

AN ACT
D.C. ACT 15-481

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JULY 19, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.

West Group
Publisher

To amend, on an emergency basis, the Certified Capital Companies Act of 2003 and the Insurance Regulatory Trust Fund Act of 1993 to permit the Department of Insurance, Securities and Banking to spend fees generated from the Certified Capital Companies Act of 2003; and to amend the Captive Insurance Company Act of 2000 to repeal the sponsored cell provisions and replace them with provisions for the establishment, operation, and liquidation of segregated accounts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Captive Insurance Company Enhancement Emergency Amendment Act of 2004".

Sec. 2. The Certified Capital Companies Act of 2003, effective March 10, 2004 (D.C. Law 15-87; 50 DCR 10982), is amended by adding a new section 9a to read as follows:

"Sec. 9a. Fees deposited in Insurance Regulatory Trust Fund.

"All fees collected pursuant to this act shall be deposited in the Insurance Regulatory Trust Fund established by section 3 of the Insurance Regulatory Trust Fund Act of 1993, effective October 21, 1993 (D.C. Law 10-40; D.C. Official Code § 3-1202), and expended for the purposes authorized by the Fund."

Sec. 3. Section 3(a) of the Insurance Regulatory Trust Fund Act of 1993, effective October 10, 1993 (D.C. Law 10-40; D.C. Official Code § 31-1202 (a)), is amended by striking the phrase "this act" and inserting the phrase "this act and the Certified Capital Companies Act of 2003, effective March 10, 2004 (D.C. Law 15-87; 50 DCR 10982)," in its place.

Note,
§ 31-1202

Sec. 4. The Captive Insurance Company Act of 2000, effective October 21, 2000 (D.C. Law 13-192; D.C. Official Code § 31-3901 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-3901) is amended as follows:

- (1) Paragraph (9) is amended by striking the phrase "sponsored captive insurer".
- (2) Paragraphs (20), (24), and (25) are repealed.

Note,
§ 31-3901

(3) A new paragraph (23A) is added to read as follows:

“(23A) “Segregated account” means a separate account established and maintained by any captive insurer:

“(A) In which the minimum capital and surplus required by applicable law is provided by one or more persons;

“(B) That is formed or licensed under the provisions of this act;

“(C) That insures risks of separate participants through contract;

“(D) That is comprised of one or more participants, who are authorized to act on matters relating to the segregated account; and

“(E) That segregates each participant’s liability.”.

(b) Section 7 (D.C. Official Code § 31-3906) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “sponsored captive insurer.”.

(2) Subsections (c) through (h) are repealed.

(c) New sections 17a and 17b are added to read as follows:

“Sec. 17a. Segregated accounts.

“(a)(1) Upon payment of the applicable fee under section 4, a captive insurer may form one or more segregated accounts under this act to:

“(A) Insure risks of one or more participants; or

“(B) Segregate its assets and liabilities from the assets and liabilities of its segregated accounts.

“(2) The assets and liabilities of each segregated account shall be held separately from the assets and liabilities of all other segregated accounts.

“(3) A captive insurer shall be a single legal entity and each segregated account of a captive insurer may be established as a separate legal entity, which shall constitute a legal entity separate from the captive insurer. Each segregated account shall be separately identified or designated as being a part of the captive insurer.

“(4) A captive insurer that maintains any segregated account shall pay an additional annual fee in an amount to be established by the Commissioner for each segregated account.

“(b)(1) A captive insurer may create and issue shares in one or more classes or series for one or more segregated accounts. The proceeds of the issuance of shares shall be included in the assets of the segregated account for which the shares were issued.

“(2) The proceeds of the issuance of shares, other than segregated account shares, shall be included in the captive insurer’s general assets.

“(3) A captive insurer may pay a dividend on segregated account shares of any class or series from segregated account assets whether or not a dividend is declared on any other class or series of segregated account shares or any other shares. The dividends shall only be paid to the shareholders of the segregated account and in accordance with the rights of the shares.

Note,
§ 31-3906

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“(c)(1) Any act, matter, deed, agreement, contract, instrument under seal, or other instrument or arrangement which is to be binding on or to inure to the benefit of a segregated account or accounts shall be executed by the captive insurer for and on behalf of the segregated account or accounts, shall be identified and, where in writing, shall indicate that the execution is in the name of, or by or for the account of, the segregated account or accounts.

“(2) If a captive insurer is in breach of paragraph (1) this subsection:

“(A) Notwithstanding any provisions to the contrary in the captive insurer’s organizational documents or in any contract with such company or otherwise, the directors of the captive insurer shall incur personal liability for the liabilities of the captive insurer and the segregated account under the act, matter, deed, agreement, contract, instrument, or arrangement that was executed; and

“(B)(i) Unless they were fraudulent, reckless, negligent, or acted in bad faith, the directors of the captive insurer shall have a right of indemnity, in the case of a matter on behalf of or attributable to a segregated account or accounts, against the assets of that account; or

“(ii) In the case of a matter not on behalf of or attributable to any segregated account, the directors shall have a right of indemnity against the general assets of the captive insurer.

“(3) Notwithstanding the provisions of paragraph (2)(A) of this subsection, a court may relieve a director of all or part of this personal liability thereunder if he or she satisfies the court that he or she should be relieved because the director:

“(A) Was not aware of the circumstances giving rise to the liability and, in being not so aware, the director was not fraudulent, reckless or negligent, and did not act in bad faith; or

“(B) Expressly objected, and exercised such rights as a director, whether by way of voting power or otherwise, so as to try to prevent the circumstances giving rise to the liability.

“(4) If, pursuant to the provisions of paragraph (3) of this subsection, the court relieves a director of all or part of his or her personal liability under paragraph (2)(A) of this subsection, the court may order that the liability in question shall instead be met from the portion of the segregated account or general assets of the account of the captive insurer as may be specified in the order.

“(5) Any provision in the organizational documents of a captive insurer, or any other contractual provision under which the captive insurer may be liable, which purports to indemnify directors in respect of conduct which would otherwise disentitle them to an indemnity by virtue of paragraph (2)(B) of this subsection, shall be void.

“(d)(1) The assets of a captive insurer shall be either segregated account assets or general assets. The segregated account assets comprise the assets of the captive insurer held within or on behalf of the segregated accounts of the captive insurer. The general assets of a captive insurer comprise the assets of the captive insurer which are not segregated account

assets.

“(2) The assets of a segregated account are comprised of assets representing the capital stock and reserves attributable to the segregated account, and all other assets attributable to or held within the segregated account. For the purposes of this paragraph, “reserves” includes retained earnings, capital surplus, and paid-in capital.

“(3) The directors of a captive insurer shall establish and maintain, or cause to be established and maintained, procedures:

“(A) To segregate, and keep segregated, account assets separate and separately identifiable from general assets;

“(B) To segregate, and keep segregated, account assets of each segregated account separate and separately identifiable from segregated account assets of any other segregated account; and

“(C) Where relevant, to apportion or transfer assets and liabilities between segregated accounts, or between segregated accounts and general assets of the segregated account captive insurer.

