

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the National Capital Revitalization Corporation Act of 1998 and the Anacostia Waterfront Corporation Act of 2004 to delegate additional authority to incur certain types of debt after attaining Council approval.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “NCRC and AWC Debt Acquisition Delegation Authority Amendment Act of 2006”.

Sec. 2. Section 19 of the National Capital Revitalization Corporation Act of 1998, effective September 11, 1998 (D.C. Law 12-144; D.C. Official Code § 2-1219.18), is amended by adding a new subsection (x) to read as follows:

Note,
§ 2-1219.18

“(x)(1) In accordance with section 490(a)(6)(A) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 809; D.C. Official Code § 1-204.90(a)(6)(A)), the Council authorizes the Corporation to incur debt to provide assistance in financing, refinancing, and reimbursing development costs of eligible projects, and all undertakings authorized pursuant to section 490(a)(1) of the District of Columbia Home Rule Act that are in furtherance of, and not inconsistent with, the purposes of this act. For these purposes, the Council delegates to the Corporation the authority to issue debt under section 490 of the District of Columbia Home Rule Act, including the powers thereunder to provide for the authorization, security, sale, and issuance of debt consistent with this subsection. This delegation is not exclusive, does not restrict, impair or supersede the authority otherwise vested by law in any District instrumentality, and is subject to the requirements of section 490(a)(6)(A) of the District of Columbia Home Rule Act. Debt shall be issued after the Board of Directors of the Corporation has passed a resolution approving that debt, which shall be subject to the requirements of paragraphs (3) and (4) of this subsection.

“(2) The debt may be issued independent of the requirements of subsections (b) through (w) of this section. The Corporation may apply the provisions of any of subsections (c) and (e) through (w) of this section by substituting the word “debt” for the word “bonds” wherever the word “bonds” appears.

“(3) The Corporation shall submit to the Council a proposed resolution of debt approval (“debt resolution”) that shall include the following information:

“(A) A summary description of the project being financed;

“(B) A description of the proposed sources of payment of and security for the debt;

“(C) A statement declaring that the debt complies with the requirements of paragraphs (5)(A) through (G) of this subsection; and

“(D) A financial analysis of the project being financed prepared by the Chief Financial Officer.

“(4) If the Council does not approved the proposed debt resolution during the 45-calendar day period beginning on the 1st day (excluding Saturdays, Sundays, and holidays) following its receipt by the Office of the Secretary to the Council, it shall be deemed disapproved.

“(5) For purposes of this subsection, the term “debt” means any obligation (including without limitation, any loan, line of credit, revolving credit facility, letter of credit, finance or capital lease, indebtedness for borrowed money, reimbursement obligation, any interest rate protection facility or other credit facility), mortgage, grant of a security interest or lien, hypothecation or pledge of any assets or properties of the Corporation, or guarantee of the Corporation of any kind or nature whatsoever relating to principal, interest, late fees, prepayment premium or penalty, reimbursement obligations and issuance, transaction and enforcement costs, fees and expenses of any kind or nature whatsoever, including attorneys’ fees and expenses, which may include borrowing, securing, or issuing loans or other credit facilities, issuing mortgages, liens, pledges or security interests, or otherwise assuming debt pursuant to the Corporation’s authority under this act that meets the following requirements:

“(A) The debt shall be a special obligation of the Corporation, shall not give rise to any pecuniary liability of the District, shall be without recourse to the District, shall not be a general, special, or limited obligation of the District, shall not be a liability of the District, shall not include a pledge of or involve the faith and credit or the taxing power of the District, including but not limited to dedicated taxes or fees, property tax increment revenues, or sales or use tax increment revenues, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings for the purposes of section 602(a)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 809; D.C. Official Code § 1-206.02(a)(2));

“(B) No assets, revenues, or property pledged by the Corporation to pay or secure the debt, including mortgages and obligations securing mortgages, shall be assets, revenues, or property that are titled in the name of the District;

“(C) The District shall not have any liability or obligation for the payment of any issuance costs as defined in section 47-340.01(14) of the District of Columbia Official Code, or for any transaction, occurrence, or event to be effected by the instruments or

financing documents as defined in section 47-340.01(11) of the District of Columbia Official Code that create the debt, or any other documents or agreements evidencing or securing the debt that may be necessary or appropriate for its issuance, including agreements, certificates, letters, opinions, forms, receipts, and other similar instruments (“closing documents”);

