taxation except estate, inheritance, and gift taxes.

(o) The Corporation may cause any resolution of the Board authorizing bonds referred to in this subsection as a bond resolution, to be filed for public inspection and may thereupon cause to be published in a newspaper of general circulation in the District a notice stating the fact and date of the bond resolution and the place where the bond resolution has been filed for public inspection and also the date of the first publication of that notice. The notice shall also state that any suit, action, or proceeding of any kind or nature in any court questioning the

validity or proper authorization of bonds provided for by the bond resolution or the validity of any covenants or agreements provided for by the bond resolution or any financing document securing the bonds authorized by the bond resolution shall be commenced within 20 days after the first publication of that notice. If after the notice is published no suit, action, or proceeding is brought questioning the validity or proper authorization of bonds provided for by the bond resolution referred to in the notice, or the validity of any covenants or agreements provided for by the bond resolution or any financing documents securing the bonds authorized by the notice, then all persons shall be forever barred and foreclosed from instituting or commencing any proceeding questioning the validity or proper authorization of the bonds, or the validity of any covenants and agreements, and the Corporation shall be conclusively deemed to have been authorized to exercise the powers delegated to the Corporation under this title, and the bonds, covenants, and agreements shall be conclusively deemed to be valid and binding obligations of the Corporation as provided in this title.

Sec. 117. District pledges.

The District pledges to the holders of outstanding bonds issued by the Corporation that the District will not limit or alter the rights in the Corporation to fulfill agreements made with holders of the bonds until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of the bonds are fully met and discharged or fully provided for. The Corporation is authorized to include this pledge of the District in any agreement with the holders of the bonds.

Sec. 118. Tax-exempt status.

(a) Real property owned by the Corporation, or any not-for-profit subsidiary thereof, shall be exempt from taxation; provided, that when the real property is sold or leased by the Corporation or any of its subsidiaries to a person other than the Corporation or any of its subsidiaries, the real property shall be subject to taxation from the date of transfer by the Corporation.

(b) The Corporation, any not-for-profit subsidiary of the Corporation, and their income, property, transactions, and right to do business shall be exempt from any taxation, direct or indirect, within the District, including any sales, use, franchise, gross sales or receipts, income, personal property, transfer, or excise tax.

Sec. 119. No taxing power.

Notwithstanding any other provision of this title, the Corporation shall not have any power to impose, assess and levy any taxes.

Sec. 120. Fiscal year.

The fiscal year of the Corporation shall be the fiscal year of the District government.

ENROLLED ORIGINAL

SUBTITLE F. RELATION TO OTHER GOVERNMENT ENTITIES.

Sec. 121. Corporation's review of plans and projects of District agencies.

(a) All plans and projects related to the Anacostia Waterfront that may be developed by the District or an agency or instrumentality of the District ("government entity") shall be subject to the review and comment of the Corporation.

(b) Written notice shall be given by a government entity to the Corporation at least 30 days prior to approving a plan or implementing a project.

(c) The Corporation may provide comments and recommendations to the government entity within the 30-day period. The comments and recommendations of the Corporation, if any, shall be in writing and shall articulate the basis for the comment or recommendation.

(d) The issues and concerns raised by the Corporation shall be considered during the deliberations by the government entity. Such consideration requires acknowledgement of the Corporation as a source of the recommendations and explicit reference to each of the Corporation's issues and concerns. In all cases the affected government entity is required to articulate its decision in writing. The written rationale of the decision shall articulate the reasons why the Corporation does or does not offer persuasive advice with respect to each issue and concern raised by the Corporation. Further, the affected government entity is required to support its position on the record.

(e) At the close of the 30-day notice period, the government entity may make its decision. The government entity shall promptly send to the Corporation a copy of its written decision.

(f) The Corporation shall not have the power to initiate a legal action in the courts of the District or in the federal courts regarding the actions of a government entity pursuant to this section; provided, that this limitation does not apply to or prohibit any Board member from bringing suit as a citizen.

Sec. 122. Expedited consideration by other agencies.

The Mayor, the departments, commissions, agencies, and offices of the District government, and the boards of independent District agencies, commissions, establishments, and instrumentalities shall give expedited consideration to applications for licenses, permits, financing, and other approvals of eligible projects for which the Corporation is primarily responsible or to which the Corporation has provided or proposes to provide assistance. Approvals of the licenses, permits, financing, and other applications shall not be denied, withheld, or delayed unreasonably.

SUBTITLE G. RELATION TO OTHER LAWS AND POLICIES.

Sec. 123. Relation to other laws.

(a) Except as otherwise provided in this title:

ENROLLED ORIGINAL

(1) No District laws, rules, or orders governing procurement or administrative procedures shall apply to the Corporation, its activities, Board members, or officers or employees of the Corporation, or any subsidiary thereof;

(2) The Corporation and its subsidiaries shall comply with all applicable laws and regulations, including laws and regulations related to zoning, historic preservation, environmental protection, and permitting processes and procedures.

(3) Nothing in this title shall affect the authority of any other agency or instrumentality of the District government.

(b)(1) Any project developed or assisted by the Corporation or a subsidiary thereof shall comply with An Act To provide for voluntary apprenticeship in the District of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1401 *et seq.* ("Voluntary Apprenticeship Act"); the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Code § 2-219.01 *et seq.*); and the Hotel Development Projects Labor Peace Agreement Act of 2002, effective April 2, 2003 (D.C. Law 14-266; D.C. Code § 32-851 *et seq.*).

(2) All developers, contractors, and subcontractors on these projects shall be responsible for complying with the requirements of these laws.

(3) In implementing the Voluntary Apprenticeship Act, there shall be a preference that not less than 30% of the apprenticeship opportunities are designated for residents residing east of the Anacostia River.

Sec. 124. Utilization of local, small, and disadvantaged business enterprises; hiring of District residents.

(a) Notwithstanding any other provision of this title, the Corporation shall exercise its contracting and procurement authority in such a way as to meet the contracting and procurement goals under the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1998, effective April 27, 1999 (D.C. Law 12-268; D.C. Official Code § 2-217.01 *et seq.*).

(b) In contracting with general contractors, developers, or construction managers, and in providing assistance to an eligible project, the Corporation shall require that the general contractor, developer, and construction manager of the eligible project engage in good faith efforts to:

(1) Procure and contract 35% of the dollar volume of its goods and services, including construction goods and services, with local, small, and disadvantaged business enterprises, with a preference for at least 10% of those enterprises located in Ward 8; and

(2) Ensure that at least 51% of the new jobs created in connection with the project are filled by residents of the District, with a preference for at least 20% of those jobs designated for residents in Ward 8.

(c) No later than November 1st of each year, the Corporation shall submit to the Council a report detailing the extent to which it achieved the contracting goals under subsections (a) and (b) of this section in the previous fiscal year.

ENROLLED ORIGINAL

Sec. 125. Property dispositions.

(a) All disposition of real property by the Corporation, or any subsidiary thereof, shall be subject to the procedures in this section:

(b) Prior to the issuance of an offering document pertaining to the disposition of a property, the Corporation shall submit a proposed resolution to approve the draft offering document to the Council for a 45-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the proposed resolution within the 45-day period, the proposed resolution shall be deemed approved.

(c) Prior to the disposition of a property pursuant to a method other than an offering document, the Corporation shall submit a proposed resolution to approve the disposition to the Council for a 45-day period of review, excluding days of Council recess. The proposed resolution shall include a description of the proposed method of disposition and relevant documents, if any. If the Council does not approve or disapprove the proposed resolution within the 45-day period, the proposed resolution shall be deemed disapproved.

(d)(1) Approval by the Council of a resolution under subsection (b) or (c) of this section shall expire one year after the effective date of the approval resolution unless an exclusive right agreement has been executed; provided, that if the Corporation determines before the end of the one-year period that an exclusive right agreement will not be executed within the one-year period, the Corporation may submit to the Council no later than 45 days, excluding days of Council recess, before the end of the one-year period a resolution seeking additional time for the execution of the exclusive right agreement. The resolution shall include a report on efforts made toward execution of an exclusive right agreement and the reasons for the inability to execute this agreement within the one-year period.

(2) The proposed resolution shall be subject to a 45-day period of Council review, excluding days of Council recess. If the proposed resolution does not seek more than 2 years of additional time and the Council does not approve or disapprove the resolution within the 45-day period, the resolution shall be deemed approved. If the proposed resolution seeks more than 2 years of additional time and the Council does not approve or disapprove the resolution within the 45-day period, the resolution shall be deemed disapproved.

