

ENROLLED ORIGINAL

Sec. 211. Energy Assistance Trust Fund.

(a)(1) There is established as a nonlapsing fund the Energy Assistance Trust Fund, which shall be used solely for the purposes stated in subsection (c) of this section. The Energy Assistance Trust Fund shall be funded by an assessment on the natural gas and electric companies under subsection (b) of this section. All funds collected from these sources shall be deposited into the EATF and be disbursed by the Fiscal Agent.

(2) All funds deposited into the Energy Assistance Trust Fund, and any interest earned on the funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (a) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(b)(1) There is imposed upon sales of the gas company an assessment of \$.006 per therm.

(2) There is imposed upon the sales of the electric company an assessment of \$.0004 per-kilowatt hour.

(3) The assessments shall be paid to the Fiscal Agent before the 21st day of each month, beginning in November, 2008, or the first full month following the effective date of this act, whichever is later, for sales for the preceding billing period.

(4) The assessment shall be applied to the sale of every kilowatt hour and therm in the District, except sales to residents participating in the Residential Essential Service or Residential Aid Discount programs operated by DDOE.

(5) Nothing in this title shall be construed to prohibit the electric company or natural gas company from recovering the assessment imposed under paragraphs (1) and (2) of this section, respectively, in its rates as a surcharge on customers' bills.

(c) The Energy Assistance Trust Fund shall be used solely to fund:

(1) The existing low-income programs in the amount of \$3.3 million annually;
and

(2) The Residential Aid Discount subsidy in the amount of \$3 million annually.

(d) The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to modify the assessments under subsection (b) of this section and the programs funded by the EATF.

(e) The DDOE shall submit to the Council a quarterly report detailing:

(1) Expenditures from the EATF; and

(2) The performance of EATF programs operated by the DDOE.

Sec. 212. Conforming amendments.

(a)(1) Section 114 of the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1514), is repealed.

Repeal
§ 34-1514

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(2) One-half of the funds remaining in the Reliable Energy Trust Fund shall be transferred to the Sustainable Energy Trust Fund and ½ of the funds shall be transferred to the Energy Assistance Fund.

(b)(1) Section 101 of the Omnibus Utility Amendment Act of 2004, effective April 12, 2005 (D.C. Law 15-142; D.C. Official Code § 34-1651), is repealed.

Repeal
§ 34-1651

(2) One-half of the funds remaining in the Natural Gas Trust Fund shall be transferred to the Energy Assistance Trust Fund and ½ of the funds shall be transferred to the Sustainable Energy Trust Fund.

Sec. 213. Solar and Renewable Home Improvement Financing Proposal.

(a) Within 90 days after the effective date of this act, the Commission shall open an investigation into mechanisms to make long-term affordable financing available to energy consumers to purchase:

(1) Renewable energy generating systems, including solar thermal and solar photovoltaic panels and geothermal heating and cooling systems; and

(2) Home and business improvements that increase the energy efficiency of buildings, including weatherizing, adequate insulation, efficient doors and windows, and central air conditioning.

(b) The Commission's investigation shall include the means by which the electric and gas companies' billing systems can be used to collect payments from individuals to purchase renewable energy generating systems and make energy efficiency improvements to homes and businesses.

(c) Within 60 days after the close of the record of the investigation, the Commission shall issue a report, including findings, on the feasibility of the implementation of the proposal set forth in subsections (a) and (b) of this section.

TITLE III. RENEWABLE PORTFOLIO STANDARDS.

Sec. 301. The Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431 *et seq.*), is amended as follows:

(a) Section 3(14)(D.C. Official Code § 34-1431(14)) is amended to read as follows:

“(14) “Solar energy” means radiant energy, direct, diffuse, or reflected, received from the sun at wavelengths suitable for conversion into thermal, chemical, or electrical energy, that is collected, generated, or stored for use at a later time.”

Amend
§ 34-1431

(b) Section 4 (D.C. Official Code § 34-1432) is amended as follows:

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

“(a-1)(1) For nonresidential solar heating, cooling, or process heat property systems producing or displacing greater than 10,000 kilowatt hours per year, the solar systems shall be rated and certified by the SRCC and the energy output shall be determined by an onsite energy meter that meets performance standards established by OIML.

Amend
§ 34-1432

“(2) For nonresidential solar heating, cooling, or process heat property systems producing or displacing 10,000 or less than 10,000 kilowatt hours per year, the solar systems shall be rated and certified by the SRCC and the energy output shall be determined by the SRCC OG-300 annual system performance rating protocol applicable to the property, by the SRCC OG-100 solar collector rating protocol, or by an onsite energy meter that meets performance standards established by OIML; and

“(3) For residential solar thermal systems, the system shall be certified by the SRCC and the energy output shall be determined by the SRCC OG-300 annual rating protocol or by an onsite energy meter that meets performance standards established by OIML.”.

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

“(c) The renewable energy portfolio standard shall be as follows:

“(1) In 2008, 2% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.011% from solar energy;

“(2) In 2009, 2.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.019 % from solar energy;

“(3) In 2010, 3% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.028% from solar energy;

“(4) In 2011, 4% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.04% from solar energy;

“(5) In 2012, 5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.07% from solar energy;

“(6) In 2013, 6.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.10% from solar energy;

“(7) In 2014, 8% from tier one renewable sources; 2.5% from tier two renewable sources, and not less than 0.13% from solar energy;

“(8) In 2015, 9.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.17% from solar energy;

“(9) In 2016, 11.5% from tier one renewable sources, 2% from tier two renewable sources, and not less than 0.21% from solar energy;

“(10) In 2017, 13.5% from tier one renewable sources, 1.5% from tier two renewable sources, and not less than 0.25% from solar energy;

“(11) In 2018, 15.5% from tier one renewable sources, 1% from tier two renewable sources, and not less than 0.30% from solar energy;

“(12) In 2019, 17.5% from tier one renewable sources, 0.5% from tier two renewable sources, and not less than 0.35% from solar energy; and

“(13) In 2020, 20% from tier one renewable sources, 0% from tier two renewable sources, and not less than 0.4% from solar energy.”.

(3) A new subsection (e) to read as follows:

“(e) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the solar requirement by obtaining the equivalent amount of renewable energy credits from

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solar energy systems interconnected to the distribution grid serving the District of Columbia. Only after an electricity supplier exhausts all opportunity to meet this requirement that the solar energy systems be connected to the grid within the District of Columbia, can that supplier obtain renewable energy credits from jurisdictions outside the District of Columbia.”

(c) Section 6(c) (D.C. Official Code § 34-1434(c)) is amended as follows:

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

“(1) Five cents for each kilowatt-hour of shortfall from required tier one renewable sources;”

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

“(3) Fifty cents in 2009 until 2018 for each kilowatt-hour of shortfall from required solar energy sources.”

(3) New paragraphs (4) and (5) are added to read as follows:

“(4) Beginning on March 1, 2010, and annually thereafter, energy companies that sell electricity in the District of Columbia shall file an energy portfolio report for the preceding calendar year with DDOE, which shall include a breakdown of the average cost per kilowatt hour of electricity that the company sold in the District of Columbia by source of generation, to include coal, gas, oil, nuclear, solar, land-based wind, off-shore wind, and other renewable sources. The breakdown of cost should also include the average capital cost per kilowatt, as well as the average fixed and variable costs associated with operations and maintenance per megawatt.

“(5) Beginning in 2018, and every year thereafter, the DDOE shall review the data found in the energy portfolio reports, and recommend to the Council a revised annual compliance fee. The proposed alternative compliance fee shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, and legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed alternative compliance fee by resolution within this 45-day review period, the proposed rules shall be deemed approved.”

(d) Section 8 (D.C. Official Code § 34-1436) is amended by adding a new subsection (f) to read as follows:

“(f) The DDOE shall provide to the Council a quarterly report detailing:

“(1) Expenditures from the Renewable Energy Development Fund; and

“(2) The performance of programs or projects funded by the Renewable Energy Development Fund.”

Sec. 302. Section 2(a)(15)(A) of the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501(a)(15)(A)) is amended by striking the phrase “100 kilowatts” and inserting the phrase “1000 kilowatts” in its place.

Amend
§ 34-1434

Amend
§ 34-1436

Amend
§ 34-1501

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TITLE IV. PUBLIC SERVICE COMMISSION AND THE OFFICE OF THE PEOPLE'S COUNSEL.

Sec. 401. Section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 974; codified in scattered sections of the Title 34 of the District of Columbia Official Code), is amended by adding a new paragraph (96A) to read as follows:

"Par. (96A) In supervising and regulating utility or energy companies, the Commission shall consider the public safety, the economy of the District, the conservation of natural resources, and the preservation of environmental quality."

Sec. 402. Section 1 of AN ACT To provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88 Stat. 1975; D.C. Official Code § 34-804), is amended by adding a new subsection (e) to read as follows:

Amend
§ 34-804

"(e) In defining its positions while advocating on matters pertaining to the operation of public utility or energy companies, the Office shall consider the public safety, the economy of the District of Columbia, the conservation of natural resources, and the preservation of environmental quality."

TITLE V. ENERGY BENCHMARKING REQUIREMENTS FOR PRIVATE AND GOVERNMENT BUILDINGS.

Sec. 501. The Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234, D.C. Official Code § 6-1451.01 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Official Code § 6-1451.02) is amended by adding a new subsection (a-1) to read as follows:

Amend
§ 6-1451.02

"(a-1)(1) Beginning 90 days after the effective date of the Clean and Affordable Energy Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-492), 10 buildings owned or operated by the District of Columbia shall be benchmarked using the Energy Star® Portfolio Manager benchmarking tool, and the results made available to the public on the Internet through the DDOE website.

"(2) Beginning one year after the effective date of the Clean and Affordable Energy Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-492), all buildings owned or operated by the District or any of its instrumentalities shall be benchmarked annually using the Energy Star® Portfolio Manager benchmarking tool; provided, that the building has at least 10,000 square feet of gross floor area and is of a building type for which Energy Star® benchmarking tools are available. Benchmark and Energy Star® statements of energy performance for each building shall, within 60 days of being generated, be

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made available to DDOE, which shall then make them accessible to the public via an online database.”.

(b) Section 4 (D.C. Official Code § 6-1451.03) is amended as follows:

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

“(a-1)(1) All privately-owned buildings shall be benchmarked annually using the Energy Star® Portfolio Manager benchmarking tool as designated by the schedule in paragraph (2) of this subsection; provided, that the buildings are of a building type for which Energy Star® tools are available. Benchmark and Energy Star® statements of energy performance for each building shall, by January 1 of the following year, be made available to DDOE. DDOE shall, upon the receipt of the 2nd annual benchmarking data for each building, make the data accessible to the public via an online database.

“(2) The schedule shall be as follows:

“(A) All buildings over 200,000 square feet of gross floor area beginning in 2010 and thereafter;

“(B) All buildings over 150,000 square feet of gross floor area beginning in 2011 and thereafter;

“(C) All buildings over 100,000 square feet of gross floor area beginning in 2012 and thereafter; and

“(D) All buildings over 50,000 square feet of gross floor area beginning in 2013 and thereafter.”

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

“(b-1) A project that has submitted the 1st construction building construction permit after January 1, 2012, for new construction or substantial improvement shall, prior to construction, estimate its energy performance using the Energy Star® Target Finder Tool and be benchmarked annually using the Energy Star® Portfolio Manager benchmarking tool; provided, that the building has 50,000 square feet of gross floor area or more and is of a building type for which Energy Star® tools are available. Benchmark and Target Finder scores and Energy Star® statements of energy performance for each building shall, within 60 days of being generated, be made available to DDOE, which shall make the data accessible to the public via an online database.”.

TITLE VI. RENEWABLE ENERGY STUDY.

Sec. 601. Renewable energy study.

Within one year after the effective date of this act, the Mayor shall commission a study to determine the economic, legal, and technical viability of the District government pursuing a new large-scale wind energy project through public financing or private financing.

Sec. 602. Applicability.

This title shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

TITLE VII. SUBMETERING PROVISIONS.

Sec. 701. Definitions.

For the purposes of this title, the term:

(1) "Building" means all of the individual units served through the same utility-owned meter within a property defined as Class 2 Property under D.C. Official Code § 47-813(c-6).

(2) "Building owner, operator, or manager" means any person or entity responsible for the operation and management of a building.

(3) "Commission" means the Public Service Commission.

(4) "Energy allocation equipment" means any device, other than submetering equipment, used to determine approximate electric or natural gas usage for any nonresidential rental unit within a building.

(5) "Electricity supplier" shall have the same meaning as in section 101(17) of the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501(17).)

(6) "Natural gas supplier" shall have the same meaning as in section 3(12) of the Retail Natural Gas Supplier Licensing and Consumer Protection Act of 2004, effective March 16, 2005 (D.C. Law 15-227; D.C. Official Code § 34-1671.02(12)).

(7) "Nonresidential rental unit" means real property leased for commercial purposes.

(8) "Owner-paid areas" means the portion of the real property for which the owner bears financial responsibility for energy costs, which portions include areas outside individual units or in owner-occupied or shared areas.

(9) "Public utility," "utility," or "utility company" shall have the same meaning as in the third unnumbered paragraph, beginning "the term "public utility" section 8(1) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 974; D.C. Official Code § 34-214).

(10) "Submetering equipment" means equipment used to measure actual electricity or natural gas usage in any nonresidential rental unit when the equipment is not owned or controlled by the electric or natural gas utility serving the building in which the nonresidential rental unit is located.

Sec. 702. Commission to promulgate rules, including standards.

(a) The Commission shall promulgate rules, including standards, under which any owner, operator, or manager of a building which is not individually metered for electricity or gas for each nonresidential rental unit may install submetering equipment or energy allocation equipment for the purpose of fairly allocating:

(1) The cost of electrical or gas consumption for each nonresidential rental unit;
and

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(2) Electrical or gas demand and customer charges made by the utility and electricity and natural gas supplier.

(b) In addition to other appropriate safeguards for the tenant, the rules shall require that a building owner, operator, or manager:

(1) Shall not impose on the tenant any charges over and above the cost per kilowatt hour, cubic foot or therm, plus demand and customer charges, where applicable, which are charged by the utility company, the electricity supplier, and natural gas supplier to the building owner, operator, or manager, including any sales, local utility, or other taxes, if any; provided, that additional service charges permitted by section 703 may be collected to pay administrative costs and billing; and

(2) Shall maintain adequate records regarding submetering and energy allocation equipment and shall make such records available for inspection by the Commission during reasonable business hours.

(c)(1) For the purposes of Commission enforcement of the rules adopted under this section, building owners, operators, or managers shall be treated as public utilities for the purposes of making a complaint under section 8(47) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 984; D.C. Official Code § 34-917), and any rules governing the making of complaints adopted under section 8(32) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 982; D.C. Official Code § 34-902).

(2) All submetering equipment shall be subject to the same rules, including standards, established by the Commission for accuracy, testing, and recordkeeping of meters installed by electric or gas utilities and shall be subject to the meter requirements of section 8(57) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 987; D.C. Official Code § 34-303).

(3) All energy allocation equipment shall be subject to rules, including standards established by the Commission to ensure that such systems result in a reasonable determination of energy use and the resulting costs for each nonresidential rental unit.

(4) Violations of Commission rules and orders issued under this section shall be subject to the penalty provisions set forth in section 8(87) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 992; D.C. Official Code § 34-708), and section 1 of AN ACT To provide alternative methods of enforcement of orders, rules, and regulations of the Joint Board and of the Public Utilities Commission of the District of Columbia, approved April 5, 1939 (53 Stat. 569; D.C. Official Code § 34-731).

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(d) In implementing this section, no building owner, operator, or manager shall be considered a public utility engaged in the business of distributing or reselling electricity or gas except as provided in subsection (c) of this section. The building owner, operator, or manager may use submetering or energy allocation equipment solely to allocate the costs of electric or gas service fairly among the tenants using the building.

Sec. 703. Energy submetering and energy allocation equipment.

(a) Energy submetering equipment or energy allocation equipment may be used in a building if it is authorized in the rental agreement or lease for the nonresidential rental unit. All energy submetering equipment and energy allocation equipment shall meet the requirements and standards established and enforced by the Commission pursuant to subsection (b) of this section.

(b)(1) If energy submetering equipment or energy allocation equipment is used in any building, the building owner, operator, or manager shall bill the tenant for electricity or natural gas for the same billing period as the utility, the electricity supplier, or the natural gas supplier serving the building, unless the rental agreement or lease expressly provides otherwise.

(2) A late payment charge shall not be imposed on all amounts, including deferred payment installments, paid by the due date or on amounts in dispute before the Commission. Amounts paid after the due date shall bear a late payment charge of 1%, and an additional late payment charge at the rate of 1 1/2 % on the remaining unpaid balance per billing month thereafter.

(c) Energy allocation equipment shall be tested periodically under Commission rules by the building owner, operator, or manager. Upon the request by a tenant, the building owner, operator, or manager shall test the energy allocation equipment without charge. The test shall be conducted without charge to the tenant and shall not be conducted more frequently than once in a 24-month period for the same tenant. The tenant or his designated representative may be present during the testing of the energy allocation equipment. A written report of the results of the test shall be made to the tenant within 10 business days after the completion of the test.

(d) A building owner, operator, or manager shall maintain adequate records regarding energy submetering equipment or energy allocation equipment. A tenant may inspect and copy the records for the nonresidential unit during reasonable business hours at a convenient location within the building. The building owner, operator, or manager may impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials and labor for copying, prior to providing copies of the records to the tenant.

(e) Notwithstanding any enforcement action undertaken by the Commission pursuant to its authority under section 702, tenants and owners, operators, or managers shall retain any private right of action resulting from any breach of the rental agreement or lease terms required by this section or section 703.

TITLE VIII. APPLICABILITY; EFFECTIVE DATE; AND FISCAL IMPACT STATEMENT.

Sec. 801. Applicability.

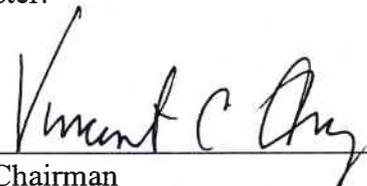
This act shall apply on the later of October 1, 2008, or the effective date of this act.

Sec. 802. Fiscal impact statement.

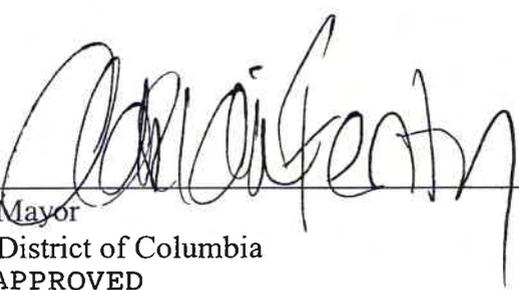
The Council adopts the July 1, 2008 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 803. 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 4, 2008

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AN ACT

D.C. ACT 17-498

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 4, 2008*Codification
District of
Columbia
Official Code*

2001 Edition

2008 Fall
Supp.West Group
Publisher

To establish the Youth Council of the District of Columbia to provide an organized youth perspective on various issues to the Council of the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Youth Council of the District of Columbia Establishment Act of 2008".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Youth" means an individual who is at least 13 years of age and no older than 22 years of age.

(2) "Youth Council" means the Youth Council of the District of Columbia, established in section 3.

Sec. 3. Establishment and duties.

(a) There is established the Youth Council of the District of Columbia.

(b) The Youth Council members shall advise the Council of the District of Columbia ("Council") by:

(1) Commenting upon legislation and policies that impact on youth;

(2) Presenting issues and recommendations to improve the lives of youth;

(3) Monitoring the programs and policies that affect youth to ensure that they are achieving the intended results; and

(4) Working with other youth organizations in the District to:

(A) Provide mutual support;

(B) Collaborate on shared issues and interests;

(C) Advise one another on ways to increase the effectiveness of their organizations;

(D) Assist in the start-up of new youth organizations, including youth organizations for each ward of the District;

(E) Prepare youth for leadership positions by providing appropriate

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training; and

(F) Create more youth and adult partnerships.

(c) The Youth Council shall conduct periodic seminars for members regarding leadership, government, and the Council.

(d)(1) The Youth Council shall:

- (A) Set its own priorities;
- (B) Determine the function of its subcommittees;
- (C) Establish standards of conduct;
- (D) Establish ministerial procedures; and
- (E) Determine its needs for the convening of meetings.

(2) Youth Council members shall review and consider the procedures and rules of the Council, as they may be appropriate for the Youth Council.

(e) Beginning one year after its first meeting and every year thereafter, the Youth Council shall publish a report of its activities, recommendations, and accomplishments, which shall be:

- (1) Distributed to the Council;
- (2) Placed on the Internet;
- (3) Distributed to each public library, and the library of each public and public charter school; and
- (4) Made available to the public upon request.

(f) The Youth Council shall meet at least 4 times a year, including at least one public hearing on issues of importance to youth.

Sec. 4. Composition of the Youth Council.

(a) The Youth Council shall be comprised of 13 members. Each of the 8 ward members of the Council shall select a member from among the applicants to represent his or her respective ward. The Chairman and each of the 4 at-large members of the Council shall select a member from among the applicants to serve as one of the 5 at-large members of the Youth Council.

(b) The Chairman of the Council shall appoint a committee to create an application process, which shall include an application form, the requirements for recommendations, deadlines, and any other information that will assist youths to state their interest in serving on the Youth Council.

(c) A Youth Council member shall:

- (1) Be a District resident for at least one year, excluding time residing in a college dormitory, prior to his or her application to serve on the Youth Council;
- (2) Be a college student who has been a District resident living outside a college dormitory for at least one year prior to his or her application to serve on the Youth Council;
- (3) Have a sincere interest in, and motivation to work for, the community;
- (4) Have a background of community-based activity;

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(5) Have a general knowledge of the activities and needs in the sector of the community that he or she will represent;

(6) Have an ability to bring creative perspectives about youth issues and concerns;

(7) Have the ability to work patiently and constructively in a group setting;

(8) Be responsible and able to fulfill commitments; and

(9) Have an interest in the development of leadership skills.

(d) Members shall serve for a term of 2 years. A member may be reappointed, but may not serve more than 2 full terms.

(e) A chairman shall be selected by the Youth Council members.

(f) Vacancies shall be filled in the same manner as the initial appointment. A member appointed to fill a vacancy shall serve for the remainder of the unexpired term.

(g) Members of the Youth Council shall serve without compensation.

Sec. 5. Staff.

(a) One adult person shall be hired as a full-time youth planner, and youth may be hired to work part-time, as needed.

(b) The Council shall provide staff assistance to the Youth Council from within its existing budgeted resources or from grants received by the Council for this purpose. Staff assigned by the Council to the Youth Council shall assist with the drafting of all legislation submitted to the Council by the Youth Council. Youth Council staff may be curtailed during periods when the Council is in regular or special session.

Sec. 6. Integration with learning standards.

Local Education Agencies may seek the cooperation of the Council on the integration of Youth Council experience into relevant District of Columbia learning standards and toward meeting graduation requirements.

Sec. 7. Funding.

(a)(1) Gifts, grants, and donations from private or public sources may be used to fund the costs of the Youth Council. Contributions to support the work of the Youth Council may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied by the Youth Council or who would in any way compromise the work of the Youth Council.

(2) A person, other than a District of Columbia agency, desiring to make a financial or in-kind contribution must certify to the Council, or its designee, in the manner prescribed by the Council, that the person has no pecuniary or other vested interest in the outcome of the work of the Youth Council. All contributions are subject to approval by the Council, or its designee.

(3) The Secretary to the Council shall administer any funds received by the

Youth Council. Prior to the beginning of each fiscal year, the Secretary shall notify the Youth Planner and Chair of the Youth Council of the status of funding.

Sec. 8. Fiscal impact statement.

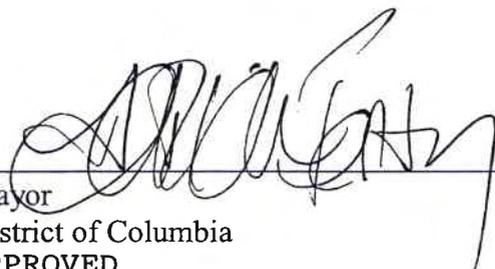
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 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), 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 4, 2008

ENROLLED ORIGINAL

AN ACT
D.C. ACT 17-499

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
AUGUST 4, 2008

*Codification
 District of
 Columbia
 Official Code*

2001 Edition

2008 Fall
 Supp.

West Group
 Publisher

To authorize and provide for the issuance, sale, and delivery of District of Columbia revenue bonds in one or more series, secured by tax increment revenues, payments in lieu of taxes, and special assessments generated by or related to the Southwest Waterfront project and issued pursuant to section 490 of the District of Columbia Home Rule Act; and to amend Title 47 of the District of Columbia Official Code to establish payments in lieu of taxes and a special assessment district to secure and repay the revenue bonds related to Southwest Waterfront project.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Southwest Waterfront Bond Financing Act of 2008".

TITLE I. BOND FINANCING.

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Authorized Delegate" means the City Administrator, the Chief Financial Officer, the District of Columbia Treasurer, the Deputy Mayor for Planning and Economic Development, or any officer, employee, or agency of the executive office of the Mayor to whom the Mayor has delegated any of the Mayor's functions under this act pursuant to section 422(6) of the Home Rule Act and has been designated as an authorized delegate for purposes of this act.

(2) "Available Increment" shall have the same meaning as provided in the Reserve Agreement.

(3) "Available Sales Tax Revenues" means the revenues generated in the Southwest Waterfront PILOT/TIF Area in any fiscal year of the District commencing on the Commencement Date resulting from the imposition of the sales tax under Chapter 20 of Title 47 of the District of Columbia Official Code, including penalty and interest charges, exclusive of the portion thereof required to be deposited in the Washington Convention Center 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);

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provided, that with respect to the Fish Market, the Available Sales Tax Revenues shall be the sales tax revenues in excess of an amount equal to the sales tax revenues for fiscal year 2008. The term "Available Sales Tax Revenues" shall include sales tax revenues from any business existing in the Southwest Waterfront PILOT/TIF Area on the effective date of this act only after the business has re-opened as a result of the development of any portion of the project.

(4) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(5) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this title.

(6) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia established by section 424a(a) of the Home Rule Act.

(7) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(8) "Commencement Date" means the date upon which the 1st parcel of real estate within the Southwest Waterfront PILOT/TIF Area is transferred to the Master Developer.

(9) "Consumer Price Index" means the index number of retail commodities prices designated "Consumer Price Index-all items CPIU (1996=100) Washington-Baltimore DC-MD-VA-WA" as published by the United States Department of Labor, Bureau of Labor Statistics (or any successor agency thereto), appropriately adjusted.

(10) "Debt Service" means payment of principal, premium, if any, and interest on the bonds.

(11) "Development Costs" means all costs and expenses incurred in connection with the development, redevelopment, purchase, acquisition, protection, financing, construction, expansion, reconstruction, rehabilitation, renovation and repair, and the furnishing and equipping of the project, including:

(A) The costs of demolishing or removing roads, utilities, sidewalks, underground facilities, buildings or structures, and other improvements located on, and site preparation of, including environmental remediation, the land acquired or used for, or in connection with, the project, including costs incurred to resolve existing leaseholder interests in portions of the project site that will be re-conveyed to the District as public infrastructure;

(B) Costs of relocation, construction, and redevelopment of the project, including entitlement, development, and construction management fees;

(C) Costs incurred for publicly-owned utility lines, structures, public roads, public parks, or equipment located within or necessary to serve the project;

(D) Interest on the bonds prior to, and during, the construction of the project;

(E) Provisions for reserves for extraordinary repairs and replacements;

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(F) Expenses incurred for architectural, engineering, energy efficiency technology, design and consulting, financial, and legal services;

(G) Fees for letters of credit, bond insurance, debt service reserve insurance, surety bonds, or similar credit or liquidity enhancement instruments;

(H) Costs and expenses associated with the conduct and preparation of specification and feasibility studies, plans, surveys, historic structure reports, and estimates of expenses and revenues;

(I) Expenses necessary or incident to issuing the bonds and determining the feasibility and the fiscal impact of financing the acquisition, construction, or redevelopment of the project; and

(J) The provision of an allowance for contingencies and initial working capital.

(12) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds, including any offering document, and any required supplements to any such documents.

(13) "Fish Market" means the property known for assessment and taxation purposes as Lots 850, 846, and 847, Square 473, and the adjacent riparian area.

(14) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

(15) "Master Developer" means the development entity to which the District transfers the leasehold interest in the Southwest Waterfront PILOT/TIF Area and which is responsible for the planned development of the entire Southwest Waterfront PILOT/TIF Area, including the project.

(16) "Project" means the publicly owned infrastructure located within the Southwest Waterfront PILOT/TIF Area, including streets, parking facilities, sidewalks, walkways, streetscapes, parks, bulkheads, piers, curbs, gutters, and gas, electric, and water utility lines, and the acquisition, equipping, relocation, construction, and redevelopment of certain public facilities, including parks.

(17) "Reserve Agreement" means that certain Reserve Agreement, dated as of April 1, 2002, by and among the District, Wells Fargo Bank Minnesota, N.A. and Financial Security Assurance, Inc.

(18) "Southwest Waterfront Fund" means the fund created by section 103.

(19) "Southwest Waterfront Improvement Benefit District" means the special assessment district established by D.C. Official Code § 47-895.02.

(20) "Southwest Waterfront PILOT" or "PILOT" means the payment in lieu of taxes from the Southwest Waterfront PILOT/TIF Area required by D.C. Official Code § 47-4615.

(21) "Southwest Waterfront PILOT Base Amount" means \$945,000.

(22) "Southwest Waterfront PILOT Increment" means the amount of the

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Southwest Waterfront PILOT that exceeds the Southwest Waterfront PILOT Base Amount.

(23) "Southwest Waterfront PILOT/TIF Area" means the following geographic area:

(A) Approximately 23 acres of land area between the southern curb line of Maine Avenue, S.W., and the bulkhead paralleling the Washington Channel from the western edge of the Fish Market to the western curb of 6th Street, S.W., to the eastern edge of Lot 843, Square 473, the eastern edge of Lots 883, 884, and 885, Square 503, to the eastern edge of parcel 255/15, to the western edge of the P Street, S.W., right-of-way; and

(B) The riparian area and piers associated with the land described in subparagraph (A) of this paragraph, which include:

- (i) The Fish Market;
- (ii) The Capital Yacht Club;
- (iii) The Gangplank Marina; and
- (iv) Piers 4 and 5.

(24) "Southwest Waterfront Special Assessment" means the special assessment relating to the Southwest Waterfront Improvement Benefit District established by D.C. Official Code § 47-895.02.

Sec. 102. Findings.

The Council finds that:

(1) The Southwest Waterfront is a section of the District that requires financial assistance for its redevelopment because the scale of the project includes rebuilding the majority of the neighborhood and replacing existing infrastructure. The project will aid in the redevelopment by providing financial assistance to support the portions of the Southwest Waterfront that will revert to the District as publicly owned infrastructure and parks.

(2) Section 490 of the Home Rule Act provides that the Council may, by act, authorize the issuance of District bonds to borrow money to finance, refinance, or reimburse, and to assist in the financing, refinancing, or reimbursing of, undertakings in certain areas designated in section 490 where the ultimate obligation to repay the bonds is that of one or more governmental persons or entities.

(3) Section 490 of the Home Rule Act provides that bonds may be issued to assist in undertakings for the economic development of the District.

(4) The authorization, issuance, sale, and delivery of bonds for the payment of costs of the project are desirable, are in the public interest, and will accomplish the purposes and intent of section 490 of the Home Rule Act.

Sec. 103. Creation of the Southwest Waterfront Fund.

(a) There is established as a nonlapsing fund the Southwest Waterfront Fund. The Available Sales Tax Revenues, the Southwest Waterfront Special Assessment (if any), and the Southwest Waterfront PILOT Increment shall be deposited into the Southwest Waterfront Fund.

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The Chief Financial Officer shall pay from the Southwest Waterfront Fund the Southwest Waterfront PILOT Base Amount into the General Fund of the District of Columbia. The Mayor may pledge and create a security interest in the funds in the Southwest Waterfront Fund to finance, refinance, or reimburse Development Costs of the project, to pay the Debt Service, or to secure bonds without further action by the Council as permitted by section 490(f) of the Home Rule Act. The Chief Financial Officer shall pay from the Southwest Waterfront Fund the annual costs of administering the Southwest Waterfront Improvement Benefit District established by D.C. Official Code § 47-895.02. If bonds are issued, the payment shall be made in accordance with the provisions of the Financing Documents entered into by the District in connection with the issuance of the bonds.

(b) If, at the end of any fiscal year of the District following the issuance of the bonds, the value of cash and investments in the Southwest Waterfront Fund exceeds the amount of all payments authorized by this title and the Financing Documents during the upcoming fiscal year, the excess shall be transferred to the General Fund of the District of Columbia unless the District elects to use the excess to redeem the bonds prior to maturity.

Sec. 104. Creation of the Southwest Waterfront PILOT/TIF Area.

(a) There is created the Southwest Waterfront PILOT/TIF Area, the Available Sales Tax Revenues from which shall be allocated as provided in this title.

(b) Beginning on the Commencement Date, the Available Sales Tax Revenues from the Southwest Waterfront PILOT/TIF Area shall be allocated and paid into the Southwest Waterfront Fund and used for any of the purposes described in section 103. The termination date for the allocation of Available Sales Tax Revenues shall be the earlier of:

- (1) September 30, 2044; or
- (2) The day after all of the bonds are paid or provided for and are no longer outstanding pursuant to their terms.

Sec. 105. Bond authorization.

(a) The Council approves and authorizes the issuance of one or more series of bonds in an aggregate principal amount not to exceed \$198 million. The bonds, which may be issued from time to time, in one or more series, shall be tax-exempt or taxable as the Mayor shall determine and shall be payable and secured as provided in section 106; provided, that within 60 days prior to the issuance of any bonds, the Chief Financial Officer shall submit to the Mayor and the Council a report to determine the subsidy level needed from the District for the project.

(b) The proceeds of the bonds shall be used as follows:

- (1) An amount not to exceed \$148 million in 2008 dollars (adjusted for inflation by the Consumer Price Index) may be used for payment of Development Costs; and
- (2) The balance of the proceeds may be used to pay the financing costs incurred by the District and to fund capitalized interest and required reserves.

(c) The Mayor may pay from the proceeds of the bonds the financing costs and expenses of

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issuing and delivering the bonds, including, but not limited to, underwriting, legal, accounting, financial advisory, bond insurance or other credit enhancement, marketing and selling the bonds, and printing costs and expenses.

Sec. 106. Payment and security.

(a) Except as may be otherwise provided in this title, Debt Service shall be payable from proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, receipts and revenues deposited into the Southwest Waterfront Fund, including income realized from the investment of those receipts and revenues, and other funds that, as provided in the Financing Documents, may be made available to the District for payment of the bonds from sources other than the District, all as provided for in the Financing Documents.

(b) There is further allocated to payment of Debt Service the Available Increment, subordinate to the allocation of the Available Increment to the Budgeted Reserve, as defined in the Reserve Agreement, all as more fully described in the Reserve Agreement and to the extent that the Reserve Agreement continues to apply to the Available Increment, to be used for the payment of Debt Service to the extent that the revenues allocated in subsection (a) of this section are inadequate to pay Debt Service. The allocation of Available Increment authorized by this subsection shall be made in compliance with all existing contractual obligations of the District with respect to the Available Increment and shall terminate on the date on which all of the bonds are paid or provided for and are no longer outstanding pursuant to their terms.

(c) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bond holders of certain of its rights under the Financing Documents and Closing Documents to the trustee for the bonds pursuant to the Financing Documents.

(d) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents.

Sec. 107. Bond details.

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, but not limited to, determinations of:

- (1) The final form, content, designation, and terms of the bonds, including a determination the bonds may be issued in certificated 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

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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 the 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;

(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 the proceeds are properly applied and used to accomplish the purposes of the Home Rule Act and this act;

(10) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

(11) The terms and types of credit enhancement under which the bonds may be secured.

(b) The bonds shall contain a legend which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the taxes and revenues allocated to the Southwest Waterfront Fund or the Available Increment), do not constitute a debt of the District, and do 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, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

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

(e) The bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

(g) The 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.

(h) The District pledges, covenants, and agrees with the holders of the bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the bonds or the basis on which the revenues pledged to secure the bonds 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 of the bonds,

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and will not modify in any way the exemptions from taxation provided for in this act, until the bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection constitutes a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this act, this act shall be controlling.

(i) 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 the 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. 108. Sale of the bonds.

(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interests of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the bonds.

(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

(d) The bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the bonds of such series and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for purposes of federal income taxation.

(e) The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), and subchapter III-A of Chapter 3 of Title 47 of the District of Columbia Official Code shall not apply to any contract the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this act.

Sec. 109. Financing and Closing Documents.

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

Sec. 110. Limited liability.

(a) The bonds shall be special obligations of the District. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District (other than the taxes and revenues allocated to the Southwest Waterfront Fund and the Available Increment), 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.

(b) The bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the bonds.

(c) No person, including, but not limited to, any bond holder, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this title, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 111. District officials.

(a) Except as otherwise provided in section 110(c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds, be subject to any personal liability by reason of the issuance of the bonds, or be personally

liable for any representations, warranties, covenants, obligations, or agreements of the District contained in this title, the bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

Sec. 112. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 113. Payment In Lieu of Taxes Act not to apply.

This act shall apply notwithstanding the provisions of the Payments In Lieu of Taxes Act of 2004, effective April 5, 2005 (D.C. Law 15-293; D.C. Official Code § 1-308.01 *et seq.*).

TITLE II. PAYMENTS IN LIEU OF TAXES.

Sec. 201. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation to read as follows:

"§ 47-4615. Payments in lieu of taxes, Southwest Waterfront PILOT/TIF Area."

(b) A new section § 47-4615 is added to read as follows:

"§ 47-4615. Payments in lieu of taxes, Southwest Waterfront PILOT/TIF Area.

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

"(1) "Bonds" means any bonds, notes, or other obligations issued by the District pursuant to the Southwest Waterfront Bond Financing Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-591).

"(2) "Lot" means real property as defined in § 47-802(1).

"(3) "Master Developer" means the development entity to which the District transfers the leasehold interest in the Southwest Waterfront PILOT/TIF Area and which is responsible for the planned development of the entire Southwest Waterfront PILOT/TIF Area, including the project.

"(4) "Southwest Waterfront PILOT/TIF Area" shall consist of the following geographic area:

"(A) Approximately 23 acres of land area between the southern curb line of Maine Avenue, S.W., and the bulkhead paralleling the Washington Channel from the western edge of the Fish Market to the western curb of 6th Street, S.W., to the eastern edge of Lot 843, Square 473, the eastern edge of Lots 883, 884, and 885, Square 503, to the eastern edge of

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parcel 255/15, to the western edge of the P Street, S.W., right-of-way; and

“(B) The riparian area and piers associated with the land described in subparagraph (A) of this paragraph, which include:

- “(i) The Fish Market;
- “(ii) The Capital Yacht Club;
- “(iii) The Gangplank Marina; and
- “(iv) Piers 4 and 5.

“(5) “Owner” shall have the same meaning as provided in § 47-802(5) and shall include the holder of a possessory interest as described in § 47-1005.01.

“(6) “Payment in lieu of taxes” or “PILOT” means payments made in lieu of real property taxes pursuant to this section.

“(7) “PILOT period” means, with respect to any lot within the Southwest Waterfront PILOT/TIF Area, the period commencing on the date the lot is transferred by the District to the Master Developer and ending on the earlier of:

- “(A) September 30, 2044; or
- “(B) The day after all of the bonds are paid or provided for and are no longer outstanding pursuant to their terms.

“(8) “Project” means the publicly owned infrastructure located within the Southwest Waterfront PILOT/TIF Area, including streets, parking facilities, sidewalks, walkways, streetscapes, parks, bulkheads, piers, curbs, gutters, and gas, electric, and water utility lines, and the acquisition, equipping, relocation, construction, and redevelopment of certain public facilities, including parks.

“(b) During the PILOT period:

“(1) The lots in the Southwest Waterfront PILOT/TIF Area that are subject to the PILOT shall be exempt from real property taxation, including the special tax provided for in § 1-204.81; and

“(2)(A) Possessory interests in such lots shall be exempt from the possessory interest tax imposed by § 47-1005.01.

“(B) Each owner of a lot, other than the United States or the District, or an otherwise taxable possessory interest in a lot in the Southwest Waterfront PILOT/TIF Area shall enter into a PILOT agreement with the District obligating the owner to make an annual PILOT in an amount equal to the real property taxes, including the special tax provided for in § 1-204.81, or possessory interest taxes that the owner would be obligated to pay on the lot or possessory interest in the Southwest Waterfront PILOT/TIF Area in the absence of this section, which agreement shall run with the land and be binding on the successors and assigns of the original owner.

“(c) The Chief Financial Officer shall determine the amount of PILOT due for each lot and shall generally administer the PILOT program established herein, in the same manner as provided for real property taxation under Chapter 8 of this title or in the case of PILOT due with respect to possessory interests under § 47-1005.01.

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“(d) The PILOT shall be subject to the same penalty and interest provisions as unpaid real property taxes under Chapter 8 of this title or unpaid possessory interest taxes under § 47-1005.01(f)(3).

“(e) All PILOT shall be made to the District and shall be allocated as provided in the Southwest Waterfront Bond Financing Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-591).

“(f) The PILOT shall be paid at the same time and in the same manner as real property taxes under Chapter 8 of this title.

“(g) A lien for unpaid PILOT, including penalty and interest, shall attach to the applicable lot within the Southwest Waterfront PILOT/TIF Area in the same manner and with the same priority as a lien for delinquent real property tax under Chapter 13A of this title. Unpaid PILOT shall be collected in accordance with Chapter 13A of this title. Notwithstanding the foregoing, if a possessory interest tax would be imposed with respect to a lease or right to use a lot pursuant to § 47-1005.01 but for this section, the failure to make payments in lieu of taxes with respect to the possessory interest shall be enforced against the owner of the possessory interest in the manner specified in § 47-1005.01(f)(3). The PILOT shall be deemed a tax within the meaning of 11 U.S.C. §§ 502(b), 505, and 507(a)(8)(B).

“(h) The owner of a lot or possessory interest within the Southwest Waterfront PILOT/TIF Area may challenge any assessment or reassessment of the lot or possessory interest in accordance with the provisions of Chapter 8 of this title and the applicable PILOT shall reflect the result of the challenge.

“(i) The PILOT shall be an assessment for the purposes of §§ 47-832 through 47-835 relating to subdivisions of lots, parcels, or tracts.”.

TITLE III. SPECIAL ASSESSMENT.

Sec. 301. Chapter 8 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new Subchapter VII to read as follows:

“Subchapter VII. Southwest Waterfront Special Assessment District.

“47-895.01. Definitions.

“47-895.02. Establishment of special assessment district.

“47-895.03. Levy of special assessment.

“47-895.04. Notices and protests.

“47-895.05. Termination of special assessment.

“47-895.06. Application of assessment.”.

(b) A new subchapter VII is added to read as follows:

“Subchapter VII. Southwest Waterfront Special Assessment District.

“§ 47-895.01 Definitions.

“For the purposes of this subchapter, the term:

New
§§ 47-895.01 -
47-895.06

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“(1) “Adjusted Maximum Special Assessment” means the Special Assessment determined in accordance with § 47-895.03.

“(2) “Administrator” means the designee of the Chief Financial Officer for purposes of estimating the annual Special Assessment Requirement and the Special Assessment to be levied each fiscal year and for providing other services as required with respect to the administration of the Special Assessment.

“(3) “Bonds” means the bonds, notes, or other obligations issued by the District pursuant to the Southwest Waterfront Bond Financing Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-591).

“(4) “Chief Financial Officer” means the Chief Financial Officer of the District of Columbia established by § 1-204.24a(a).

“(5) “Debt Service” means the principal, interest and premium, if any, on the bonds.

“(6) “Equivalent Unit” means the product resulting from the equivalent unit factor for each type of property and its application method to be used by the Chief Financial Officer in calculating the Maximum Special Assessment for each lot as follows:

"Property Type	Equivalent Unit Factor	Application Method
"Commercial Retail	1.00	Per 1,000 sq. ft.
"Commercial Restaurants	1.00	Per 1,000 sq. ft.
"Hotel	0.29	Per room
"Commercial Office	0.25	Per 1,000 sq. ft.
"Rental Apartments	0.06	Per 1,000 sq. ft.
"For sale condos "(Market rate designation)	0.09	Per unit
"For sale condos "(Affordable designation)	0.02	Per unit

“(7) “Gross building area” or “GBA” means, with respect to a lot, the product of the land area of the lot multiplied by the maximum floor area ratio (“FAR”) allowable under its zoning category, including additional FAR allowable as a matter of right if the additional FAR is dedicated to a particular use, such as an additional residential floor, as of the date of the 1st issuance of bonds, without including transfer development rights or bonus development rights .

“(8) “Indenture of Trust” means the indenture relating to the bonds, as modified, amended, or supplemented from time to time.

“(9) “Land area” means, with respect to a lot, the ground square footage of the lot.

“(10) “Lot” means a tax lot, record lot, or other division of real property designated for assessment and taxation purposes in the Southwest Waterfront Improvement Benefit District. The term "lot" shall include a possessory interest as described in § 47-

1005.01.

“(11) “Master Developer” means the development entity to which the District transfers the leasehold interest in the Southwest Waterfront Improvement Benefit District and which is responsible for the planned development of the entire Southwest Waterfront Improvement Benefit District, including the project.

“(12) “Maximum Special Assessment” means the maximum special assessment determined in accordance with § 47-895.03.

“(13) “Owner” shall have the same meaning as provided in § 47-802(5) and shall include the holder of a possessory interest as described in § 47-1005.01.

“(14) “PILOT Revenues” means the amount of the Southwest Waterfront PILOT Increment, as defined in section 101(22) of the Southwest Waterfront Bond Financing Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-591), paid or to be paid into the Southwest Waterfront Fund each fiscal year.

“(15) “Project” means the publicly owned infrastructure located within the Southwest Waterfront PILOT/TIF Area, including streets, parking facilities, sidewalks, walkways, streetscapes, parks, bulkheads, piers, curbs, gutters, and gas, electric, and water utility lines, and the acquisition, equipping, relocation, construction, and redevelopment of certain public facilities, including parks.

“(16) “Proportionately” means that the ratio of the Special Assessment to be collected as a percentage of the Adjusted Maximum Special Assessment is equal for each lot (excluding those lots for which the Adjusted Maximum Special Assessment is zero).

“(17) “Special Assessment” means the Special Assessment levied by the District each fiscal year to fund the Special Assessment Requirement.

“(18) “Special Assessment Credit” shall be the amount provided in § 47-895.03; provided, that the term “Special Assessment Credit” means, with respect to a lot, the TIF Revenues and the PILOT Revenues related to the lot and included in calculating the Special Assessment Requirement.

“(19) “Special Assessment Requirement” shall have the same meaning as provided in § 47-895.03.

“(20) “Southwest Waterfront Improvement Benefit District” means the special assessment district established by § 47-895.02.

“(21) “Southwest Waterfront Fund” means the fund established by section 103 of the Southwest Waterfront Bond Financing Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-591).

“(22) “SWW Development” means an area of 50,400 square feet located on a portion of Lots 839, 831, and 84 in Square 473, and such other area of land that is contiguous to Lots 839, 831, and 84, Square 473, and within the boundaries of the Southwest Waterfront Improvement Benefit District, which shall be designated as the SWW Development in an instrument from the District conveying a ground lease of, or other possessory interest in, such area to the Master Developer or to the assignee or transferee of the Master Developer with the

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consent of the District.

“(23) “TIF Revenues” means the amount of the Available Sales Tax Revenues, as defined in section 101(3) of the Southwest Waterfront Bond Financing Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-591), paid or to be paid into the Southwest Waterfront Fund each fiscal year by the District pursuant to the requirements of the Southwest Waterfront Bond Financing Act of 2008, passed on 2nd reading on July 15, 2008 (Enrolled version of Bill 17-591).

“§ 47-895.02. Establishment of special assessment district.

“(a) There is established as a special assessment district the Southwest Waterfront Improvement Benefit District, which shall be comprised of the following geographic area:

“(1) Approximately 23 acres of land area between the southern curb line of Maine Avenue, S.W., and the bulkhead paralleling the Washington Channel from the western edge of the Fish Market to the western curb of 6th Street, S.W., to the eastern edge of Lot 843, Square 473, the eastern edge of Lots 883, 884, and 885, Square 503, to the eastern edge of parcel 255/15, to the western edge of the P Street, S.W., right-of-way; and

“(2) The riparian area and piers associated with the land described in paragraph (1) of this subsection, which includes: (A) The Fish Market; (B) The Capital Yacht Club; (C) The Gangplank Marina; and (D) Piers 4 and 5; provided, that the Southwest Waterfront Improvement Benefit District shall not include the SWW Development; provided further, that Lots 820, 842, and 844, Square 473 shall not be included in the Southwest Waterfront Improvement Benefit District unless the Master Developer acquires the ground lessee’s interest in those lots.

“(b) The owners of lots within the Southwest Waterfront Improvement Benefit District shall derive a special benefit from the improvements financed by the bonds and the amount of this benefit is equal to or greater than the Maximum Special Assessment levied on the lots subject to the Special Assessment.

“(c) Beginning with the 1st year Special Assessments, Special Assessments on all lots on which Special Assessments have been levied shall be collected pursuant to § 47-895.02 or may be collected only from the lots within a specific phase of the project to be improved or that has been improved, as determined by the Chief Financial Officer at the time of the issuance of any bonds.

“§ 47-895.03. Levy of special assessment.

“(a) The Special Assessment levied under this section shall be collected in the Southwest Waterfront Improvement Benefit District each fiscal year beginning with the 1st fiscal year after the issuance of the bonds and continuing until the year specified in § 47-895.06 in an amount determined as provided for in this section. A memorandum of the Special Assessment shall be recorded in the land records of the District.

“(b) There is levied for each fiscal year a Special Assessment upon all real property in the Southwest Waterfront Improvement Benefit District in an amount equal to the Maximum Special Assessment. The Special Assessment shall be an amount equal to the Special

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Assessment Requirement. The Special Assessment Requirement for any fiscal year shall be estimated by the administrator and determined by the Chief Financial Officer and shall be an amount equal to:

“(1) The amount required in such fiscal year to pay:

“(A) Debt Service and other periodic costs, including deposits to sinking funds, on the bonds;

“(B) Any amount required to replenish any reserve fund established in association with the bonds;

“(C) Any amount equal to the estimated delinquencies expected in payment of the Special Assessment not otherwise taken into account; and

“(D) The costs of remarketing, credit enhancement, bond insurance, and liquidity facility fees, including fees for instruments that serve as the basis of a reserve fund related to any indebtedness in lieu of cash; less

“(2) The Special Assessment Credit equal to the sum of:

“(A) TIF Revenues and PILOT Revenues available to apply to the Special Assessment Requirement for that fiscal year;

“(B) Any credits available pursuant to the Indenture of Trust, such as capitalized interest, reserves, and investment earnings on any account balances; and

“(C) Any other revenues available to apply to the Special Assessment Requirement.

“(c) Commencing with the fiscal year in which bonds are first issued and for each following fiscal year, the District shall determine the Special Assessment Requirement, if any, as provided in subsection (b) of this section for the fiscal year and shall collect the Special Assessment proportionately from each lot in arrears in an amount up to the Adjusted Maximum Special Assessment from each lot such that the total of the Special Assessment to be collected shall equal the Special Assessment Requirement. The administrator shall provide an estimate to the Chief Financial Officer each fiscal year of the Special Assessment to be collected from each lot in conformance with the provisions of this section.

“(d) The Maximum Special Assessment shall be established by the Chief Financial Officer at the time the bonds are issued to reflect the rate of interest on the bonds, and the amount of the bonds issued, in an amount that provides for adequate Special Assessment revenue to pay Debt Service and any other expected amounts of the Special Assessment Requirement as provided in the Indenture of Trust. The Maximum Special Assessment for each lot shall be the Maximum Special Assessment divided by the Equivalent Units of all lots subject to Special Assessment multiplied by the Equivalent Unit of each lot, which may be calculated separately for each phase and the bonds issued with respect to each phase. The Adjusted Maximum Special Assessment for the lot shall be equal to the Maximum Special Assessment for the lot less the Special Assessment Credit for the lot. The Special Assessment Credit applied to all lots shall not exceed the TIF Revenues and the PILOT Revenues taken into account in determining the Special Assessment Requirement.

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“(e) The Special Assessment to be collected from any lot may be increased as a result of a default in the payment of the Special Assessment levied on any other lot only in accordance with the provisions of this section. The Special Assessment to be collected from any lot shall not be increased above the Adjusted Maximum Special Assessment as a result of a default in the payment of the Special Assessment levied on any other lot. If the Special Assessment to be collected from any lot is less than the Adjusted Maximum Special Assessment for such lot, the Special Assessment may be increased up to the Adjusted Maximum Special Assessment as a result of the default in the payment of the Special Assessment levied on any other lot.

“(f) The Special Assessment shall be an assessment for purposes of §§ 47-832 through 47-835 relating to subdivision of lots, parcels, or tracts.

“§ 47-895.04. Notices and protests.

“(a) The Master Developer shall consent to the levy of the Special Assessment on the lots, following which consent all actions by any owner of a lot to challenge the levy of the Special Assessment, except as provided in subsection (b) of this section, shall be forever barred. The Master Developer and any subsequent owner of a lot shall provide notice to the buyer of the lot of the levy of the Special Assessment and any contract for the sale of the lot may be voided without penalty by the buyer prior to purchase of the lot if the buyer does not receive notice of the Special Assessment from the Master Developer or the subsequent owner.

“(b) The owner of a lot subject to Special Assessment under this subchapter may contest the amount of the Special Assessment, but not the authority to levy the Special Assessment, by filing a written notice of appeal of the amount with the Chief Financial Officer not later than 180 days after the due date of the payment of the Special Assessment. The Chief Financial Officer, or the administrator if designated by the Chief Financial Officer to hear the appeal, shall promptly review the appeal and, if necessary, meet with the owner of the lot, consider written and oral evidence regarding the amount of the Special Assessment, and decide the appeal. If the result of the appeal requires the Special Assessment to be modified or changed in favor of the owner of the lot, a cash refund shall not be made (except in the last year of the levy), but an adjustment shall be made to the next Special Assessment to be collected from that lot. No interest on the adjustment shall be due to the owner of the lot. A decision of the administrator may be appealed to the Chief Financial Officer. This procedure shall be exclusive and its exhaustion by any owner of a lot shall be a condition precedent to any other appeal or legal action by the owner.