“(4) Segregated account assets shall:

“(A) Only be available and used to meet liabilities of the creditors with respect to that segregated account, and those creditors shall thereby be entitled to have recourse to the segregated account assets attributable to that segregated account; and

“(B) Not be available or used to meet liabilities to, and shall be absolutely protected from, the creditors of the captive insurer who are not creditors with respect to a particular segregated account, and those creditors shall not be entitled to have recourse to such protected segregated account assets.

“(e)(1) If a liability of a captive insurer to a person arises from a matter, or is otherwise imposed, with respect to a particular segregated account, the liability shall extend only to, and that person shall, with respect to that liability, be entitled to have recourse only to:

“(A) First, the segregated account assets attributable to such segregated account; and

“(B) Second, the captive insurer’s general assets, to the extent that the segregated account assets attributable to the segregated account are insufficient to satisfy the liability, and to the extent that the captive insurer’s general assets exceed any minimum capital amounts lawfully required by this act.

“(2) If a liability of a captive insurer to a person arises otherwise than from a matter in respect of a particular segregated account or accounts, or is imposed otherwise than in respect of a particular segregated account or accounts, the liability shall extend only to, and that person shall, with respect to that liability, be entitled to have recourse only to the captive insurer’s general assets.

“(3) Liabilities of a captive insurer not attributable to any of its segregated

accounts shall be discharged from the segregated account captive insurer's general assets. Income, receipts, and other property or rights of, or acquired by, a captive insurer not otherwise attributable to any segregated account shall be attributed to the captive insurer's general assets to the extent that the captive insurer's general assets exceed any minimum capital amounts lawfully required by this act.

"(f)(1) Each segregated account shall be accounted for separately on the books and records of the captive insurer to reflect the financial condition and results of operations of the segregated account, including net income or loss, dividends, or other distributions to participants, and such other factors as may be provided by the participant contract or required by the Commissioner.

"(2) No sale, exchange, or other transfer of assets may be made by such captive insurer between or among any of its segregated accounts without the written consent of the segregated accounts and the Commissioner.

"(3) No sale, exchange, transfer of assets, dividend, or distribution may be made from a segregated account to any person without the Commissioner's prior written approval and approval shall not be given if the sale, exchange, transfer, dividend, or distribution would result in the insolvency or impairment with respect to a segregated account.

"(4) Each segregated account captive insurer shall annually file with the Commissioner such financial reports as the Commissioner shall require, which shall include financial statements detailing the financial experience of each segregated account.

"(5) Each captive insurer shall notify the Commissioner within 10 business days of any segregated account that is insolvent or otherwise unable to meet its claims or expense obligations.

"(g)(1) No participant contract shall take effect without the Commissioner's prior written approval. The addition of each new segregated account or the withdrawal of any participant from any existing segregated account shall constitute a change in the strategic business plan of that segregated account requiring the Commissioner's prior written approval.

"(2) Any legal person or legal entity may be a participant in a segregated account formed or licensed under this act.

"(3) A participant in a segregated account need not be a shareholder insured within the segregated account or by the captive insurer or any affiliate thereof.

"Sec. 17b. Liquidation and rehabilitation of segregated accounts.

"(a) Notwithstanding any statutory provision or rule of law to the contrary, in the liquidation of a captive insurer, the liquidator:

"(1) Shall deal with the company's assets only in accordance with the procedures set out in subsection (c)(6) of this section; and

"(2) In the discharge of the claims of creditors of the captive insurer, shall apply the captive insurer's assets to those entitled to have recourse thereto under the provisions of this section.

"(b)(1) A petition for a liquidation or rehabilitation order with respect to a

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segregated account of a captive insurer may be made by:

“(A) The segregated account captive insurer;

“(B) The majority of the directors of the segregated account captive insurer;

“(C) Any creditor of the segregated account; or

“(D) The Commissioner.

“(2) Notice of a petition to the court for a liquidation or rehabilitation order with respect to a segregated account of a captive insurer shall be served upon:

“(A) The captive insurer;

“(B) The Commissioner; and

“(C) Such other persons as the court may direct.

“(c)(1) Subject to the provisions of this section, a liquidation or rehabilitation order with respect to a segregated account may be entered if, in relation to a captive insurer:

“(A) The segregated account assets attributable to a particular segregated account of the captive insurer, and in those cases where creditors of the captive insurer with to that segregated account are entitled to have recourse to the captive insurer’s general assets, are, or are likely to be, insufficient to discharge the claims of creditors with respect to the segregated account; and

“(B) The order would achieve the purposes set out in paragraphs (3)(A) and (B) of this subsection.

“(2) A liquidation or rehabilitation order may be made with respect to one or more segregated accounts.

“(3) A liquidation or rehabilitation order shall direct that the business and segregated account assets of, or attributable to, a segregated account shall be managed by a liquidator or rehabilitator specified in the order for the purpose of:

“(A) The orderly closing or rehabilitation of the business of, or attributable to, the segregated account; and

“(B) The distribution of the segregated account assets, or assets attributable to the segregated account, to those entitled to having recourse thereto.

“(d) The liquidator or rehabilitator of a segregated account:

“(1) Shall have all the functions and powers of the directors responsible for the business and segregated account assets of, or attributable to, the segregated account;

“(2) May at any time apply to the court for directions as to the extent or exercise of any function or power, for the liquidation or rehabilitation order to be discharged or modified, or for any matter occurring during the course of the liquidation or rehabilitation.

“(3) In exercising his functions and powers, shall:

“(A) Be deemed to act as the agent of the captive insurer; and

“(B) Not incur personal liability except to the extent that he acts fraudulently, recklessly, negligently, or in bad faith.

“(e) Upon the filing of a petition for, and during the period of operation of, a liquidation

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or rehabilitation order:

“(1) No proceedings may be instituted or continued by or against the captive insurer or segregated account in respect of which the liquidation or rehabilitation order was made; and

“(2) Except by leave of the court, no action may be taken to enforce any security or to execute legal process in respect of the business or segregated account assets of, or attributable to, the segregated account in respect of which the liquidation or rehabilitation order was made.

“(f) During the period of operation of a liquidation or rehabilitation order:

“(1) The functions and powers of the directors shall cease with respect to the business of, or attributable to, the segregated account or segregated account assets for which the order was made; and

“(2)(A) The liquidator or rehabilitator of the segregated account shall be entitled to be present at all meetings of the captive insurer or segregated account and to vote at the meetings, as if he or she were a director of the captive insurer; and

“(B) Unless there are no creditors that are entitled to have recourse to the captive insurer’s general assets, the liquidator’s or rehabilitator’s voting authority includes matters concerning the captive insurer’s general assets.

“(g)(1) The court shall not discharge a liquidation or rehabilitation order issued pursuant to this section unless it appears to the court that the purpose for which the order was made has been achieved, substantially achieved, or is incapable of being achieved.

“(2) The court, on hearing a petition for the discharge or variation of a liquidation or rehabilitation order, may make any interim order or adjourn the proceeding.

“(3) Upon the issuance of an order discharging a liquidation or rehabilitation order for a segregated account of a captive insurer on the ground that the purpose for which the order was made had been achieved or substantially achieved, the court may direct that any payment made by the liquidator or rehabilitator to any creditor of the captive insurer, with respect to that segregated account, shall fully satisfy the liabilities of the captive insurer to that creditor with respect to that segregated account, and the creditor’s claims against the captive insurer with respect to that segregated account shall be extinguished.