(e) If an exclusive right agreement is executed pertaining to property to be disposed of under this section, approval by the Council of a resolution under subsection (b) or (c) of this section shall expire one year after the execution of the agreement unless:

(1) A land disposition agreement has been executed, subject to the provisions of this section; or

(2) The Board grants an extension of the expiration date, not to exceed 12 months, which shall be based on a determination that special factors exist justifying the extension such as the need for zoning changes, historic preservation, street and alley closings, abatement of environmental hazards, or taking by eminent domain.

(f) If the Board determines before the end of the 2-year period that no land disposition agreement can be executed within the 2-year period as described in subsection (e) of this section, the Corporation may submit to the Council no later than 30 days, excluding Saturdays,

ENROLLED ORIGINAL

Sundays, legal holidays or days of Council recess, before the end of the 2-year period a resolution seeking additional time for the disposition of the property, which resolution shall include a detailed status report on efforts made toward disposition of the property and the reasons for the inability to dispose of the property within the 2-year period. If the Council does not approve or disapprove the resolution within the 30-day period, the resolution shall be deemed approved.

(g) At least 15 days prior to the execution of a disposition agreement and after at least 15 days public notice, the Corporation shall hold a public hearing on the terms and conditions of the disposition.

SUBTITLE H. MISCELLANEOUS PROVISIONS.

Sec. 126. Rules with respect to gifts, procurement of goods and services, and property dispositions.

(a) The Corporation shall adopt written guidelines, rules, or procedures pertaining to:

(1) Solicitation, acceptance, holding, investment, administration, use, and disposition of gifts, grants, or subsidies of money by the Corporation;

(2) Procurement of goods and services by the Corporation; and

(3) Disposition of property by the Corporation.

(b) The Corporation shall transmit to the Council the written guidelines, rules, or procedures for a period review of 45 days, excluding days of Council recess. If the Council does not adopt a resolution to approve or disapprove the written guidelines, rules, or procedures within the 45-day period, the written guidelines, rules, or procedures shall be deemed disapproved.

(c) The Corporation shall not dispose of its assets or funds to provide gifts or gratuities, or for any purpose that could be construed to be a gift or gratuity to an individual or entity in an amount greater than \$100 in any fiscal year.

Sec. 127. Affordable housing.

(a) No less than 15% of any housing units in real property controlled or disposed of by the Corporation under section 104(a)(15) or (16) shall be affordable to low-income households. No less than 15% of any housing units in real property controlled or disposed of by the Corporation under section 104(a)(15) shall be affordable to moderate-income households.

(b) For the purposes of this section, the term:

(1) "Affordable" means housing for which the occupying household will pay no more than 30% of its income toward gross housing costs for 50 years in the case of rental units, and 20 years for homeownership units.

(2)(A) "Area median income" means:

(i) For a household of 4 persons, the area median income for a household of 4 persons in the Washington Metropolitan Statistical Area as set forth in the

ENROLLED ORIGINAL

periodic calculation provided by the United States Department of Housing and Urban Development;

(ii) For a household of 3 persons, 90% of the area median income for a household of 4 persons;

(iii) For a household of 2 persons, 80% of the area median income for a household of 4 persons;

(iv) For a household of one person, 70% of the area median income for a household of 4 persons; and

(v) For a household of more than 4 persons, the area median income for a household of 4 persons, increased by 10% of the area median income for a family of 4 persons for each household member exceeding 4 persons.

(B) Any percentage of household income referenced in this section or in D.C. Official Code § 47-865 shall be determined through a direct mathematical calculation and shall not take into account any adjustments made by the United States Department of Housing and Urban Development for the purposes of the programs it administers.

(3) "Low income household" means a household consisting of one or more persons with income equal to or less than 30% or less of the area median income.

(4) "Moderate income household" means a household consisting of one or more persons with income equal to or less than 60% or less of the area median income and greater than 30% of the area median income.

Sec. 128. Prohibition on political activity.