“(c) If the Chief Financial Officer learns that a lot subject to the Special Assessment has been omitted from the Special Assessment for any previous tax year or tax years, the Chief Financial Officer shall provide notice to the owner and shall collect the Special Assessment amount in arrears, including penalty and interest, from the date the Special Assessment should have been paid; provided, that no lot that has not been billed for the Special Assessment shall be liable under this section for a period of more than 3 prior tax years.

“(d) Special Assessments shall be collected each year for the preceding fiscal year in

the same manner and at the same time as real property taxes are collected.

“(e)(1) Except as provided in paragraph (2) of this subsection, an unpaid Special Assessment shall be subject to the same penalty and interest provisions as a delinquent real property tax under Chapter 8 of this title. A lien for an unpaid Special Assessment, including penalty and interest, shall attach to the real property in the same manner as, and with a priority immediately junior to, a lien for delinquent real property tax under Chapter 13A of this title and senior to all other liens. Property sold at a tax sale for the failure to pay real property taxes shall remain subject to the obligation to pay Special Assessments in subsequent years as provided in this subchapter. The unpaid Special Assessment shall be collected in the same manner and under the same conditions and subject to the same penalty as for unpaid real property taxes. A Special Assessment shall not be required to be certified for the purposes of Chapter 13A of this title.

“(2) If an interest or use on a lot is subject to the Special Assessment because it would be subject to taxation under § 47-1005.01 but for the exemption provided by § 47-4615(b), an unpaid Special Assessment on such an interest or use shall be subject to the same penalty and interest provisions as a delinquent possessory interest tax imposed under § 47-1005.01, and the unpaid Special Assessment shall be collected in the same manner and under the same conditions and subject to the same penalty as for an unpaid tax imposed under § 47-1005.01.

“(3) The Special Assessment shall be deemed a tax within the meaning of 11 U.S.C. §§ 502(b), 505, and 507(a)(8)(B).

§ 47-895.05. Termination of Special Assessment.

“The Special Assessment shall terminate on the earlier of:

“(1) September 30, 2044; or

“(2) At the end of the fiscal year when all the bonds are paid for and are no longer outstanding pursuant to their terms; provided, that any delinquent Special Assessments and related penalties and interest shall remain due until fully paid.

“§ 47-895.06. Application of Special Assessment.

“The Chief Financial Officer shall deposit the special assessment revenues collected under this subchapter in the Southwest Waterfront Fund.”.

TITLE IV. FISCAL IMPACT STATEMENT; EFFECTIVE DATE.

Sec. 401. Applicability.

This act shall apply upon the inclusion of the fiscal effect of the loss of tax revenue caused by the development of the project, as described in the fiscal impact statement, in an approved budget and financial plan. Debt service on the bonds authorized under Title I is not subject to appropriations and, therefore, has no effect on the budget and financial plan.

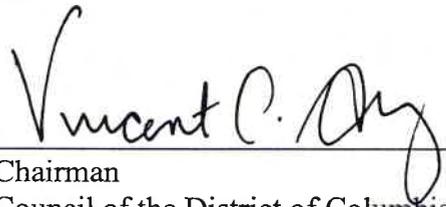
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Sec. 402. Fiscal impact statement.

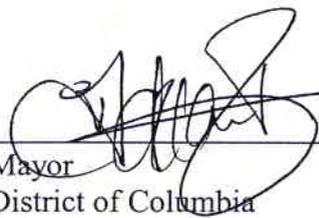
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 403. 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 4, 2008

AN ACT

D.C. ACT 17-500

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 4, 2008*Codification
District of
Columbia
Official Code*

2001 Edition

2008 Fall
Supp.West Group
Publisher

To amend the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008 to require the proceeds of the sale of certain District-owned real property to be deposited into the Economic Development Special Account and to authorize certain uses of the deposited proceeds; to amend the District of Columbia Public Space Rental Act to waive vault rental payments under certain circumstances; to authorize the Mayor to grant easements for a period of greater than 20 years under certain streets; to authorize the exchange of certain real property owned by the District; to authorize the Mayor to enter into a contract for the relocation of the Shared Computer Center; and to establish that certain entities shall be considered local, small, and disadvantaged business enterprises under section 2349a of the Small, Local, and Disadvantaged Business Enterprises Development and Assistance Act of 2005.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Center Leg Freeway (Interstate 395) Amendment Act of 2008".

Sec. 2. Section 301 of the National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008, effective March 3, 2008 (D.C. Law 17-138; 55 DCR 1689), is amended as follows:

Amend
§ 2-1225.21

(a) Subsection (b)(1) is amended by adding a new subparagraph (C-i) to read as follows:

“(C-i) Proceeds of the disposition of District-owned real property disposed of pursuant to the Center Leg Freeway (Interstate 395) Fee and Air Rights Disposition Emergency Approval Resolution of 2007, approved July 10, 2007 (Res. 17-291; 54 DCR 7461)(“Disposition Approval Resolution”);”.

(b) Subsection (c) is amended by striking the period at the end and inserting the phrase “; except, the monies deposited into the Account pursuant to subsection (b)(1)(C-i) of this section shall be allocated as set forth in subsection (d-1) of this section.” in its place.

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

“(d-1) Notwithstanding subsections (c) and (d) of this section, monies deposited into the Account pursuant to subsection (b)(1)(C-i) of this section shall be allocated to the following

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agencies, in the following order, to be used by the agencies for the purposes designated:

“(1) To the District Department of Transportation, for transportation purposes, in an amount equal to the share of federal highway funds associated with the acquisition of the Property, as the term “Property” is defined in the Disposition Approval Resolution, if required by the Federal Highway Administration, unless such amount has been allocated from another source;

“(2) To the Office of the Chief Technology Officer or the Office of Property Management in an amount sufficient to pay for the relocation of the District’s Shared Computer Center from the Property, but not to exceed \$30 million, until such time as the District’s Shared Computer Center is relocated from the Property or the costs of relocation have been allocated from another source;

“(3) To the Office of the Deputy Mayor for Planning and Economic Development to provide financial assistance for the construction and preservation of affordable housing on the Property; and

“(4) To the Office of the Deputy Mayor for Planning and Economic Development for other purposes for which Fund monies may be used pursuant to subsection (d) of this section.”

Sec. 3. Section 305 of the District of Columbia Public Space Rental Act, approved October 17, 1968 (82 Stat. 1159; D.C. Official Code § 10-1103.04), is amended as follows:

Amend
§ 10-1103.04

(a) Subsection (a) is amended by striking the phrase “The owner of property” and inserting the phrase “Except as provided in subsection (d) of this section, the owner of property” in its place.

(b) A new subsection (d) is added to read as follows:

“(d)(1) Notwithstanding subsection (a) of this section, an owner of property, including air rights, abutting public space occupied by a vault constructed under the portions of F Street, N.W., and G Street, N.W., between 2nd Street, N.W., and 3rd Street, N.W., and the portions of 2nd Street, N.W., and 3rd Street, N.W., between F Street, N.W., and G Street, N.W., shall not be required to pay the rent required by subsection (a) of this section during the period described in paragraph (2) of this subsection if:

“(A) The vault abuts and is constructed as part of the improvements constructed pursuant to the land disposition agreement to be entered into pursuant to the Center Leg Freeway (Interstate 395) Fee and Air Rights Disposition Emergency Approval Resolution of 2007, effective July 10, 2007 (Res. 17-291; 54 DCR 7461) (“Center Leg improvements”);

“(B) The owner (or a previous owner) has reconstructed F Street, N.W., and G Street, N.W., between 2nd Street, N.W., and 3rd Street, N.W. (“reconstructed streets”) in accordance with the standards and specifications of the District Department of Transportation and at no cost to the District; and

“(C) The owner agrees to maintain the reconstructed streets at no cost to the District.

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“(2) A rent waiver granted under this subsection shall commence on the date that the Mayor accepts the reconstructed streets and shall terminate 14 calendar days after the date of a determination by that Mayor that:

“(A) The Center Leg improvements have been substantially rebuilt or demolished for reasons other than fire, collapse, explosion, or act of God;

“(B) The owner has failed to maintain the reconstructed streets in a safe condition and at no cost to the District, after such notice and opportunity to cure, if any, as may be provided in the permit; or

“(C) The owner has violated a condition under which its vault construction permit was issued, after such notice and opportunity to cure, if any, as may be provided in the permit.”.

Sec. 4. Certain permanent easements authorized.

Notwithstanding the procedures and requirements set forth in An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801 *et seq.*), the Mayor may:

(1) Grant, for a period of greater than 20 years, subsurface easements under the portions of 2nd Street, N.W., and 3rd Street, N.W., between Massachusetts Avenue, N.W., and E Street, N.W., and the portion of Massachusetts Avenue, N.W., between 2nd Street, N.W., and 3rd Street, N.W., for the purposes of the construction and maintenance of a deck or other supporting structure beneath the streets and for the occupancy of the easement area by such deck and structures and for other purposes consistent with the land disposition agreement to be entered into pursuant to the Center Leg Freeway (Interstate 395) Fee and Air Rights Disposition Emergency Approval Resolution of 2007, effective July 10, 2007 (Res. 17-291; 54 DCR 7461) (“Disposition Approval Resolution”); and

(2) Convey to the Purchaser, as such term is defined in the Disposition Approval Resolution, the real property on which the current Interstate 395 approach and exit ramps (“highway ramps”) within the Property, as the term “Property” is defined in the Disposition Approval Resolution, are located, in accordance with the following conditions:

(A) If a current highway ramp is relocated within the Property, the Mayor may convey to the Purchaser fee title to the real property from which the former highway ramp was removed if the District receives from the Purchaser, at the same time that the real property from which the former highway ramp was removed is conveyed to the Purchaser, fee title from the Purchaser to the real property (which may exclude the air rights beginning at 14 feet 6 inches above the upper surface of the pavement of the ramp) upon which the new highway ramp and associated and supporting structures are constructed.

(B) If a current highway ramp is removed, the Mayor may convey to the Purchaser fee title to the real property from which the ramp was removed if the Purchaser pays to the District fair market value for the real property as such fair market value is calculated

pursuant to the Appraisal, as such term shall be defined in the land disposition agreement to be entered into pursuant the Disposition Approval Resolution.

Sec. 5. Authorization to enter into a contract for the relocation of the shared computer center.

Notwithstanding the procedures and requirements set forth in the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), the Mayor may enter into a contract or other agreement whereby the purchaser of the property authorized to be disposed of pursuant to the Center Leg Freeway (Interstate 395) Fee and Air Rights Disposition Emergency Approval Resolution of 2007, effective July 10, 2007 (Res. 17-291; 54 DCR 7461) (“Disposition Approval Resolution”), or a designee of the purchaser approved by the Mayor, shall relocate the Shared Computer Center from the Property, as the term “Property” is defined in the Disposition Approval Resolution, to a site designated by the District and shall be compensated for the costs associated with the relocation, including, if applicable, the costs of the design, improvement, and physical relocation of the equipment and other features of the Shared Computer Center and the leasing of a new location for the Shared Computer Center.