(d) Section 9 (D.C. Official Code § 31-3908) is amended as follows:

(1) Subsection (a)(3) is amended by striking the phrase “a rental captive insurer, for a sponsored captive insurer,” and inserting the phrase “or a rental captive insurer” in its place.

(2) Subsection (f)(2) is amended by striking the phrase “a rental captive insurer, for a sponsored captive insurer,” and inserting the phrase “or a rental captive insurer” in its place.

Note,
§ 31-3908

Sec. 5. Fiscal impact statement.

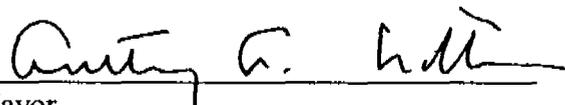
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. 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
July 19, 2004

Bill Number:	Type: Emergency (x) Temporary () Permanent ()	Date Reported: June 29, 2004
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Subject/Short Title: "Captive Insurance Company Enhancement Emergency Amendment Act of 2004"

Part I. Summary of the Fiscal Estimates of the Bill

	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.		
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue. See below	()	(x)
d) It will impact intra-District revenue.		
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(x)	()

Explanation:

The proposed legislation does not have any fiscal impact on the District's General Fund. The proposed legislation will not require additional staff or resources. However, the passage of this bill will allow for the DISB to do a more thorough regulatory job in the field of Captive Insurers.

Part II. Other Impact of the Bill

If you check "Yes" for each question, please explain on separate sheet, if necessary.

	YES	NO
1. It will affect an agency and/or agencies in the District. Department of Insurance, Securities, and Banking	(x)	()
2. Are there performance measures/output for this bill?		
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? Several Captive Insurance companies will refuse to domicile in the District.	()	(x)
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	(x)	()

Sources of information:	Councilmember: Sharon Ambrose, Chair, Committee on Consumer and Regulatory Affairs
	Staff Person & Tel: David Grosso - 724-8072
	Council Budget Director's Signature: <i>AA RQIA</i>

6/27/04

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-482

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 19, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.West Group
Publisher

To establish, on an emergency basis due to Congressional review, a tax increment financing program for retail development in the District of Columbia.

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

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Available Real Property Tax Revenues" means the revenues resulting from the imposition of the tax under Chapter 8 of Title 47 of the District of Columbia Official Code, including any penalties and interest charges, exclusive of the special tax provided for in section 481 of the Home Rule Act, pledged to the payment of general obligation indebtedness of the District.

(2) "Available Sales Tax Revenues" means the revenues resulting from the imposition of the tax under Chapter 20 of Title 47 of the District of Columbia Official Code, including any penalties and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center Authority Fund established pursuant to section 208 of the Washington Convention Center Authority Act of 1994, effective September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1202.08).

(3) "Bonds" means any bonds, notes, or other instruments issued by the District pursuant to section 490 of the Home Rule Act and secured by Tax Increment Revenues or other security authorized by this act.

(4) "CFO" means the Chief Financial Officer of the District of Columbia.

(5) "Downtown Retail Priority Area" means the record lots that front one of the following street locations: 7th Street, N.W., between Indiana and Massachusetts Avenues, N.W.; 11th Street, N.W., between Pennsylvania Avenue, N.W., and New York Avenue, N.W.; F Street, N.W., between 6th and 14th Streets, N.W.; and G Street, N.W., between 10th and 13th Streets, N.W., and includes portions of the following squares: 223, 224, 225, 252, 253, 254,

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288, 289, 290, 319, 320, 321, 322, 346, 347, 348, 376, 377, 403, 406, 408.1, 428, 429, 430, 431, 452, 453, 454, 455, 456, 457, and 458.

(6) "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.*).

(7) "LSDBE" means a local, small, or disadvantaged business enterprise certified by the District of Columbia Local Business Opportunity Commission under the provisions of 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.*).

(8) "Retail Development Project" means the establishment of a business engaged in direct onsite retail sales to consumers, including the following activities in connection with such business: acquisition, purchase, construction, reconstruction, improvement, renovation, rehabilitation, restoration, remodeling, repair, remediation, expansion, extension, and the furnishing, equipping, and opening for business. In the case of the Downtown Retail Priority Area, Retail Development Projects shall be limited to businesses engaged in sales of home furnishings, apparel, and general merchandise goods to specialized customers, and shall specifically exclude:

(A) Liquor stores, nightclubs, hotels, restaurants, banks, pharmacies, phone stores, and service retail outlets; and

(B) The relocation of a business to the Downtown Retail Priority Area from another location within the District, unless the relocation involves a significant expansion of the size of the business.

(9) "Retail Development Costs" means any costs associated with, arising out of, or incurred in connection with:

(A) A Retail Development Project;

(B) The issuance of, or debt service or any other payments in respect of, the Bonds, including costs of issuance, capitalized interest, credit enhancement fees, reserve funds, or working capital; or

(C) The relocation of any business where the purpose of the relocation is to make space for a Retail Development Project.

(10) "Retail Priority Area" means:

(A) The Downtown Retail Priority Area; and

(B) Any other area or areas of the District so designated by the Mayor and approved by the Council in accordance with this act.

(11) "Rules of Operation" means the rules and procedures, established by the Mayor pursuant to section 5, by which Retail Development Projects will be approved as TIF Areas and receive proceeds of Bonds to pay Retail Development Costs.

(12) "Tax Increment Revenues" means the portion of the Available Real Property Tax Revenues, Available Sales Tax Revenues, or both, allocable to one or more tax allocation funds pursuant to section 7.

(13) "TIF" means tax increment financing.

(14) "TIF Act" means the Tax Increment Financing Act of 1998, effective September 11, 1998 (D.C. Law 12-84; D.C. Official Code § 2-1217.01 *et seq.*), or any successor act.

(15) "TIF Area" means a Retail Development Project that has been approved by the Mayor to receive proceeds of Bonds in accordance with the applicable Rules of Operation for the Retail Priority Area in which the Retail Development Project is located.

Sec. 3. Limitations on issuance of Bonds.

(a) Bonds shall not be issued pursuant to this act to the extent the issuance will cause the aggregate principal amount of Bonds issued pursuant to this act and the TIF Act to exceed \$300 million.

(b) Bonds shall not be issued pursuant to this act after December 31, 2013.

Sec. 4. Retail Priority Areas.

(a)(1) The Mayor shall identify areas within the District where:

(A) There exist barriers to entry that impede Retail Development Projects; and

(B) The proceeds of Bonds may be used to eliminate these barriers to entry and promote Retail Development Projects.

(2)(A) The Mayor may designate additional Retail Priority Areas by submitting to the Council for a 45-day period of review, excluding weekends, holidays, and periods of Council recess, a proposed resolution, which:

(i) Designates one or more Retail Priority Areas;

(ii) States the maximum aggregate principal amount of Bonds that may be issued with respect to each Retail Priority Area; and

(iii) States the latest date by which the Bonds may be issued with respect to each Retail Priority Area.

(B) In addition to the resolution, the Mayor shall submit to the Council information supporting the Mayor's determinations concerning the use of TIF to promote retail development in each Retail Priority Area, including findings of the CFO that the proposed Retail Priority Area is not inconsistent with the financial plan and budget for the fiscal year of the District and does not exceed the limitations set forth in section 3(a).