The Corporation shall not expend any funds to influence legislation, other than in connection with testimony by a Board member or an officer or employee of the Corporation before a committee of Congress or the Council, or in responding to a written request from a member or committee of Congress or the Council. This prohibition shall not apply to legislation proffered by, or specifically applicable to, the Corporation. The Corporation shall not expend any funds in connection with political entities of any kind or to support the lobbying efforts of any not-for-profit charitable group.

Sec. 129. Conflict of interest; disclosure; waiver of bar against participation by interested party.

(a) Any member, officer, or employee of the Corporation who is interested directly or indirectly, or who is an officer or employee of, or has an ownership interest, in any firm or agency interested directly or indirectly in any transaction with the Corporation including any bond issuance or financial assistance allowed under this title to any sponsor, builder, or developer, shall disclose this interest to the Corporation. This interest shall be set forth in the minutes of the Corporation, and the member, officer, or employee having the interest shall not participate on behalf of the Corporation in the authorization or implementation of the transaction. The Board shall not be allowed to waive a member's, officer's, or employee's

ENROLLED ORIGINAL

inability to participate where the interest falls within guidelines adopted or rules promulgated by the Board.

(b) Members of the Board shall be considered public officials. Any effort to realize personal gain through conduct as a Board member shall be a violation of the public trust. Activities of Board members shall be governed by sections 601 and 602 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 465; D.C. Official Code §§ 1-1106.01 and 1-1106.02).

Sec. 130. Annual report.

Not later than 180 days after the end of each fiscal year of the Corporation, the Corporation shall submit a report regarding its activities during the prior fiscal year to the Council, the Mayor, and the Chief Financial Officer. The annual report shall include financial statements audited by an independent auditor.

Sec. 131. Limitations of actions.

Any legal action arising from the promulgation or application of any rule or procedure adopted or prescribed by the Board, or from any determination of the Board, shall be filed within 90 days after the date of the occurrence of the event (or 90 days after publication of the event in the District of Columbia Register, if publication is required by law or regulation) that is the subject of the legal proceeding. In any legal action arising from actions of the Corporation, or from the Corporation's failure to act, the Corporation shall be represented by the counsel of its choosing. Nothing in this section shall be interpreted as authorizing actions or as making a justiciable issue of any action by the Board or Corporation taken within the discretion vested in them by this title.

Sec. 132. Dissolution; termination of affairs.

(a) Upon dissolution of the Corporation or any subsidiary of the Corporation, title to property filed in the name of the Corporation and its subsidiaries, and all property under the control of the Board shall vest in the District. No property assets or earnings of the Corporation shall at any time inure to any private person or entity.

(b) The Corporation may be dissolved by vote of a majority of the Board and approval by act of the Council or by a majority approval by act of the Council; provided, that all bonds of the Corporation have been discharged or their discharge has been provided for fully, and adequate provision has been made for all other debts and obligations of the Corporation.

Sec. 133. Interpretation.

Except as provided in section 121, nothing in this title shall be construed to eliminate, reduce, or regulate the powers or authorities of the National Capital Revitalization Corporation or RLA Revitalization Corporation.

ENROLLED ORIGINAL

TITLE II. NATIONAL CAPITAL REVITALIZATION CORPORATION
PROVISIONS

Sec. 201. Conforming amendments.

(a) The National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.01 *et seq.*), is amended as follows:

(1) Section 20(b) (D.C. Official Code § 2-1219.19(b)) is amended as follows:

(A) Strike the phrase "any exercise of eminent domain powers that is approved by an affirmative vote of the Corporation shall be submitted to the Council" and insert the phrase "the Corporation shall submit to the Council a proposed resolution to approve the exercise of eminent domain powers";

(B) Strike the phrase "30-day period of review excluding days of Council recess" and insert the phrase "45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess" in its place.

(C) Strike the sentence "The Council shall approve or disapprove the exercise of eminent domain powers by the Corporation by resolution within 30 days of the date it is transmitted to the Council." and insert the sentence "If the Council does not approve or disapprove, in whole or in part, the proposed resolution within the 45-day period, the proposed resolution shall be deemed disapproved." in its place.

(2) Section 21 (D.C. Official Code § 2-1219.20(a)) is amended as follows:

(A) Paragraph (5) is repealed.

(B) A new paragraph (5A) is added to read as follows:

"(5A) All land within the District that is located east of the Anacostia River or east of the Potomac River that is not within the Anacostia Waterfront."

