COUNCIL OF THE DISTRICT OF COLUMBIA NOTICE

Nocember 3, 1977

D. C. LAW 2-32

"District of Columbia Depository Act of 1977".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, (PL 93-198) the Act, the Council of the District of Columbia adopted Bill No. 2-107 on first, Amended first, and second readings June 28, 1977, July 12, 1977, and July 26, 1977, respectively. Following the signature of the Mayor on August 17, 1977, this legislation was assigned Act No. 2-78, published in the September 16, 1977, edition of the D.C. Register and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has expired and, therefore, cites the following legislation as D. C. Law 2-32, effective October 26, 1977.

Chairman of the Council

2-32

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 26. 1977

To select private financial institutions to be depositories for District funds; to maximize earnings on public funds in a manner to benefit District citizens who traditionally have not had access to conventional credit; and to stimulate the economy of the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA.

That this act may be cited as the "District of Columbia

Depository Act of 1977".

Sec. 2. Definitions. For the purposes of this act:

- (a) "average demand deposit balance" means the daily average, computed monthly, of the District's demand deposits with a depository.
- (b) "Board of Appeals and Review" means the board established under Organizational Order Number 112, dated August 11, 1955.
- (c) "community credit union" means a financial institution chartered and insured by the National Credit Union Administration and serving designated geographical areas within the District.
- (d) "Council" means the Council of the District of Columbia.

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- (e) "default or insolvency" means either:
- (1) the inability or failure of a designated depository to repay any public deposit upon demand or at maturity; or
- (2) the acknowledgement by a designated depository of such inability or failure to repay; cr
- (3) the issuance of an order from the appropriate regulatory agency advising a stipulated regulatory agency to arrange for the supervision of the portfclic of a depository which falls under subsection (e) (1) or (e) (2).
- (f) "demand deposit" means public funds, exclusive of any savings deposit, which are held by a designated depository subject to withdrawal upon demand by the District or upon a check or warrant of the District.
- (g) "District" means the District of Columbia government or any agency, board, commission, institution, committee, office, officer or instrumentality thereof; or, if required by the context, the word "District" means the geographical area of the District of Columbia.
- (h) "eligible depository" means any commercial bank, savings and loan association, or credit union which is insured by the Pederal government pursuant to chapter 16 of title 12 of the United States Code (64 Stat. 873) and whose main office is located in the District.

- (i) "employment practices" means the record of employment of minority persons and women as defined by the Equal Employment Opportunity Act of 1972 (86 Stat. 103).
- performed by a demand depository in connection with the retention of demand deposits, including but not limited to check payment, check clearing, the reconciliation of accounts, check printing, the collection and transfer of taxes and fees, night depository services and such other services as may be necessary for the efficient utilization of public funds.
- (k) "installment credit" means any personal loan of eight thousand dollars (\$8,000) or less, made to an individual District resident and payable in installments, for the purchase of consumer durables or services or for personal expenses (excluding home improvements, home rehabilitation, personal lines of credit, and student loans).
- (1) "interest dividend rate bid" means the interest offered to be paid on a savings deposit by an eligible depository computed from the day of deposit to the day of withdrawal of such deposit and subject to appropriate federal requirements.

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- (m) "loan origination" means the placement and extension of credit directly to a borrower.
- (n) "Hayor" means the Hayor of the District of Columbia, established under section 421(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 789; D.C. Code, sec. 1-161(a)), or the Mayor's designee.
 - (o) "moderately-priced housing lcan" means any loan to:
- (1) a prospective owner-occupant for the purchase of a building containing one (1) to four (4) residential units in the District selling at or below one hundred and twenty percent (120%) of the median sale price for such housing sold in the District, according to the latest data available from the Mayor for an entire calendar year; or
- (2) a prospective owner-occupant of real property in the District for the construction of a building containing one (1) to four (4) residential units in the District selling at or below one hundred and twenty percent (120%) of the median sale price for such housing sold in the District, according to the latest data available from the Mayor for an entire calendar year; or
- (3) an owner of real property in the District for the rehabilitation of a building containing one (1) to four

- (4) residential units in a loan amount not exceeding twenty thousand dollars (\$20,000).
- (p) "moderately-priced multi-family housing loan" means any loan for either:
- (1) the purchase or construction of a building containing five (5) or more residential units in the District sold at a per unit value at or below one hundred and twenty percent (120%) of the median sale price for all multi-family units sold in the District according to the latest data available from the Mayor for an entire calendar year; or
- (2) the rehabilitation of a building containing five (5) or more residential units in the District in a loan amount not to exceed fifteen thousand dcllars (\$15,000) per unit.
- (q) "obligations of agencies of the United States" means instruments issued by agencies of the United States government and not directly by the United States Treasury.
- (r) "obligations of the District" means obligations issued by the District pursuant to sections 461, 471, 472, and 490 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 804, 806 and 809; D.C. Code, secs. 47-241, 47-247, 47-248, and 47-254).

- (S) "obligation of the United States government" means an instrument of the United States public debt that is issued by the United States Treasury and fully backed by the United States government, including United States Treasury Bills, United States Treasury Hotes, and United States Treasury Bonds.
- (t) "Office of the District of Columbia Auditor" means that office as established under section 455 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 803; D.C. Code, sec. 47-120).
- (u) "public funds" means all monies belonging to or under the control of the District, including but not limited to the federal payment, federal grants, taxes, fees, special assessments, all other monies received from the federal government and monies paid to or received by a court, agency or instrumentality of the District, or from any other source: PROVIDED, HOWEVER, That before October 1, 1978 the term "public funds" does not include pension funds held by the District and: PROVIDED, FURTHER, That nothing in this act shall be construed to require the reinvestment of securities owned by a pension fund on September 30, 1978 and: PROVIDED, FURTHER, That the term "public funds" does

not include the pension funds for the public school teachers of the District.

- (v) "repurchase agreements" means the sale or purchase of securities subject to the condition that, after a stated period of time, the original seller will buy back such securities at an agreed price plus interest at an agreed rate.
- (w) "savings deposit" means any public funds which are held by a depository and upon which a dividend or interest is paid. The term "savings deposit" includes, inter alia, those instruments commonly known as time certificates of deposit, time deposits, share deposits, share certificate accounts, open accounts, and savings deposits.
- (x) "small business loan" means a lcan to a business whose principle place of business is in the District:
- (1) for secured loans not to exceed a total of five bundred thousand dollars (\$500,000) during the previous calendar year; or
- (2) for a loan guaranteed by the United States
 Small Business Administration.
- (y) "student loan" means any loan to a District resident enrolled part-time or full-time in an institution of higher education to provide for the costs directly related to the resident's education. A depository's participation in a

student loan pooling arrangement shall be credited to the depository according to its pro rata share in the pool.

Sec. 3. Investment of Public Funds.

- (a) The Mayor shall invest or deposit all public funds received which are not required to be disbursed immediately. The investments or deposits shall have the longest maturities possible under the circumstances: FRCVIDED, That the period the Mayor may hold an investment in an obligation of the United States government or its agencies and/or in repurchase agreements shall not exceed minety-one (91) days: PROVIDED, FURTHER, That to the maximum extent practicable the Mayor shall invest public funds in savings deposits.
- (b) Public funds may be invested in obligations of the United States government or its agencies directly or through repurchase agreements or deposited in eligible depositories in accordance with this act.

Sec. 4. Selection of Depositories and Investments.

- (a) Short-term deposits and investments
- A short-term deposit or an investment of ninety-one (91)
 days or less shall be made on the basis of the highest
 interest rate yield available at that time for a similar
 investment permitted under this act and in a manner

consistent with liquidity and safety. To the maximum extent possible, consistent with the highest interest rate yield and the intent of this legislation, the Mayor shall utilize the evaluation criteria in section 5(a) of this act to select financial institutions for short-term investments.