(C) If the Council does not approve or disapprove the proposed resolution within the 45-day period of review, excluding weekends, holidays, and periods of Council recess, the proposed resolution shall be deemed approved.

(b) In addition to Retail Priority Areas that may be approved pursuant to subsection (a) of this section:

(1) The Downtown Retail Priority Area is designated as a Retail Priority Area;

(2) The issuance of Bonds with respect to the Downtown Retail Priority Area,

not to exceed the aggregate principal amount of \$30 million, is approved;

(3) The latest date for the issuance of such Bonds is 4 years from the date that the Mayor establishes the Rules of Operation for the Downtown Retail Priority Area; and

(4) The base year for the calculation of Available Sales Tax Revenues shall be the fiscal year beginning October 1, 2002 and the base year for the calculation of Available Real Property Tax Revenues shall be the fiscal year beginning October 1, 2003.

(c) The Mayor shall prepare and deliver an annual report to the Council each year on January 1st through the year ending December 31, 2013. The annual report shall contain a listing and description of each Retail Development Project approved as a TIF Area pursuant to this act. Each listing shall contain specific information about the nature of the Retail Development Project, the use of the proceeds of the Bonds, the projected Tax Increment Revenues attributable to each listed TIF Area, and any other information the Council may request regarding such TIF Areas.

(d) If the Mayor determines that a Retail Priority Area is no longer necessary, the Mayor may abolish the Retail Priority Area; provided, that if any Bonds are outstanding with respect to any TIF Area therein, the Mayor shall take no action to abolish the Retail Priority Area or that otherwise will adversely affect the security of the holders of the Bonds.

(e) The Mayor shall identify potential Retail Priority Areas. Within 180 days of the effective date of this act, the Mayor shall submit to the Council resolutions designating as Retail Priority Areas the following areas:

- (1) Columbia Heights;
- (2) Georgia Avenue;
- (3) Minnesota/Benning;
- (4) Shaw; and
- (5) H Street, NE Corridor.

Sec. 5. Rules of Operation.

(a) Upon approval by resolution pursuant to section 4(a) with respect to any Retail Priority Area, or upon the effective date of this act in the case of the Downtown Retail Priority Area, the Mayor shall establish Rules of Operation with respect to each Retail Priority Area as the Mayor considers necessary or appropriate for:

(1) The approval and certification by the Mayor of Retail Development Projects within the Retail Priority Area as TIF Areas;

(2) The issuance of Bonds secured by the Tax Increment Revenues or any other security authorized by this act which is generated by or relates to the Retail Development Projects;

(3) The allocation of the proceeds of the Bonds to fund Retail Development Costs of the Retail Development Projects; and

(4) Such other matters as the Mayor considers necessary or appropriate to achieve the goals and objectives for the Retail Priority Area.

(b) The Rules of Operation for the Downtown Retail Priority Area shall include the following:

(1) A rating system designed to rank Retail Development Projects based on the following objective criteria:

(A) The likelihood of Bond repayment based on projected Tax Increment Revenues or any other security authorized by this act from or relating to the Retail Development Project;

(B) The uniqueness of the retailer;

(C) The likelihood that the retailer will attract other retailers to locate nearby;

(D) The position of the retailer in its market and whether the retailer is the first in its market to locate in the Downtown Retail Priority Area;

(E) The extent to which the retailer promotes the Downtown Retail Priority Area in its advertising;

(F) The vertical integration of the retailer;

(G) The intention of the retailer to locate on more than one level of the building in which it is located;

(H) Whether the retailer builds an expressive storefront;

(I) Whether the retailer is owned by a District resident or is based in the District;

(J) The amount of space occupied by the retailer; and

(K) Whether the retailer is one of multiple retailers that co-locate in the Downtown Retail Priority Area;

(2) A numeric formula based upon the foregoing rating system that, for any proposed Retail Development Project, will produce a dollar amount of proceeds of Bonds that shall be allocated to the Retail Development Project if it is approved as a TIF Area;

(3) The establishment of a committee comprised of the Mayor, retail brokers and property owners in the Downtown Retail Priority Area, and such other persons as the Mayor shall designate, which committee shall:

(A) Apply the rating system to proposed Retail Development Projects and review and revise the rating system from time to time as necessary to respond to market conditions;

(B) Adjust the formula for the allocation of Bond proceeds as may be necessary or appropriate to maximize the use of Bond proceeds to achieve the purposes of this act;

(C) Recommend Retail Development Projects for designation as TIF Areas to the Mayor; and

(D) Take such other actions as the Mayor may consider necessary or appropriate to facilitate the selection and funding of TIF Areas in the Downtown Retail Priority Area;

- (4)(A) A procedure pursuant to which the Mayor shall certify:
- (i) The rating of Retail Development Project, based upon the rating system;
 - (ii) The amount of Bond proceeds that, based upon the allocation formula, may be allocated to Retail Development Projects; and
 - (iii) Retail Development Projects as TIF Areas; and
- (B) The procedure shall permit the Mayor to suspend and re-institute from time to time the designation of TIF Areas pursuant to this act in response to market conditions;
- (5) A requirement that the owner of any building in which a TIF Area is located enter into a development agreement, satisfactory to the Mayor, that sets forth:
- (A) The goals and objectives for achieving the revitalization of retail development in the Downtown Retail Priority Area;
 - (B) Requirements for the leasing of retail space in the building in a manner that will advance the goals and objectives;
 - (C) The terms and conditions pursuant to which Bond proceeds will be advanced to pay Retail Development Costs incurred in connection with the TIF Area;
 - (D) The owner's agreement to use good faith efforts to use LSDBEs to perform any construction work the cost of which is paid for or reimbursed by Bond proceeds;
 - (E) The owner's agreement to require the retailer of the Retail Development Project to execute a first source agreement with the Department of Employment Services that establishes a goal of hiring District residents for at least 51% of the new jobs created by the Retail Development Project;
 - (F) Such matters as may be required in connection with the issuance of the Bonds; and
 - (G) Such other matters as the Mayor determines to be necessary or appropriate in connection with such TIF Area;
- (6) Requirements that Bonds shall not be issued with respect to any TIF Area and the proceeds of the Bonds shall not be advanced to pay Retail Development Costs until the TIF Area is open for business to the general public; and
- (7) Procedures and timetables for the approval of Retail Development Projects as TIF Areas that are designed to facilitate, and not impede, negotiations between building owners and retailers in the Downtown Retail Priority Area.
- (c) The Rules of Operation shall be uniformly applied within any given Retail Priority Area, but may vary across different Retail Priority Areas to address the specific needs of each Retail Priority Area. Notwithstanding anything to the contrary herein, the Rules of Operation shall provide that a Retail Development Project that, either directly or as part of a larger development project, has already received proceeds of Bonds through another TIF program shall not be designated a TIF Area under this act.

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Sec. 6. Use of Bond proceeds; funding agreement.

(a) When a Retail Development Project is certified as a TIF Area by the Mayor pursuant to this act, the proceeds of Bonds issued with respect to the TIF Area shall be used to pay Retail Development Costs and shall be subject to such terms, conditions, and requirements as the Mayor determines to be in the best interests of the District and will further the purposes of this act. The terms, conditions and requirements shall be included in an agreement entered into between the District and the recipient of the proceeds prior to the advance of the proceeds; provided, that, in the Downtown Retail Priority Area, Tax Increment Revenues or any other security authorized by this act shall be used for the payment of debt service on Bonds issued to Bondholders arranged by the recipient of the proceeds of the Bonds prior to the issuance of the Bonds and the proceeds of the Bonds shall be available to the recipient only after the issuance of a certificate of occupancy for the Retail Development Project. In the case of Bonds issued with respect to the Downtown Retail Priority Area, the recipient of the proceeds of the Bonds shall guarantee the Bonds.

(b) In the case of the Downtown Retail Priority Area, Tax Increment Revenues and the proceeds of Bonds may also be used to pay costs and expenses:

(1) Incurred in connection with the start-up and administration of a TIF program in the Downtown Retail Priority Area (including feasibility studies, market studies, and legal costs), and marketing the TIF program and the Downtown Retail Priority Area to prospective retailers; provided, that the amount expended pursuant to this paragraph shall not exceed \$1 million in the aggregate; and

(2) Of establishing, maintaining, and operating a program to support parking for customers of retail businesses in the Downtown Retail Priority Area and providing streetscape and facade improvements in the Downtown Retail Priority Area; provided, that the amount expended pursuant to this paragraph shall not exceed \$5 million in the aggregate.

Sec. 7. Allocation of Tax Increment Revenues.

(a) Within 60 days after the certification of a TIF Area by the Mayor, the CFO shall provide for the allocation of Tax Increment Revenues within each TIF Area. The CFO shall establish one or more separate tax increment allocation accounts within the General Fund of the District of Columbia for the deposit and application of Available Sales Tax Revenues and Available Real Property Tax Revenues from each TIF Area. Monies shall be transferred from such accounts at the times and in the amounts required pursuant to financing documents relating to any Bonds. Monies held or to be held in a tax allocation account may be used to (1) pay debt service on Bonds, (2) pay other costs due and payable under the applicable financing documents, and (3) to pay any other costs or expenses permitted by this act. Monies in a tax allocation account or in any fund or account established under any financing documents may be pledged as security for the payment of debt service on Bonds.

(b) Notwithstanding any other law, after a TIF Area has been certified by the Mayor, the portion of Tax Increment Revenues that results from the real property and sales tax levied

ENROLLED ORIGINAL

within the TIF Area each year beginning from the date of the certification of the TIF Area shall be paid to the CFO for deposit into one or more of the tax increment accounts established by the CFO pursuant to subsection (a) of this section.

(c) If Bonds have been issued and are outstanding, the amounts, if any, remaining in the tax increment accounts for a TIF Area at the end of each tax year, after provision for the payment of debt service on any Bonds, any costs of credit or liquidity enhancement, other costs, fees, and expenses of administering, carrying, and paying the Bonds and the funds, trusts, and escrows pertaining to them, and providing for reasonably required reserves, all as provided in the financing documents, and after payment of any other costs or expenses permitted by this act, shall revert to the General Fund of the District of Columbia.

Sec. 8. Issuance of Bonds.

The issuance of Bonds, including any refunding Bonds, is authorized pursuant to section 490 of the Home Rule Act to finance Retail Development Costs of TIF Areas certified by the Mayor pursuant to this act. This act constitutes an act of Council authorizing the issuance of Bonds, including refunding Bonds, as required by section 490 of the Home Rule Act. The Bonds shall be secured by Tax Increment Revenues in amounts not to exceed the limits provided for in this act or other security authorized by this act. The issuance of Bonds, including any refunding Bonds in specified aggregate principal amounts, shall be approved by the Mayor in accordance with this act.

Sec. 9. Details of Bonds.

(a) The Mayor may take any action necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, and payment of Bonds, including determinations of:

- (1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificate or book entry form;
- (2) The principal amount of the Bonds to be issued and denominations of the Bonds;
- (3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;
- (4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;
- (5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;
- (6) Provisions for the registration, transfer, and exchange of each series of Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;
- (7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

ENROLLED ORIGINAL

(8) The time and place of payment of the Bonds;
(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that they are properly applied to their respective eligible project and used to accomplish the purposes of this act; and

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed.

(b) The Bonds shall contain a legend, which shall provide that the Bonds shall be special obligations of the District, shall be nonrecourse to the District, shall not be a pledge of, and shall not involve, the faith and credit or the taxing power of the District (other than the Tax Increment Revenues or any other security authorized by this act), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The Bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the same.

(d) The official seal of the District, or facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds may be issued at any time or from time to time in one or more issues and in one of more series.

Sec. 10. Security for Bonds.

(a) A series of Bonds may be secured by a trust agreement or trust indenture between the District and a corporate trustee having trust powers, or secured by a loan agreement or other instrument giving power to a corporate trustee by means of which the District may do the following:

(1) Make and enter into any and all covenants and agreements with the trustee or the holders of the Bonds that the District may determine to be necessary or desirable covenants and agreements as to:

(A) The application, investment, deposit, use, and disposition of the proceeds of Bonds and the other monies, securities, and property of the District;

(B) The assignment by the District of its rights in any agreement;

(C) Terms and conditions upon which additional Bonds of the District may be issued;

(D) Providing for the appointment of a trustee to act on behalf of bondholders and abrogating or limiting the rights of the bondholders to appoint a trustee; and

(E) Vesting in a trustee for the benefit of the holders of Bonds, or in the bondholders directly, such rights and remedies as the District shall determine to be necessary or desirable;

(2) Pledge, mortgage or assign monies, agreements, property or other assets of

the District, either presently in hand or to be received in the future, or both;

(3) Provide for bond insurance and letters of credit, or otherwise enhance the credit of and security for the payment of the Bonds; and

(4) Provide for any other matters of like or different character that in any way affect the security for or payment of the Bonds.

(b) Bonds are declared to be issued for essential public and governmental purposes. The Bonds and the interest thereon and the income therefrom, and all monies pledged or available to pay or secure the payment of the Bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(c) The District does hereby pledge to and covenant and agree with the holders of any Bonds that, subject to the provisions of the financing documents, the District will not limit or alter the revenues pledged to secure the Bonds or the basis on which such revenues are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the Bonds, will not in any way impair the rights or remedies of the holders, and will not modify in any way the exemptions from taxation provided for in this act, until the Bonds, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any suit, action or proceeding by or on behalf of the holders, are fully met and discharged. This pledge and agreement of the District may be included as part of the contract with the holders of any of its Bonds. This subsection shall constitute a contract between the District and the holders of the Bonds authorized by this act. To the extent that any acts or resolutions of the Council may be in conflict with this act, this act shall be controlling.

(d) Consistent with section 490(a)(4)(B) of the Home Rule Act and, notwithstanding Article 9 of Title 28 of the District of Columbia Official Code:

(1) A pledge made and security interest created in respect of any Bonds or pursuant to any related financing document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

Sec. 11. Default.

If there shall be a default in the payment of the principal of, or interest on, any Bonds of a series after the principal or interest shall become due and payable, whether at maturity or upon call for redemption, or if the District shall fail or refuse to carry out and perform the terms of any agreement with the holders of any of the Bonds, the holders of the Bonds, or the trustee appointed to act on behalf of the holders of the Bonds, may, subject to the provisions of the

ENROLLED ORIGINAL

financing documents, do the following:

(1) By action, writ, or other proceeding, enforce all rights of the holders of the Bonds, including the right to require the District to carry out and perform the terms of any agreement with the holders of the Bonds or its duties under this act;

(2) By action, require the District to account as if it were the trustee of an express trust;

(3) By action, petition to enjoin any acts or things that may be unlawful or in violation of the rights of the holders of the Bonds; and

(4) Declare all the Bonds due and payable, whether or not in advance of maturity and, if all the defaults be made good, annul the declaration and its consequences.

Sec. 12. Liability.

(a) The members of the Council, the Mayor, or any person executing Bonds shall not be liable personally on the Bonds by reason of the issuance thereof.

(b) Notwithstanding any other provision of this act, the Bonds shall not be general obligations of the District and shall not be in any way a debt or liability of the District within the meaning of any debt or other limit prescribed by law. The full faith and credit or the general taxing power of the District (other than the Tax Increment Revenues or other security authorized under this act) shall not be pledged to secure the payment of any Bonds.

Sec. 13. Prior legislation.

This act shall not adversely affect any actions taken, agreements entered into, pledge of security made or Bonds issued prior to the effective date of this act.

Sec. 14. Promulgation of rules and regulations.

The Mayor shall promulgate rules and regulations setting forth the criteria and procedures necessary to implement the provisions of this act.

Sec. 15. Construction.

This act shall be liberally construed to effect the purposes stated herein.

Sec. 16. Fiscal impact statement.

The Council adopts the attached fiscal impact statement 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. 17. 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
July 19, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (X) Temporary () Permanent ()	Date Reported: July 7, 2003
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Subject/Short Title: "District of Columbia Retail Incentive Act of 2003"

Part I. Summary of the Fiscal Estimates of the Bill		
	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.	()	(x)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	(x)	()
a) It will impact local revenue.	(x)	()
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue.	()	(x)
d) It will impact intra-District revenue.	()	(x)
This legislation will have a positive fiscal impact of an increase of \$33.2 million in tax revenues over 10 years. See attached memo.	()	(x)
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).		

Part II. Other Impact of the Bill		
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
	YES	NO
1. It will affect an agency and/or agencies in the District.	()	(x)
2. Are there performance measures/output for this bill?	()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	()	(x)
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(x)

Sources of information: Committee staff.	Councilmember: Evans
	Staff Person & Tel: Jeff Coudriet, 202/724-8058
	Council Budget Director's Signature: <i>[Signature]</i>

7/6/03

AN ACT

D.C. ACT 15-483

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 19, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.

West Group
Publisher

To authorize, on an emergency basis, the Mayor to require the owner of a multiple dwelling, upon written request by a rental tenant or owner-occupant of that dwelling, to order a water lead level test kit for that tenant or owner-occupant within 15 calendar days of receiving the written request to allow the tenant or owner-occupant to collect a sample of his or her tap water and have it tested for lead, to ensure that the water sample is tested for lead and that the result is provided to the tenant or owner-occupant and any other rental tenant or owner-occupant of the dwelling who requests a copy and that the result is conspicuously posted on the premises, and to establish a penalty for failure to comply with the provisions of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Multiple Dwelling Residence Water Lead Level Test Emergency Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Dwelling unit" means any habitable room or group of habitable rooms located within a residential building and forming a single unit which is used or intended to be used for living, sleeping, and the preparation and eating of meals, including a bachelor apartment.

(2) "Multiple Dwelling" means any residential building containing 3 or more dwelling units, 3 or more rooming units, or any combination of dwelling or rooming units totaling 3 or more.

(3) "Owner" means any individual, corporation, association, or partnership listed as the legal title holder of record and any owners' association legally incorporated in accordance with the District of Columbia Cooperation Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Official Code § 29-901 *et seq.*), or the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Official Code § 42-1901.01 *et seq.*), that is the recognized representative of the households in a condominium or cooperative housing building.

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(4) "WASA" means the District of Columbia Water and Sewer Authority established by section 202 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.02).

Sec. 3. Testing.

(a) The Mayor shall require the owner of a multiple dwelling to order a water lead level test kit from WASA to sample the tap water in a dwelling or rooming unit for the presence of lead within 15 calendar days of a written request to do so by a rental tenant or owner-occupant of the unit. The rental tenant or owner-occupant shall also send a copy of this written request to the Mayor.

(b)(1) The owner shall order a water lead level test kit for each rental tenant and owner-occupant of the dwelling who requests a test, up to a maximum of 2% of the total units in the multiple dwelling or 6 units, whichever is less. In multiple dwellings of less than 50 units, the owner shall order at least one water lead level test kit if requested to by a rental tenant or owner-occupant of the dwelling.

(2) An owner shall be required to order a water lead level test kit pursuant to this act no more than once in a 6-month period for each unit whose rental tenant or owner-occupant requests a test kit.

(c) WASA shall send a water lead level test kit to each owner upon request. At the time WASA sends a water lead level test kit to an owner in response to a request pursuant to this act, WASA shall also send written notice to the Mayor that it has sent the water lead level test kit.

(d) Within 15 calendar days of receiving the water lead level test kit from WASA, the owner shall provide the water lead level test kit to an occupant of each unit being tested and send written certification to the Mayor that the owner has provided the kit.

(e) The rental tenant or owner-occupant of the unit being tested shall send a sample of the water he or she collects from the unit to WASA to have it tested for the lead level.

(f) WASA shall test the water sample at its expense and shall mail the result of the water lead level test to both the dwelling owner and to the rental tenant or owner-occupant of the unit in which the water sample was collected when the result is available.

(g) Within 15 calendar days of receiving the water lead level test result from WASA, the owner shall:

(1) Provide a written copy of the water lead level test result to any rental tenant or owner-occupant of the multiple dwelling who requests a copy of the test result and post the test result in a conspicuous place on the dwelling's premises; and

(2) Send written certification to the Mayor that the owner has provided a written copy of, and posted, the water lead level test result as required by this subsection.

Sec. 4. Violations.

(a) Whenever the Mayor finds reasonable grounds to believe that a violation of any provision of this act exists, he or she shall give notice of the alleged violation to the person or persons responsible for that violation. Each notice of violation shall be in writing and shall meet the following requirements:

- (1) State the nature of the violation;
- (2) Indicate the provision of this act being violated;
- (3) Allow a reasonable time for the performance of any corrective action required by the notice; and
- (4) Be signed by the Mayor or the Mayor's authorized agent.

(b) Each notice shall be served upon the persons responsible for correcting the violation described in the notice.

(c) The notice shall be properly served upon the person to be notified if served by any of the following means:

- (1) By serving a copy of the notice upon the person personally;
- (2) By leaving a copy of the notice at the person's usual place of business or at the person's usual residence with a person over the age of 16 years;
- (3) If no residence or place of business can be found in the District following a reasonable search, by leaving a copy of the notice with any agent of the person to be notified who has any authority or duty with reference to the premises to which the notice relates, or by leaving a copy of the notice at the office of that agent with any person employed in that office;
- (4) By mailing a copy of the notice with a receipt of notice included, postage prepaid, to the last known address of the person to be notified; or
- (5) By publishing a copy of the notice on 3 consecutive days in a daily newspaper of general circulation published in the District.

(d) Failure of an owner to comply with the provisions of this act upon a determination by the Mayor that a violation has occurred shall be punishable by a fine of \$100 for each day of noncompliance.

Sec. 5. Rules and procedures.

The Mayor is authorized to promulgate rules and to establish procedures to implement this act.

Sec. 6. Fines and penalties.

Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this act, or the rules.

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Sec. 7. Repealer

The Residential Water Lead Level Test Emergency Act of 2004, effective May 25, 2004 (D.C. Act 15-436; 51 DCR 5953), is repealed.

Sec. 8. Fiscal impact statement.

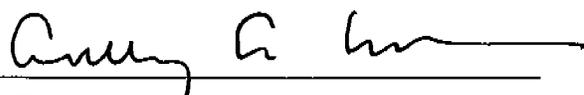
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 9. 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
July 19, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA

OFFICE OF THE BUDGET DIRECTOR FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (X) Temporary () Permanent ()	Date Reported:
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Subject/Short Title: The "Multiple Dwelling Residence Water Lead Level Test Emergency Act of 2004"

Part 1: Summary of the Fiscal Estimates of the Bill		
	YES	NO
It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	(X)
b) It will affect federal expenditures.	()	(X)
c) It will affect private/other expenditures.	()	(X)
d) It will affect intra-District expenditures.	()	(X)
It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(X)
a) It will impact local revenue.	()	(X)
b) It will impact federal revenue.	()	(X)
c) It will impact private/other revenue.	()	(X)
d) It will impact intra-District revenue.	()	(X)
The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(X)	()
<p>Explanation: This bill will have no or minimal fiscal impact because the portion of it that WASA has to administer would not affect the District budget and it would require minimal administration by the Executive.</p>		

Part 2: Other Impacts of the Bill		
	YES	NO
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
1. It will affect an agency and/or agencies in the District.	()	(X)
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted? Owners of multiple dwelling residences in the District would have no requirement to test the building's tap water for excessive lead levels.	(X)	()
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(X)

Sources of information:	Councilmember: Carol Schwartz
Council staff:	Staff Person & Tel: Andrew Gerst (202) 727-8272
	Council Budget Director's Signature: <i>ATA R. RAM</i> 6/28/04

AN ACT

D.C. ACT 15-484

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JULY 19, 2004

*Codification
District of
Columbia
Official Code*

2001 Edition

2004 Fall
Supp.

West Group
Publisher

To amend, on an emergency basis, the Free Clinic Assistance Program Act of 1986 to extend the life of the free clinic assistance program until October 1, 2008.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Free Clinic Assistance Program Extension Emergency Amendment Act of 2004".

Sec. 2. Section 7(b) of the Free Clinic Assistance Program Act of 1986, effective September 23, 1986 (D.C. Law 6-155; D.C. Official Code § 1-307.26), is amended by striking the phrase "September 23, 2004" and inserting the phrase "October 1, 2008" in its place.

Note.
§ 1-307.26

Sec. 3. Fiscal impact statement.

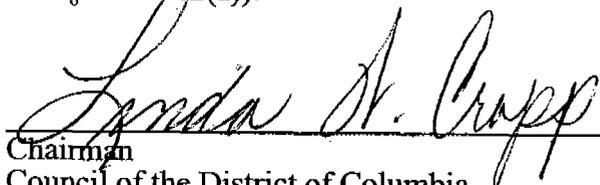
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

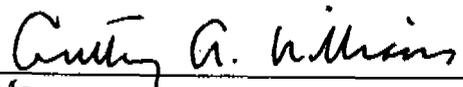
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

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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
July 19, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR
FISCAL IMPACT STATEMENT

Bill Number	Type: Emergency (X) Temporary () Permanent () Amendment ()	Date Reported: 6/25/04
-------------	--	------------------------

Subject/Short Title: The "Free Clinic Assistance Program Extension Emergency Amendment Act of 2004"

Partial Summary of the Fiscal Estimates of the Bill		
	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(x)
a) It will affect local expenditures.	()	(x)
b) It will affect federal expenditures.	()	(x)
c) It will affect private/other expenditures.	()	(x)
d) It will affect intra-District expenditures.	()	(x)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(x)
a) It will impact local revenue.	()	(x)
b) It will impact federal revenue.	()	(x)
c) It will impact private/other revenue.	()	(x)
d) It will impact intra-District revenue.	()	(x)
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(x)	()

Partial Other Impact of the Bill		
	YES	NO
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
1. It will affect an agency and/or agencies in the District.	()	(x)
2. Are there performance measures/output for this bill?	()	(x)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	(x)	()
Without an extension of this program, the free clinics will be unable to operate.		
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	(x)	()
It is covered by the District's settlements and judgments account.		

Sources of information:	Councilmember Sandy Allen
	Staff Person & Tel: Eric J. Goulet (202) 724-8060
	Council Budget Director's Signature: <i>ATA RGA</i>

6/25/04

AN ACT

D.C. ACT 15-495

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 19, 2004

Codification
District of
Columbia
Official Code

2001 Edition

2004 Fall
Supp.

West Group
Publisher

To amend, on an emergency basis, the District of Columbia Traffic Act, 1925, to establish the crime of fleeing from a law enforcement officer in a motor vehicle, and to establish penalties for the commission of the crime.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fleeing Law Enforcement Prohibition Emergency Amendment Act of 2004".

Sec. 2. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.01 *et seq.*), is amended by adding a new section 10b to read as follows:

"Sec. 10b. Fleeing from a law enforcement officer in a motor vehicle.

"(a) For the purposes of this section, the term:

"(1) "Law enforcement officer" means a sworn member of the Metropolitan Police Department or a sworn member of any other police force operating in the District of Columbia.

"(2) "Signal" means a communication made by hand, voice, or the use of emergency lights, sirens, or other visual or aural devices.

"(b)(1) An operator of a motor vehicle who knowingly fails or refuses to bring the motor vehicle to an immediate stop, or who flees or attempts to elude a law enforcement officer, following a law enforcement officer's signal to bring the motor vehicle to a stop, shall be fined not more than \$1,000, or imprisoned for not more than 180 days, or both.

"(2) An operator of a motor vehicle who violates subsection (b)(1) of this section and while doing so drives the motor vehicle in a manner that would constitute reckless driving under § 50-2201.04(b), or causes property damage or bodily injury, shall be fined not more than \$5,000, or imprisoned for not more than 5 years, or both.

"(c) It is an affirmative defense under this section if the defendant can show, by a preponderance of the evidence, that the failure to stop immediately was based upon a reasonable belief that the defendant's personal safety is at risk. In determining whether the defendant has met this burden, the court may consider the following factors:

"(1) The time and location of the event;

"(2) Whether the law enforcement officer was in a vehicle clearly identifiable by its markings, or if unmarked, was occupied by a law enforcement officer in uniform or displaying a badge or other sign of authority;

"(3) The defendant's conduct while being followed by the law enforcement officer;

“(4) Whether the defendant stopped at the first available reasonably lighted or populated area; and

“(5) Any other factor the court considers relevant.

“(d)(1) The Mayor or his designee, pursuant to section 13, may suspend the operating permit of a person convicted under subsection (b)(1) of this section for a period of not more than 180 days and may suspend the operating permit of a person convicted under subsection (b)(2) of this section for a period of not more than 1 year.

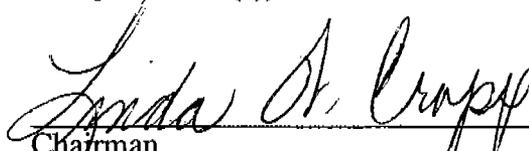
“(2) A suspension of an operator’s permit under paragraph (1) of this subsection for a person who has been sentenced to a term of imprisonment for a violation of subsection (b)(1) or (2) of this section shall begin following the person’s release from incarceration.”.

Sec. 3. Fiscal impact statement.

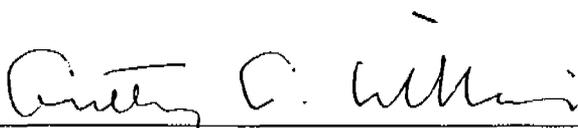
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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
July 19, 2004

**COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR
FISCAL IMPACT STATEMENT**

Bill Number:	Type: Emergency (X) Temporary () Permanent ()	Date Reported: July 12, 2004
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Subject/Short Title: "Fleeing Law Enforcement Prohibition Emergency Amendment Act of 2004"

Part I. Summary of the Fiscal Estimates of the Bill	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	(X)
b) It will affect federal expenditures.	()	(X)
c) It will affect private/other expenditures.	()	(X)
d) It will affect intra-District expenditures.	()	(X)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(X)
a) It will impact local revenue.	()	(X)
b) It will impact federal revenue.	()	(X)
c) It will impact private/other revenue.	()	(X)
d) It will impact intra-District revenue.	()	(X)
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(X)	()
Explanation: The bill penalizes an action that law enforcement officers have always prohibited.		

Part II. Other Impact of the Bill	YES	NO
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
1. It will affect an agency and/or agencies in the District. Metropolitan Police Department	(X)	()
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	()	(X)
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	(X)	()

Sources of information:	Councilmember: Kathy Patterson
	Staff Person & Tel: Hwa Shin
	Council Budget Director's Signature: <i>[Signature]</i> 7/12/04

AN ACT
D.C. ACT 15-497

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 19, 2004

*Codification
District of
Columbia
Official Code*

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To amend, on an emergency basis, Chapter 23 of Title 16 of the District of Columbia Official Code to require that the court find by clear and convincing evidence that a juvenile who has pled or been found guilty of an offense is not in need of care or rehabilitation before the court can dismiss the matter at disposition, to confirm that a case may not be dismissed only on the grounds that a child is receiving care and rehabilitation in another case, and to require the involvement and participation of a parent, guardian, or other person with whom a child resides, in the rehabilitation process.

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

Sec. 2. Chapter 23 of Title 16 of the District of Columbia Official Code is amended as follows:

Note,
§ 16-2309

(a) Section 16-2309 is amended as follows:

(1) Paragraph (7) is amended by striking the word "or" at the end.

(2) Paragraph (8) is amended by striking the period at the end and inserting the phrase "; or" in its place.

(3) A new paragraph (9) is added to read as follows:

"(9) by a law enforcement officer when the officer has reasonable grounds to believe that the child has violated a court order."

(b) Section 16-2317(c)(2) is amended by striking the phrase "In the absence of evidence to the contrary, a finding of the commission of an act which would constitute a criminal offense if committed by an adult is sufficient to sustain a finding of need for care or rehabilitation in delinquency and need of supervision cases." and inserting the phrase "There shall be a rebuttable presumption that a finding of the commission of an act which would constitute a criminal offense if committed by an adult is sufficient to sustain a finding of need for care or rehabilitation in delinquency and need of supervision cases." in its place.

Note,
§ 16-2317

(c) Section 16-2317(d) is amended to read as follows:

"(d)(1) If the Division finds that the child is not in need of care and rehabilitation, it shall terminate the proceedings and discharge the child from detention, shelter care, or other restriction previously ordered.

Note,
§ 16-2317

"(2) Determinations of whether a child is in need of care or rehabilitation may only be made at the dispositional hearing.

"(3) To overcome the presumption of a need for care or rehabilitation in subsection (c)(2) of this section, the Division must find by clear and convincing evidence at the dispositional hearing that the child is not in need of care or rehabilitation before it may

terminate proceedings.

“(4) The fact that a child is receiving care or rehabilitation in another case shall not be the only grounds for dismissal.”.

(d) Section 16-2325.01 is amended as follows:

(1) Subsection (a) is amended by striking the word “may” and inserting the word “shall” in its place, and by striking the period at the end and inserting the phrase “, unless the court determines that such an order is not in the best interest of the child.” in its place.

(2) Subsection (b) is amended by striking the word “may” and inserting the word “shall” in its place.

(3) Subsection (c) is amended by striking the phrase “an order of participation” and inserting the phrase “an order issued under this section” in its place.

Note,
§ 16-2325.01

Sec. 3. Fiscal impact statement.

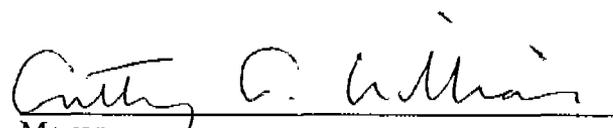
The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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
July 19, 2004

COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF THE BUDGET DIRECTOR
FISCAL IMPACT STATEMENT

Bill Number:	Type: Emergency (x) Temporary () Permanent ()	Date Reported: July 12, 2004
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Subject/Short Title: "Juvenile Justice Emergency Amendment Act of 2004"

Part I. Summary of the Fiscal Estimates of the Bill		
	YES	NO
1. It will impact spending. (If "Yes," complete Section 1 in the Fiscal Estimate Worksheet).	()	(X)
a) It will affect local expenditures.	()	(X)
b) It will affect federal expenditures.	()	(X)
c) It will affect private/other expenditures.	()	(X)
d) It will affect intra-District expenditures.	()	(X)
2. It will impact revenue. (If "Yes," complete Section 2 in the Fiscal Estimate Worksheet).	()	(X)
a) It will impact local revenue.	()	(X)
b) It will impact federal revenue.	()	(X)
c) It will impact private/other revenue.	()	(X)
d) It will impact intra-District revenue.	()	(X)
3. The bill will have NO or minimal fiscal impact. (If "Yes," explain below).	(X)	()
Explanation: These changes will have minimal fiscal impact on the current operations of the Family Court which is federally funded agency		

Part II. Other Impact of the Bill		
If you check "Yes" for each question, please explain on separate sheet, if necessary.		
	YES	NO
1. It will affect an agency and/or agencies in the District.	()	(X)
2. Are there performance measures/output for this bill?	()	(X)
3. Will it have results/outcome, i.e., what would happen if this bill is not enacted?	()	(X)
4. Are funds appropriated for this bill in the Budget and Financial Plan for the current year?	()	(X)

Sources of information:	Councilmember: Kathy Patterson
	Staff Person & Tel: Tami Lewis
	Council Budget Director's Signature: <i>[Signature]</i>

7/12/04