(3) A new section 30d-1 is added to read as follows:

"Sec. 30d-1. Distribution of income between RLA Revitalization Corporation and the District.

"(a) Subject to the provisions of section 30bb and notwithstanding the division of income set forth in section 30d(a) and (b), the RLARC shall receive 100% of the program income, net of expenses, generated by a lease or non-long-term ground lease on Redevelopment Land Agency property, and 100% of the program, net of expenses generated by the disposition through sale, long-term ground lease, or any other method of disposition of that property until RLARC receives:

"(1) The amount RLARC would have received through these transactions under the divisions of income set forth in section 30d(a) and (b); plus

"(2) An additional \$25 million of program income that would have been payable to a party other than RLARC under the divisions of income set forth in section 30d(a) and (b); plus

"(3) Any "unpaid monetary obligations", as that term is defined in the MOU.

"(b) Notwithstanding subsection (a) of this section, 100% of the income generated by the disposition through sale, long-term ground lease, or any other method of disposition of the

Note,
§ 2-1219.19

Note,
§ 2-1219.20

ENROLLED ORIGINAL

GPO site (Square 625) shall be received by RLARC and none of the proceeds shall be considered part of the \$25 million amount set forth in subsection (a) of this section. If any income has been received from the prepayment of the note for the sale of Lots 802, 40 and 41, Square 267 (Parcel D) ("Portals") prior to the effective date of this section, the income not yet received by RLARC shall be transferred to it upon the effective date of this section and the income, to the extent the RLARC would not be entitled to the income under section 30d(a) or (b) shall be considered part of the \$25 million amount set forth in subsection (a) of this section.

"(c) Notwithstanding the provisions of this section, section 30d, or the provisions of any agreement entered into between NCRC or RLARC and the District, including DHCD, prior to the effective date of the Anacostia Waterfront Corporation Act of 2004, any program income received from a property transferred to the NCRC or RLARC under section 30aa(b) shall not be subject to the division of income set forth in section 30d(a) or (b) nor shall this income be included in the calculation set forth in new subsections (a) and (b).

"(d) This section shall take effect after the provisions set forth in section 30bb have been satisfied."

(4) A new Title III is added to read as follows:

"TITLE III. TRANSFER OF CERTAIN NCRC AND RLARC PROPERTIES.

"Sec. 30aa. Transfer of properties.

"(a) Subject to the provisions of section 30bb, the following real property of the National Capital Revitalization Corporation ("NCRC") and the RLA Revitalization Corporation ("RLARC"), and all records and other tangible and intangible personal property associated with the real property, including all causes of action and defenses, shall be transferred to the District, under the jurisdiction of the Mayor:

Square Lot	Address
0390 0054	MAINE AV SW
0390 0825	MAINE AV SW
0391 0804	MAINE AV SW
0391 0805	MAINE AV SW
0391 0806	MAINE AV SW
0471W 0810	MAINE AV SW
0472 0827	MAINE AV SW
0473 0084	700 WATER ST SW
0473 0815	SW
0473 0820	MAINE AV SW
0473 0822	1000 WATER ST SW
0473 0823	900 WATER ST SW

ENROLLED ORIGINAL

Square Lot	Address
0473 0824	900 WATER ST SW
0473 0825	800 WATER ST SW
0473 0826	800 WATER ST SW
0473 0827	MAINE AV SW
0473 0828	MAINE AV SW
0473 0831	MAINE AV SW
0473 0834	600 WATER ST SW
0473 0837	MAINE AV SW
0473 0839	MAINE AV SW
0473 0840	MAINE AV SW
0473 0841	MAINE AV SW
0473 0842	MAINE AV SW
0473 0843	M PL SW
0473 0844	MAINE AV SW
0473 0845	MAINE AV SW
0473 0849	MAINE AV SW
0473 0851	650 WATER ST SW
0503 0883	6TH ST SW
0390 0824	H ST SW
0439S 0812	7TH ST SW
0439S 0813	7TH ST SW
0439S 0814	MAINE AV SW

“(b) With respect to the properties set forth in subsection (a) of this section:

“(1) The District shall assume all liabilities, debts, mortgages, and obligations of the NCRC and the RLARC; and

“(2) The NCRC and the RLARC shall not be responsible to any third parties with respect to any liabilities, debts, mortgages, or other obligations, including obligations as a sub-recipient to the Department of Housing and Community Development (“DHCD”) and the United States Department of Housing and Urban Development under applicable law, regulations, or agreements.