“(D) There shall be no direct, implied, or moral obligation by the District to repay or guarantee the debt;

“(E) No person, including the holder or owner of the debt, shall have any claims, including but not limited to claims for damages in contract or tort, 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 Corporation to repay the debt or perform any covenant, undertaking, or obligation of the Corporation arising under the debt, the debt instruments, financing documents, or the closing documents;

“(F) No elected or appointed official, officer, employee, or agent of the District shall be personally liable for any debt issued under this section for any reason or under any circumstance, or be subject to any personal liability by reason of the issuance of the debt or for any representations, warranties, covenants, obligations, or agreements of the Corporation contained in the debt instruments, the financing documents, or the closing documents; and

“(G) The document that evidences the debt and establishes the Corporation’s obligation to repay the debt shall contain on its face a statement setting forth the requirements under subparagraphs (A) through (G) of this paragraph.

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

“(7) A pledge by the Corporation of available revenues collected by or on behalf of the Corporation as security for an issue of debt shall be valid and binding from the time the pledge is made. The available revenues and receipts pledged shall immediately be subject to the lien of the pledge without physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract or otherwise against the Corporation whether or not that person has notice. Notwithstanding any other law, the filing or recording of any resolution, financing document, closing document, or other instrument adopted or entered into by the Corporation in any public record is not required in order to perfect the lien against 3rd persons.

“(8) The signature of any officer of the Corporation that appears on a note or other closing document shall remain valid notwithstanding that person has ceased to hold that office.

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

“(10) Debt obligations of the Corporation are legal investments in which public officers and public bodies of the District, insurance companies and associations and other persons carrying on an insurance business, banks, bankers, banking institutions, including

savings and loan associations, investment companies and other persons carrying on a banking business, administrators, guardians, executors, trustees and other fiduciaries, and other persons authorized to invest in bonds or in other obligations of the District, may legally invest funds, including capital, in their control.

“(11) Debt issued by the Corporation and the interest thereon shall be exempt from District taxation, except estate, inheritance, and gift taxes.

“(12) For purposes of this subsection, references to the District shall not include the Corporation, and the debt shall comply with the applicable provisions of section 490 of the District of Columbia Home Rule Act.

“(13) For purposes of this section, the term “Corporation” means the National Capital Revitalization Corporation, the RLA Revitalization Corporation, or any subsidiary thereof or successor entity or organization created by the Council to which the Council has delegated the authority to incur debt.”.

Sec. 3. Section 116 of the Anacostia Waterfront Corporation Act of 2004, effective December 7, 2004 (D.C. Law 15-219; D.C. Official Code § 2-1223.16), is amended by adding a new subsection (p) to read as follows:

Note,
§ 2-1223.16

“(p)(1) In accordance with section 490(a)(6)(A) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 809; D.C. Official Code § 1-204.90(a)(6)(A)), the Council authorizes the Corporation to incur debt to provide assistance in financing, refinancing, and reimbursing development costs of eligible projects, and all undertakings authorized pursuant to section 490(a)(1) of the District of Columbia Home Rule Act that are in furtherance of, and not inconsistent with, the purposes of this subchapter. For these authorized purposes, the Council delegates to the Corporation the authority to issue debt under section 490 of the District of Columbia Home Rule Act, including the powers thereunder to provide for the authorization, security, sale, and issuance of debt consistent with this subsection. This delegation is not exclusive, does not restrict, impair, or supersede the authority otherwise vested by law in any District instrumentality, and is subject to the requirements of section 490(a)(6)(A) of the District of Columbia Home Rule Act. Debt shall be issued after the Board of Directors of the Corporation has passed a resolution approving such debt, which shall be subject to the requirements of paragraphs (3) and (4) of this subsection.

“(2) The debt may be issued independent of the requirements of subsections (b) through (o) of this section. The Corporation may apply the provisions of any of subsections (c) through (o) of this section by substituting the word “debt” for the word “bonds” wherever the word “bonds” appears.

“(3) The Corporation shall submit to the Council a resolution of debt approval (“debt resolution”) that shall include the following information:

“(A) A summary description of the project being financed;

“(B) A description of the proposed sources of payment of and security

for the debt;

“(C) A statement declaring that the debt complies with the requirements of paragraphs (6) through (12) of this subsection; and

“(D) A financial analysis of the project being financed prepared by the Chief Financial Officer.

“(4) If the Council does not approved the proposed debt resolution during the 45- calendar day period beginning on the 1st day (excluding Saturdays, Sundays, and holidays) following its receipt by the Office of the Secretary to the Council, it shall be deemed disapproved.

“(5) For purposes of this section, the term:

“(A) “Corporation” means the Anacostia Waterfront Corporation, any subsidiary thereof, or any successor organization or entity.”

“(B) “Debt” means any obligation (including any loan, line of credit, revolving credit facility, letter of credit, finance or capital lease, indebtedness for borrowed money, reimbursement obligation, any interest rate protection facility, or other credit facility), mortgage, grant of a security interest or lien, hypothecation or pledge of any assets or properties of the Corporation, or guarantee of the Corporation of any kind or nature whatsoever relating to principal, interest, late fees, prepayment premium or penalty, reimbursement obligations and issuance, transaction and enforcement costs, fees and expenses of any kind or nature whatsoever, which may include borrowing, securing or issuing loans or other credit facilities, issuing mortgages, liens, pledges or security interests, or otherwise assuming debt pursuant to the Corporation’s authority under this act.

“(6) Any debt issued under this subsection shall be a special obligation of the Corporation, shall not give rise to any pecuniary liability of the District, shall be without recourse to the District, shall not be a general, special, or limited obligation of the District, shall not be a liability of the District, shall not include a pledge of or involve the faith and credit or the taxing power of the District, including but not limited to taxes or fees, property tax increment revenues, or sales or use tax increment revenues, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings for the purposes of section 602(a)(2) of the District of Columbia Home Rule Act.

“(7) No assets, revenues or property pledged by the Corporation to pay or secure the debt, including mortgages and obligations securing mortgages, shall be assets, revenues, or property that are titled in the name of the District.

“(8) The District shall not have any liability or obligation for the payment of any issuance costs as defined section 47-340.01(14)) of the District of Columbia Code, or for any transaction, occurrence, or event to be effected by the instruments or financing documents, as defined in section 340.01(11) of the District of Columbia Code, that create the debt, or any other agreements evidencing the debt that may be necessary or appropriate for its issuance, including agreements, certificates, letters, opinions, forms, receipts, and other similar instruments

(“closing documents”).

“(9) There shall be no direct, implied, or moral obligation by the District to repay or guarantee the debt in any closing document.

“(10) No person, including the holder or owner of the debt, 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 Corporation to repay the debt or perform any covenant, undertaking, or obligation of the Corporation arising out of the debt, the financing documents, or the closing documents.

“(11) No elected or appointed official, officer, employee, or agent of the District shall be personally liable for any debt issued under this section for any reason or under any circumstance or be subject to any personal liability by reason of the issuance of the debt or for any representations, warranties, covenants, obligations, or agreements of the Corporation contained in the debt instruments, the financing documents, or in the closing documents.

“(12) The document that evidences the debt and establishes the Corporation’s obligation to repay the debt shall contain on its face a statement setting forth the requirements of paragraphs (6) through (12) of this subsection.”

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

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

“(15) The signature of any officer of the Corporation that appears on a note or other closing document shall remain valid notwithstanding that person has ceased to hold that office.

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

“(17) Debt obligations of the Corporation are legal investments in which public officers and public bodies of the District, insurance companies and associations and other persons carrying on an insurance business, banks, bankers, banking institutions, including savings and loan associations, investment companies and other persons carrying on a banking business, administrators, guardians, executors, trustees and other fiduciaries, and other persons authorized to invest in bonds or in other obligations of the District, may legally invest funds, including capital, in their control.

“(18) Debt issued by the Corporation and the interest thereon shall be exempt from District taxation, except estate, inheritance, and gift taxes.

“(19) Debt obligations of the Corporation may be secured by a mortgage, lien, security interest or pledge of any assets or properties of the Corporation, including any real or personal property.

“(20) For purposes of this subsection, references to the District shall not include the Corporation, and the debt shall comply with the applicable provisions of section 490 of the District of Columbia Home Rule Act.”.

Sec. 4. 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. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia