

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Columbia
Official Code*

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To establish a limitation on the District's contribution to the project budget for certain hard and soft costs of the ballpark and to amend the Ballpark Omnibus Financing and Revenue Act of 2004 to make a conforming amendment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Ballpark Hard and Soft Costs Cap Act of 2007".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Ballpark", "Ballpark Site", and "MLB Team" shall have the same meanings as provided in section 105(a)(1), (2), and (4), respectively, of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1601.05(a)(1), (2), and (4)).

(2) "Bonds" shall have the same meaning as in section 103(a)(2) of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1601.03(a)(2)).

(3) "Hard costs" means the direct construction costs and builders contingency costs, estimated as \$295,075,993 and \$24,924,007, respectively, in the revised budget for the ballpark transmitted by the District of Columbia Sports and Entertainment Commission to the Council on February 3, 2006, for the construction of the ballpark.

(4) "Soft costs" means the soft, ancillary, contingency, completion guarantee fee, and financing fee costs for the construction of the ballpark, excluding the land acquisition, environmental remediation, relocation, and demolition costs, estimated as \$117,342,193, and excluding the \$24 million utilized for the renovation of RFK Stadium, as reflected in the May 31, 2007 revised budget for the ballpark transmitted by the District of Columbia Sports and Entertainment Commission to the Council on June 15, 2007.

Sec. 3. Limitation on contribution of bond proceeds and expenditure of funds.

(a) The District's contribution of bond proceeds from public financing to the project budget, and the expenditure of funds, for the construction of the ballpark shall not exceed \$300 million for the hard costs and \$175,184,218 for the soft costs.

(b) The expenditure limits of \$300 million and \$175,184,218 shall include public funds from any source expended by the District government or any of its independent agencies or instrumentalities.

Sec. 4. Payment in excess of expenditure limits.

(a) Notwithstanding any other provision of law, and in accordance with Council approval of contract CA 16-185, the lease agreement between the District of Columbia Sports and Entertainment Commission and Baseball Expos, L.P., and the Construction Administration Agreement as set forth in the Ballpark Hard and Soft Costs Cap and Ballpark Lease Conditional Approval Temporary Act of 2006, effective June 8, 2006 (D.C. Law 16-115; 53 DCR 2542), and subject to section 3, the amount of the hard costs in excess of \$300 million and the soft costs in excess of \$175,184,218 shall be paid by:

- (1) The MLB Team;
- (2) Savings realized from value engineering; or
- (3)(A) Federal;
- (B) Private; or
- (C) Other non-District government funds, except that District

government funds, other than funds in the General Fund of the District of Columbia, may be used if required by the bond indenture to finance the construction of the ballpark.

(b) The funds required by the bond indenture to finance construction of the ballpark, referred to in subsection (a)(3)(C) of this section, include approximately \$37 million of baseball revenue collected in 2005 (plus interest), approximately \$30 million of interest earned from the borrowing, and approximately \$9 million of premium received on the sale of the bonds. These fees shall not exceed the total expenditure limits set forth in this act.

(c) Any revenue derived from development rights on the Ballpark Site by the Anacostia Waterfront Corporation or any District government entity, independent agency, or instrumentality shall not be used for any overruns on the hard and soft costs, but may be used for any overruns on the land acquisition and remediation costs that are documented.

(d) The funds from the sources listed in subsection (a) of this section may be expended to cover any amount of the hard costs in excess of \$300 million and any amount of the soft costs in excess of \$175,184,218.

Sec. 5. Development rights.

(a) The District government, or one of its instrumentalities, such as the Anacostia Waterfront Corporation, shall control development rights on the north side of the Ballpark Site and all but 210,000 square feet of development rights reserved for the MLB Team purposes on the south side of the Ballpark Site. Development on the east side of the Ballpark Site, on First Street, S.E., shall generate revenue to the District and shall be developed in accordance with a plan approved by the Council.

(b) Any excess revenues derived from development rights that are not used for cost overruns for land acquisition and environmental remediation shall be deposited into the Community Benefits Fund established by section 202 of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1602.02).

Sec. 6. Section 105 of the Ballpark Omnibus Financing and Revenue Act of 2004, effective April 8, 2005 (D.C. Law 15-320; D.C. Official Code § 10-1601.05), is amended as follows:

(a) Subsection (c) is amended by adding a new paragraph (6) to read as follows:
“(6) The Sports and Entertainment Commission shall comply with the expenditure limitations set forth in sections 3 and 4 of the Ballpark Hard and Soft Costs Cap

ENROLLED ORIGINAL

Act of 2007, passed on 2nd reading on July 10, 2007 (Enrolled version of Bill 17-11). The Sports and Entertainment Commission shall submit a monthly report of expenditures to the Council no later than the 15th of each month.”.

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

“(f) Except as provided in sections 3 and 4 of the Ballpark Hard and Soft Costs Cap Act of 2007, passed on 2nd reading on July 10, 2007 (Enrolled version of Bill 17-11), no funds in the General Fund of the District of Columbia shall be spent on the hard and soft costs (as the terms are defined in such act) for construction of the ballpark.”.

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 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia