

AN ACT

Codification
District of
Columbia
Official Code

2001 Edition

2007 Winter
Supp.

West Group
Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Payments in Lieu of Taxes Act of 2004 to increase the aggregate amount of bonds which may be issued; and to approve a payment in lieu of taxes and the issuance of revenue bonds in an amount not to exceed \$40.2 million to finance publicly-owned infrastructure and relocate certain District facilities in conjunction with the redevelopment of the Arthur Capper/Carrollsborg HOPE VI public housing complex.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "PILOT Authorization Increase and Arthur Capper/ Carrollsborg Public Improvements Revenue Bonds Approval Act of 2006".

TITLE I. PILOT FINANCING AUTHORIZATION INCREASE.

Section 101. Section 6 of the Payments in Lieu of Taxes Act of 2004, effective April 5, 2005 (D.C. Law 15-293; D.C. Official Code § 1-308.05), is amended by striking the phrase "\$250 million" and inserting the phrase "\$500 million; provided, that the aggregate amount of Bonds that may be allocated to benefit directly projects in the Central Business District, as that term is defined in Chapter 17 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 1700 *et seq.*), shall not exceed \$300 million" in its place.

Note,
§ 1-308.05

TITLE II. CAPPER/CARROLLSBURG PILOT AND BOND ISSUANCE APPROVAL.

Sec. 201. Definitions.

For the purpose of this title, the term:

(1) "Bonds" means a revenue bond or note, in an amount not to exceed \$40.2 million, as provided in section 204(a)(3), to be issued to DCHA to finance, refinance, and reimburse DCHA for the costs of the Capper/Carrollsborg Public Improvements.

(2) "Capper/Carrollsborg HOPE VI Project" means the redevelopment of a 23-acre public housing complex in the southeast quadrant of the District by DCHA pursuant to a grant and other financing agreements with the United States Department of Housing and Urban Development.

(3) "Capper/Carrollsborg PILOT" or "PILOT" means the payment in lieu of taxes from the Capper/Carrollsborg PILOT Area pursuant to the Capper/Carrollsborg PILOT Agreement.

(4) "Capper/Carrollsborg PILOT Agreement" means the PILOT agreement described in section 202(b) and approved under section 203.

(5) "Capper/Carrollsborg PILOT Area" means land in the southeast quadrant of the District that is currently under the control and jurisdiction of DCHA and is known for tax and assessment purposes as Square 737, 739, 767, 768, 769, 797, 798, 799, 800, 824, 825, S-825, and 882.

(6) "Capper/Carrollsborg Public Improvements" means the infrastructure, including streets, sidewalks, walkways, streetscapes, curbs and gutters, gas, electric and water utility lines, and other publicly-owned infrastructure, and the relocation of certain District facilities located within the Capper/Carrollsborg PILOT Area.

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

(8) "DCHA" means the District of Columbia Housing Authority.

(9) "Financing Costs" means issuance costs as defined in D.C. Official Code § 47-340.01(14).

(10) "Financing Documents" means the documents, as the term "financing documents" is defined in D.C. Official Code § 47-340.01(11), including any offering document, and any required supplements to any such documents, that relate to the financing, refinancing, or reimbursement of the costs of the Capper/Carrollsborg Public Improvements.

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

(12) "Owners" means those persons who may, from time to time, own all or part of the Capper/Carrollsborg PILOT Area.

(13) "PILOT Act" means 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.*).

(14) "PILOT Period" means the period of time beginning on the effective date of this title and continuing through the date on which all of the bonds issued pursuant to this title are paid or fully defeased and are no longer outstanding.

Sec. 202. Findings.

(a) The terms of the bonds are as follows:

(1) Bonds shall be issued in the form of a PILOT note from the District to DCHA, which bonds shall secure revenue bonds issued by DCHA or otherwise applied to finance, refinance, or reimburse DCHA for the costs of the Capper/Carrollsborg Public Improvements.

(2) The bonds shall be issued pursuant to the provisions of the Financing Documents.

(3) The aggregate principal amount of the bonds, other than refunding bonds, shall not exceed \$ 40.2 million, as follows:

(A) The net proceeds shall not exceed \$36.7 million, adjusted for inflation using 2006 as the base year, which amount shall be provided to the DCHA to fund the Capper/Carrollsborg Public Improvements; and

(B) Financing Costs for any series of bonds.

(4) If, during the period before the next PILOT payment is due, any portion of the Capper/Carrollsborg PILOT exceeds the amounts needed to either fund debt service on the bonds, including principal, interest, reserves, redemptions, premium, if any, or any other costs, or the Capper/Carrollsborg Public Improvements, such portion shall be deposited into the General Fund of the District of Columbia.

(5) The debt service on the bonds in any year shall not exceed the amount of the Capper/Carrollsborg PILOT projected by the District to be received by the District during such year.

(6) The final maturity of the bonds shall not exceed 30 years for any series of the bonds.

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

(8) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor. The Mayor's execution and delivery of the bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of final form and content of the same. The official seal of the District of Columbia, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

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

(10) The bonds shall be payable solely from the funds on deposit in the Capper/Carrollsborg PILOT Fund established under section 204.

(11) The bonds may have any other terms and conditions consistent with this title and the PILOT Act.

(b) The terms of the Capper/Carrollsborg PILOT Agreement, which has been transmitted to the Council by the Mayor, provide as follows:

(1) The owners shall pay the District a PILOT in an amount equal to the greater of:

(A) The amount of real estate taxes in an amount not less than that the owner would be obligated to pay for the Capper/Carrollsborg PILOT Area in the absence of the Capper/Carrollsborg PILOT Agreement; or

(B) The amount necessary to pay debt service on the PILOT Note, including principal, interest, reserves, and redemption premium, if any.

(2) The Capper/Carrollsborg PILOT Area shall be exempt from real property taxes during the PILOT Period.

(3) During the PILOT Period, the owners shall make payments in lieu of taxes to the District with respect to any parcel of real property within the Capper/Carrollsborg PILOT Area at such times and in such amounts as set forth in paragraph (1) of this subsection. The owners shall have the right to challenge any assessment or reassessment of the Capper/Carrollsborg PILOT Area in accordance with the provisions of Chapter 8 of Title 47 of the District of Columbia Official Code and applicable PILOT payments shall reflect the result of any challenge.

(4) The District shall issue bonds or notes secured by the Capper/Carrollsborg PILOT to DCHA.

(c)(1) The amount of the payment in lieu of taxes is the greater of:

(A) The amount of real estate taxes in an amount not less than that the owner would be obligated to pay for the Capper/Carrollsborg PILOT Area in the absence of the Capper/Carrollsborg PILOT Agreement; or

(B) The amount necessary to pay debt service on the PILOT Note, including principal, interest, reserves, and redemption premium, if any.

(2) The amount of the real property taxes which would be paid in the absence of the Capper/Carrollsborg PILOT agreement if the proposed project is completed is estimated to be \$12.6 million per year.

(d) The Capper/Carrollsborg Public Improvements will facilitate the redevelopment of public housing, revitalize the community, and preserve economic diversity in the District. The Capper/Carrollsborg Public Improvements are being undertaken in conjunction with, and in support of, the redevelopment of a 23-acre public housing complex, including a replacement of all units, in the southeast quadrant of the District by DCHA pursuant to a grant and other financing agreements with the United States Department of Housing and Urban Development. Because such available funding is needed for redevelopment of the housing complex, funding is not available for infrastructure and relocation of certain District facilities and the Capper/Carrollsborg Public Improvements could not be undertaken without detriment to the redevelopment project.

(e) No portion of the payments in lieu of taxes will be used other than for the purpose of financing a project which qualifies under section 490 of the Home Rule Act.

(f)(1) Conventional or other forms of financing are not readily available for the Capper/Carrollsborg Public Improvements.

(2) Best efforts have been made to secure conventional and other alternative forms of financing.

(3) The Capper/Carrollsborg Public Improvements are being undertaken in conjunction with, and support of, the redevelopment of a 23-acre public housing complex, including a replacement of all units, in the southeast quadrant of the District by DCHA pursuant to a grant and other financing agreements with the United States Department of Housing and Urban Development. Because such available funding is needed for redevelopment of the housing complex, funding is not available for infrastructure and relocation of certain District facilities and the Capper/Carrollsborg Public Improvements could not be undertaken without detriment to the redevelopment project. Therefore, conventional or other forms of financing for the Capper/Carrollsborg Public Improvements is financially infeasible and impracticable. The issuance of bonds is the most desirable financing mechanism for the Capper/Carrollsborg Public Improvements.

(g) The Capper/Carrollsborg Public Improvements will not be operated or held for profit and will be dedicated to the District. Portions of the Capper/Carrollsborg HOPE VI Project, which will benefit from the Capper/Carrollsborg Public Improvements, will be operated or held for profit, which profit will be used to subsidize other portions of the project. As the Capper/Carrollsborg HOPE VI Project already requires substantial subsidies, as described in subsections (d) and (f) of this subsection, an ownership interest or profits participation for the District is impracticable or undesirable.

(h) The financial analysis prepared by the Office of the Chief Financial Officer is the same as the financial analysis required by section 4(a)(1)(H) of the PILOT Act.

Sec. 203. Approval of Capper/Carrollsborg PILOT Agreement and issuance of bonds.

The Council approves the:

(1) Execution of Capper/Carrollsborg PILOT Agreement in substantially the form that has been transmitted to the Council; and

(2) Issuance of bonds, including the Financing Documents and any other documents or agreements which are necessary or desirable in conjunction therewith, in accordance with the terms and conditions described in section 202(a).

Sec. 204. Capper/ Carrollsborg PILOT Fund; Payment and security.

(a) For the purpose of securing the payment of the bonds, there is established the Capper/ Carrollsborg PILOT Fund, a nonlapsing fund which shall be separate from the General Fund of the District of Columbia. The Chief Financial Officer shall deposit into the Capper/ Carrollsborg PILOT Fund all receipts from the Capper/ Carrollsborg PILOT and from any taxes identified by any provision of District of Columbia law to be paid into the Capper/Carrollsborg

PILOT Fund. Except under the conditions set forth in section 202(a), funds deposited into the Capper/Carrollsborg PILOT Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time but shall be continually available for the uses and purposes set forth in this title.

(b) The District may pledge the funds on deposit in the Capper/Carrollsborg PILOT Fund as security for the payment of debt service on the bonds, including principal, interest, reserves, redemption premium, if any, and fees related thereto.

TITLE III. FISCAL IMPACT STATEMENT; EFFECTIVE DATE.

Sec. 301. Fiscal impact statement.

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

Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of a 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