“(c)(1) The Mayor shall transfer to the Anacostia Waterfront Corporation, established by section 102 of the Anacostia Waterfront Corporation Act of 2004, approved on 2nd reading on July 13, 2004 (Enrolled version of Bill 15-616), the real property set forth in subsection (a) of this section, and all records and other tangible and intangible personal property associated with the real property, including all causes of action and defenses.

“(2) The transfer required under this subsection shall occur on a date that is agreed upon by the Mayor and the Anacostia Waterfront Corporation.

ENROLLED ORIGINAL

“(d) The District, by the Mayor or the appropriate agency, office, or other division, shall transfer to the NCRC or the RLARC the properties contemplated under section 2(a) of the section titled "Mayor Obligation" in the memorandum of understanding between the NCRC, the RLARC, and the District government, dated July 1, 2004 ("MOU"). To effectuate the transfer of these properties, the Mayor shall transmit a notice to the Council and follow the procedures set forth in the MOU. For 2 years after the transfer, the NCRC and the RLARC shall have the right to return properties received as part of the transfer and receive substitute properties in a manner consistent with the MOU. To effectuate the return of a property, the NCRC or the RLARC shall transmit a notice to the Council and follow the procedures set forth in the MOU.

“Sec. 30bb. Transfer of properties; effective date.

“The transfer of properties set forth in section 30aa(a) shall be effective after each of the following provisions has been satisfied:

“(1) The MOU setting forth the terms of the agreement to transfer certain parcels of land located at the Southwest Waterfront from the NCRC or the RLARC to the Mayor in exchange for land, cash, and other consideration has been transmitted to the Council by the Mayor, accompanied by a statement of legal sufficiency from the Attorney General for the District of Columbia, formerly known as the Corporation Counsel, and a fiscal impact statement from the Chief Financial Office;

“(2) The Mayor, the NCRC, and the RLARC have performed their obligations under the MOU;

“(3) The Mayor has transmitted to the Council a notice pursuant to section 30aa(d) of the initial transfer of properties contemplated by section 2(a) of the MOU;

“(4) An assignment and assumption agreement effectuating the simultaneous transfer of properties and assets and other provisions of the MOU, and executed by the Mayor on behalf of the District, the NCRC, and the RLARC, has been submitted to the Council;

“(5) The RLARC has received additional program income pursuant to section 30d-1 and notified the Council upon its initial receipt of additional income pursuant to section 30d-1; and

“(6) The legal opinion and the lender release and consent described in subsections 4 and 5 of the MOU which are titled “Conditions for the Transfer of RLARC Parcels to the District” have been transmitted to the Council by the Mayor.”.

(b) Section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)), is amended as follows:

(1) The lead-in text is amended by striking the phrase “(1)-(27)” and inserting the phrase “(1) - (28)” in its place.

(2) Paragraph (26) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(3) Paragraph (27) is amended by striking the period at the end and inserting the phrase “; and” in its place.

(4) A new paragraph (28) is added to read as follows:

ENROLLED ORIGINAL

“(28) The Board of Directors of the Anacostia Waterfront Corporation, established by section 105 of the Anacostia Waterfront Corporation Act of 2004.”

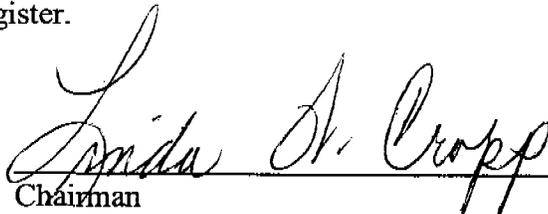
TITLE III. FISCAL IMPACT STATEMENT AND EFFECTIVE DATE

Sec. 301. Fiscal impact statement.

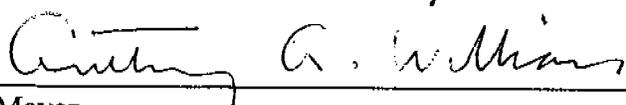
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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
August 5, 2004