Sec. 6. Certified business enterprise participation.

The entities identified in section 2(b)(14)(A) of the Center Leg Freeway (Interstate 395) Fee and Air Rights Disposition Emergency Approval Resolution of 2007, approved July 10, 2007 (Res. 17-291; 54 DCR 7461) (“Disposition Approval Resolution”) shall be considered, with respect to the development project on the Property, as the term “Property” is defined in the Disposition Approval Resolution, fully qualified local, small, and disadvantaged business enterprises under section 2349a of the Small, Local, and Disadvantaged Business Enterprises Development and Assistance Act of 2005, effective March 2, 2007 (D.C. Law 16-33; D.C. Official Code § 2-218.49a).

Sec. 7. Fiscal impact statement.

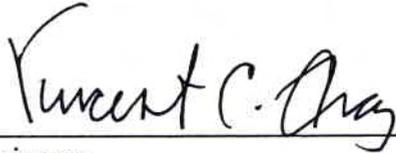
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 8. Effective date.

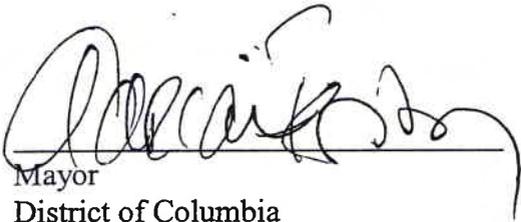
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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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 4, 2008

ENROLLED ORIGINAL

AN ACT
D.C. ACT 17-501

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 4, 2008

*Codification
 District of
 Columbia
 Official Code*

2001 Edition

2008 Fall
 Supp.

West Group
 Publisher

To amend Chapter 3 of Title 47 of the District of Columbia Official Code to authorize the issuance of revenue bonds of the District of Columbia payable from and secured by individual income tax and business franchise tax revenues for the purposes of financing capital projects of the District government.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Income Tax Secured Bond Authorization Act of 2008".

Sec. 2. Chapter 3 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new Subchapter II-D to read as follows:

"Subchapter II-D. Income Tax Secured Bonds.

"47-340.26. Definitions.

"47-340.27. Creation of Income Tax Secured Bond Fund.

"47-340.28. Bond authorization.

"47-340.29. Bond details.

"47-340.30. Issuance of the bonds.

"47-340.31. Payment and security.

"47-340.32. Financing and closing documents.

"47-340.33. Limited liability.

"47-340.34. District officials.

"47-340.35. Maintenance of documents.

"47-340.36. Information reporting."

(b) New sections 47-340.26 through 47-340.36 are added to read as follows:

"§ 47-340.26. Definitions.

"For the purposes of this subchapter, the term:

"(1) "Additional Bonds" means additional District of Columbia Income Tax Secured Bonds that may be issued pursuant to § 1-204.90 and this subchapter and in satisfaction of the tests for additional bonds established in the Financing Documents, with a parity claim

Nes
 Subchapter
 II-D,
 Chapter 3,
 Title 47

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with the initial series of District of Columbia Income Tax Secured Bonds on the Available Tax Revenues.

“(2) “Authorized Delegate” means the Chief Financial Officer, the Treasurer, or any Deputy Mayor in the executive office of the Mayor to whom the Mayor has delegated any of the Mayor’s functions under this subchapter pursuant to § 1-204.22(6).

“(3) “Available Business Franchise Tax Revenues” means the revenues resulting from the imposition of the Business Franchise Tax, including penalty and interest charges.

“(4) “Available Income Tax Revenues” means the revenues resulting from the imposition of the Income Tax, including penalty and interest charges.

“(5) “Available Tax Revenues” means the sum of the Available Business Franchise Tax Revenues and Available Income Tax Revenues generated and to be generated in any fiscal year of the District.

“(6) “Bond Counsel” means a firm of attorneys designated as bond counsel from time to time by the Chief Financial Officer.

“(7) “Bonds” means the initial series of District of Columbia Income Tax Secured Bonds

and Additional Bonds, notes, or other obligations, including refunding bonds, notes, bond anticipation notes, and other obligations, in one or more series, and Subordinated Bonds, authorized to be issued pursuant to § 1-204.90 and this subchapter.

“(8) “Business Franchise Tax” means the franchise tax imposed on corporations and unincorporated businesses pursuant to §§ 47-1807.02, 47-1808.03, and 47-1817.06.

“(9) “Capital Projects” means the payment of the cost of acquiring, undertaking or refinancing capital projects authorized by § 1-204.90 for general governmental and enterprise purposes, including reimbursing amounts temporarily advanced from the General Fund of the District of Columbia, any enterprise fund, or other fund or account of the District, and the refunding of Outstanding Debt.

“(10) “Chief Financial Officer” means the Chief Financial Officer of the District of Columbia established by § 1-204.24a(a) .

“(11) “Closing Documents” means all documents and agreements, other than Financing Documents, that may be necessary or appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

“(12) “Collection Agent” means the financial institution acting as the trustee or as agent for the trustee and chosen by the Chief Financial Officer to receive Available Tax Revenues, to deposit those payments into the Income Tax Secured Bond Fund, to transfer the amounts to the trustee sufficient to pay debt service on the bonds, and to otherwise comply with the Financing Documents.

“(13) “Financing Documents” means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of any series of the bonds, including contracts or agreements for an escrow

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agent, trustee, Collection Agent, registrar, Paying Agent, underwriting, legal services, accounting, financial advisory services, bond insurance or other credit enhancement or liquidity agreements, printing, or placement of any investment or obligation or program of investment, including any offering document, contract based on interest rate, currency, cash flow, or other basis, including Hedge Agreements, and any required supplements to any such documents.

“(14) “Hedge Agreement” means any financial arrangement that is a cap, floor, or collar; forward rate; future rate; swap, which swap may be based on an amount equal to either a principal amount or a notional principal amount relating to all or a portion of the principal amount of a series of bonds; asset, index, price, or market-linked transaction or agreement; other interest rate exchange or rate protection transaction agreement; other similar transactions, however designated; any combination thereof; any option with respect thereto; or any similar arrangement, which is executed by the District for purposes of debt management, including managing interest rate fluctuations on bonds, but not for purposes of speculation.

“(15) “Income Tax” means the income tax imposed on individuals by § 47-1806.03.

“(16) “Income Tax Secured Bond Fund” means the Income Tax Secured Bond Fund established by § 47-340.27.

“(17) “Outstanding Debt” means any tax-supported indebtedness of the District outstanding at any time, including any outstanding general obligation bonds and bond anticipation notes issued by the District, and certificates of participation issued on behalf of the District, but, unless expressly authorized by Council resolution, the term “Outstanding Debt” shall not include tax increment financing and payment in lieu of taxation debt.

“(18) “Parity Bonds” means, collectively, the initial series of District of Columbia Income Tax Secured Bonds and any Additional Bonds.

“(19) “Paying Agent” means the District or any bank, trust company, or national banking association designated to serve in that capacity by the Chief Financial Officer, and may be the trustee.

“(20) “Registrar” means the District or any bank, trust company, or national banking association designated to serve in that capacity by the Chief Financial Officer, and may be the trustee.

“(21) “Subordinated Bonds” means any bonds, notes, or other obligations, including refunding bonds, notes, bond anticipation notes, and other obligation, the payment of debt service thereon which is subordinate to the Parity Bonds and which are not equally and ratably secured with the Parity Bonds by the Available Tax Revenues and other funds in and to be in the Income Tax Secured Bond Fund.

“(22) “Treasurer” means the District of Columbia Treasurer established by § 1-204.24a(c)(3).

“(23) “Trustee” means the trustee for the bond owners selected by the Chief Financial Officer for one or more series of bonds.

“§ 47-340.27. Creation of the Income Tax Secured Bond Fund.

“(a) There is established separate and apart from the General Fund of the District of Columbia as a nonlapsing fund the Income Tax Secured Bond Fund.

“(b) The Chief Financial Officer may direct every taxpayer that is required to pay either

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the Business Franchise Tax or the Income Tax, or both, every employer that pays withholding taxes for employees, and every taxpayer that is required to pay estimated taxes, to send the payments directly to the Collection Agent for collection and disbursement in accordance with the collection instructions of the Chief Financial Officer. Tax payments or collections received pursuant to enforcement actions, received from bankruptcy trustees or through the Bankruptcy Courts, received as a result of garnished wages, received as collections of tax levies, including the release of liens at real estate closings, received as a result of closures of estates, received as a result of the sales of businesses or involving business licenses, and other collection activities shall be collected by the Chief Financial Officer and forwarded to the Collection Agent or deposited in the Income Tax Secured Bond Fund upon reconciliation of accounts.

“(c) The Collection Agent may collect, receive, hold, and invest Available Tax Revenues, and shall promptly deposit all receipts into the Income Tax Secured Bond Fund, along with any other taxes or fees specifically designated by law for deposit in the Income Tax Secured Bond Fund.

“(d) The Mayor, through the Chief Financial Officer, shall pledge, assign, and create a security interest in the Available Tax Revenues and all other funds in the Income Tax Secured Bond Fund, or any sub-account within the Income Tax Secured Bond Fund, for the payment of the costs of carrying out any of the purposes described in subsection (g) of this section without further action by the Council as permitted by § 1-204.90. If bonds are issued, the payment shall be made in accordance with the provisions of the Financing Documents entered into by the District in connection with the issuance of the bonds. If the District pays or makes provision to pay, pursuant to the terms of the Financing Documents, to the owners of bonds the principal or redemption price, and the interest due or to become due, at the time and in the manner stipulated, such that the bonds are no longer considered outstanding within the meaning of the Financing Documents, the security interest in the Available Tax Revenues shall be terminated with respect to the defeased bonds.

“(e) Although payment of debt service on the bonds does not require an appropriation for that purpose pursuant to § 1-204.90, the Council may, in establishing the annual budget of the District, include in each annual budget for a fiscal year of the District sufficient funds to pay the principal of, and interest on, the bonds becoming due and payable for any reason during that fiscal year.

“(f) When deposited in the Income Tax Secured Bond Fund, the funds in the Fund and all investments or earnings on these funds shall be irrevocably dedicated and pledged to the payment of the principal of, and interest on, the bonds and costs as provided in subsection (g) of this section. Any escrow or other agreement entered into by the Chief Financial Officer providing for holding funds for the benefit of the holders of the bonds shall be maintained so long as any of the bonds are outstanding under the Financing Documents.

“(g) The funds deposited in the Income Tax Secured Bond Fund may be used to pay:

“(1) The costs of the Collection Agent and the trustee; and

“(2) Debt service on the bonds and such other applications as may be set forth in the Financing Documents.

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“(h) If, at the end of any period determined in the Financing Documents, the balance of cash and investments in the Income Tax Secured Bond Fund exceeds the amount required to be held in the Income Tax Secured Bond Fund pursuant to the Financing Documents, the excess shall be transferred to the unrestricted fund balance of the General Fund of the District of Columbia in accordance with the Financing Documents.

“§ 47-340.28. Bond authorization.

“(a) Bonds in one or more series may be issued in an aggregate amount not to exceed \$2,918,815,000 to fund costs of Capital Projects (including the issue of bond anticipation notes from time to time in one or more series in anticipation of all or a portion of the bonds; provided, that the principal amount of any such notes shall not be included in the total amount authorized by this subsection upon their repayment from bond proceeds), such amount being subject to adjustment by Council act, plus the costs and expenses of structuring, issuing, delivering, and maintaining the bonds, including, underwriting, rating agency fees, legal fees, accounting fees, financial advisory fees, trustee and Paying Agent fees, Collection Agent fees, bond insurance and other credit enhancements, liquidity enhancements, printing costs, and expenses.

“(b) The bonds, which may be issued from time to time in one or more series by Council resolution approving the amount of the series of bonds to be issued and the Capital Projects to be funded with the proceeds of that series of bonds, shall be tax-exempt or taxable as the Chief Financial Officer shall determine and shall be payable in the manner set forth in § 47-340.31.

“(c) The Chief Financial Officer may pay from the proceeds of the bonds the costs and expenses specified in subsection (a) of this section, plus amounts, to the extent necessary, to establish or maintain the tax-exempt status of any of the bonds issued on a tax-exempt basis.

“(d) Subject to applicable law, the District shall maintain a capital projects fund separate and apart from other funds of the District into which it will deposit the proceeds of any series of the bonds, less any capitalized interest accrued interest and costs of issuance. The District shall expend the bond proceeds only to finance Capital Projects or to refund Outstanding Debt. Subject to applicable law, the proceeds of any series of the bonds may be escrowed in appropriate accounts with escrow agents or the trustee to be applied to the applicable purposes. Interest or other investment earnings of proceeds in the capital projects fund shall be credited to the General Fund of the District of Columbia, subject to provisions for any deposit requirements to a rebate fund or other funds in accordance with agreements pertaining to the bonds.

“§ 47-340.29. Bond details.

“(a) The Chief Financial Officer may take any action reasonably necessary or appropriate in accordance with this subchapter in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, determinations of:

“(1) Whether the bonds are to be issued in one or more series and the principal amount of each series;

“(2) The final form, content, denominations, lettering, numbering, designation, and terms of each series of the bonds, or the manner of determining the designations and

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denominations, lettering, and numbering, including a determination that the bonds may be issued in certificated or book-entry form;

“(3) The rate or rates of interest or the method for determining the rate or rates of interest on each series of the bonds;

“(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on each series of the bonds, and the maturity date or dates of the bonds;

“(5) The price and terms under which any series of 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) The maximum debt service payable in any fiscal year for each series of the bonds;

“(7) Provisions for the registration, transfer, and exchange of each series of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

“(8) The creation of any reserve fund, sinking fund, or other fund with respect to each series of the bonds;

“(9) The method of collection and deposit of Available Tax Revenues into the Income Tax Secured Bond Fund and the distributions from the Income Tax Secured Bond Fund to the trustee;

“(10) The dates and place of payment of each series of the bonds;

“(11) Procedures for monitoring the use of the proceeds received from the sale of each series of the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of Chapter 2 of Title 1 and this subchapter;

“(12) The designation of the Collection Agent, trustee, Paying Agent, and registrar for each series of the bonds;

“(13) Actions necessary to qualify each series of the bonds under blue sky laws of any jurisdiction where the bonds are marketed;

“(14) Whether to enter into a Hedge Agreement related to all or a portion of a series of bonds; and

“(15) The terms and types of security granted to the holders of each series of the bonds, including bond insurance and other credit enhancement.

“(b) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary’s manual or facsimile signature.

“(c) The bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and the trustee, and may be subject to the terms of one or more agreements entered into by the Mayor, through the Chief Financial Officer, pursuant to § 1-204.90.

“(d) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

“(e) The bonds are declared to be issued for essential public and governmental purposes. The bonds, the interest thereon, and the income therefrom shall at all times be exempt from

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taxation by the District, except for estate, inheritance, and gift taxes.

“(f) The District irrevocably pledges for and on behalf of the owners of the bonds as further security for the due and punctual payment of the principal and redemption price, if any, and interest on, the bonds as they shall become due and payable for any reason, all of its right, title, and interest now owned or later acquired in and to the Available Tax Revenues, whether received or to be received, or held at the time, by a Collection Agent, custodian, escrow agent, or District officials. This pledge creates and grants a security interest as contemplated in § 1-204.90, subject to the terms, conditions, and limitations in this subchapter.

“(g)(1) The District pledges, covenants, and agrees with the holders of the bonds that, subject to the provisions of the Financing Documents, the District will not:

“(A) Limit or alter the revenues pledged to secure the bonds or the basis on which the revenues are collected or allocated in a manner that would generate Available Tax Revenues below the levels required to pay or secure the payment of the bonds;

“(B) Impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds; provided, that the District may modify the Business Franchise Tax or Income Tax rates or the income subject to those rates only if the modification, if in effect, would not have reduced the ratio of Income Tax generated by the withholding portion of the Available Income Tax Revenues for any 12-consecutive-month period during the 15-month period immediately preceding the calculation to the maximum annual debt service on the Parity Bonds then outstanding, below 2.0 times, pursuant to the Financing Documents;

“(C) In any way impair the rights or remedies of the holders of the bonds; and

“(D) Modify in any way the exemptions from taxation provided for in subsection (e) of this section until the bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged.

“(2) The pledge and agreement of the District under this subsection may be included as part of the contract with the holders of the bonds and this subsection shall constitute a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this subchapter, this subchapter shall be controlling.

“(h) Consistent with § 1-204.90(a)(4)(B) and notwithstanding Article 9 of Title 28:

“(1) A pledge made and security interest created in respect of the 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 the party has notice of the lien; 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.

“§ 47-340.30. Issuance of the bonds.

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“(a) The bonds of any series may be sold as Parity Bonds or Subordinated Bonds at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Chief Financial Officer considers to be in the best interests of the District.

“(b) The Chief Financial Officer may prepare or cause to be prepared and execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the bonds.

“(c) The Chief Financial Officer may deliver executed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

“(d) The bonds shall not be issued until the Chief Financial Officer receives an approving opinion from Bond Counsel as to the validity of the bonds of such series and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for purposes of federal income taxation.

“(e) No series of the bonds shall be issued unless the Chief Financial Officer provides certification that the issue of that series of the bonds shall not create a violation of § 1-206.03(b), treating the bonds as general obligation bonds solely for the purpose of determining whether § 1-206.03(b) would be violated with this treatment of the bonds, and, for purposes of the certification, pursuant to § 1-204.75:

“(A) The Chief Financial Officer shall include in any calculation, while any bond anticipation notes are outstanding, the estimated maximum annual debt service amount for the bonds anticipated by such bond anticipation notes;

“(B) The Chief Financial Officer shall not include in any such calculation the debt service on the bond anticipation notes; and

“(C) The estimated maximum annual debt service on the bonds anticipated by the bond anticipation notes shall be as estimated at the time the bond anticipation notes are issued.

“(f) Chapter 3 of Title 2 and subchapter III of this Chapter shall not apply to any contract the Mayor or Chief Financial Officer may from time to time enter into, or the Mayor or Chief Financial Officer may determine to be necessary or appropriate, for purposes of this subchapter, including the selection of Bond Counsel, underwriters, financial advisors, or other professionals for a particular bond issue.

“§ 47-340.31. Payment and security.

“(a) The bonds shall be special obligations of the District payable solely from the Available Tax Revenues pledged therefor under this subchapter and other receipts, revenues, and funds in the Income Tax Secured Bond Fund and payable to the Income Tax Secured Bond Fund pursuant to this subchapter and the Financing Documents. The Available Tax Revenues shall constitute dedicated taxes and fees and available revenues within the meaning of § 1-204.90(n). As such, the holders of the bonds shall have a first lien on and pledge of the

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Available Tax Revenues superior to that of any other person, including holders of general obligation bonds or notes secured by the full faith and credit of the District pursuant to § 1-204.82.

“(b) The bonds shall be without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the Available Tax Revenues and any other taxes and fees allocated to the Income Tax Secured Bond Fund), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2). The bonds shall contain a legend expressly setting forth the limitations set forth in the preceding sentence.

“(c) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bond owners of certain of its rights under the Financing Documents and Closing Documents to the Collection Agent and trustee pursuant to the Financing Documents.

“(d) The Collection Agent and trustee, respectively, may deposit, invest, and disburse the Available Tax Revenues received pursuant to the Financing Documents.

“(e) The trustee may disburse the proceeds of the bonds to the District.

“§ 47-340.32. Financing and closing documents.

“(a) The Chief Financial Officer may prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

“(b) The Chief Financial Officer may, through a trust agreement or other instrument, make additional covenants of the District and agree to other provisions to better secure, administer funds for, and protect the bonds and the owners thereof.

“(c) The Chief Financial Officer may execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party. The Mayor or an Authorized Delegate may execute the bonds, in the name of the District, by the Mayor's or Authorized Delegate's manual or facsimile signature.

“(d) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

“(e) The Chief Financial Officer's execution and delivery of the Financing Documents and Closing Documents to which the District is a party, and the Mayor's execution of the bonds, shall constitute conclusive evidence of the Chief Financial Officer's and Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

“(f) The Chief Financial Officer may deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

“§ 47-340.33. Limited liability.

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“No person, including any bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this subchapter, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

“§ 47-340.34. District officials.

(a) Except as otherwise provided § 47-340.33, the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this subchapter, the bonds, the Financing Documents, or the Closing Documents.

“(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

“(c) To the extent permitted by law, the Mayor may delegate to any Authorized Delegate the performance of any act authorized to be performed by the Mayor under this subchapter.

“§ 47-340.35. Maintenance of documents.

“Copies of the specimen bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

“§ 47-340.36. Information reporting.

“Within 3 days after the Chief Financial Officer’s receipt of the transcript of proceedings relating to the issuance of the bonds, the Chief Financial Officer shall transmit a copy of the transcript to the Secretary to the Council.”

Sec. 3. Fiscal impact statement.

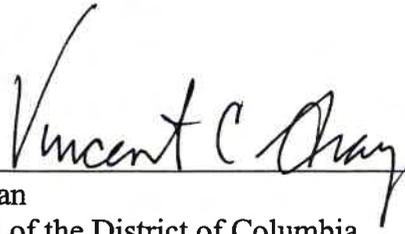
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

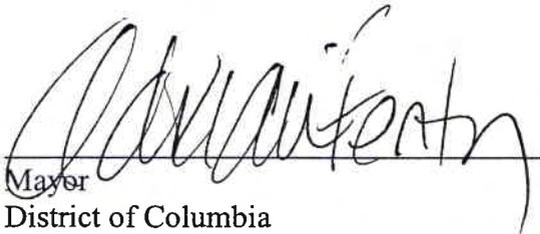
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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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 4, 2008