- (b) Term deposits
- All term deposits exceeding minety-cne (91) days shall be placed with depositories in the following manner:
- (1) Equal amounts, not in excess of one hundred thousand dollars (\$100,000), shall be offered to be deposited in each community credit union at rates of interest equal to each credit union's current share deposit interest rate: PROVIDED, HOWEVER, That the ascunt on deposit in any single community credit union at any time pursuant to this subsection shall not exceed one hundred thousand dollars (\$100,000). Deposits made pursuant to this subsection may be maintained in the community credit union after their original maturity regardless of whether any other District funds are placed therein for term deposit.
- (2) Of any remaining funds available for term deposit, not less than one-third (1/3) of the total amount of each solicitation for the placement of term deposits shall be set aside for the two (2) highest ranking savings and loan associations and the two (2) highest ranking

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commercial banks, based on the criteria in section 5(a) of this act, which bid on the solicitation.

- (3) The Mayor shall solicit interest rate bids not less than three (3) weeks before the deadline for the submission of the bids. The Mayor shall set forth the term of the proposed deposit, the minimum acceptable rate of interest for deposits placed in non-community credit unions and savings and loan associations, and the minimum acceptable rate of interest for deposits placed in commercial banks.
- (4) A depository shall submit interest dividend rate bids setting forth the minimum and maximum amount of deposits it will accept. In addition, depositories shall submit in the form required by the Mayor information necessary for ranking bidders in accordance with the criteria in section 5(a) of this act.
- (5) The District shall deposit one-fourth (1/4) of the funds set-aside pursuant to paragraph (2) in each of the two (2) highest ranking savings and loan associations and each of the two (2) highest ranking convercial banks, based on the criteria in section 5(a) of this act, submitting an interest dividend rate bid equal to or greater than the District's applicable minimum acceptable bid: PROVIDED, HOWEVER, That the deposit shall not be in excess of the

maximum amount bid by the depository. Interest on deposits of funds set-aside pursuant to paragraph (2) shall be at the applicable minimum acceptable interest rate regardless of the depository's interest dividend rate bid.

- (6) The funds not set-aside and any funds set-aside pursuant to paragraph (2) of this subsection (b) but not deposited pursuant to section 4(b) (5) shall be placed in the depositories submitting interest dividend rate bids equal to or greater than the applicable minimum acceptable rates of interest so as to yield the maximum return to the District: PROVIDED, HOWEVER, That no depository increasing its score less than two (2) percentage points in each category in section 5(a) of this act for each calendar year after 1977 shall be eligible for any deposit. The depositories receiving funds set-aside pursuant to paragraph (2) shall be considered for non-set-aside deposits at their interest dividend rate bid for amounts by which their maximum bid exceeds deposits made pursuant to paragraph (5) of this subsection (b).
- (7) In the event that two (2) bids are identical, the institution ranked highest pursuant to the criteria in section 5(a) of this act shall be given precedence for the award.
 - (c) Demand deposits

- services required to be performed by demand depositories in connection with the retention of deposits. The Mayor shall conduct public hearings concerning which of the financial services shall be set-aside for award only to the highest ranking connectial banks based on the evaluation criteria in section 5(a) of this act. After the public hearings and prior to the solicitation of any bid for placing demand deposits, the Mayor shall determine which financial services shall be set-aside. The set-aside shall provide that one-third (1/3) of the public funds be deposited on an annual basis pursuant to set-aside contracts.
- earlier date is set by the Mayor, and at intervals of not longer than every three (3) years thereafter, each commercial bank desiring to bid for the placement of demand deposits shall subsit the information, in the form required by the Mayor, necessary for ranking the performance of commercial banks in accordance with the evaluation criteria in section 5(a) of this act. The Mayor shall give notice in the <u>District of Columbia Register</u> of the ranking of all commercial banks submitting information prior to soliciting bids for placing demand deposits.

- (3) All commercial bank depositories may be ranked in the first ranking by the Mayor pursuant to section 4(c) (2) of this act.
- (4) Not less than two (2) months price to the deadline for the submission of bids for the placement of demand deposits, the Mayor shall solicit bids for the performance of those financial services set-aside pursuant to section 4(c) (1) of this act from the two (2) commercial banks ranked highest pursuant to section 4(c) (2) of this act and shall solicit bids from all commercial bank depositories for the remaining financial services. The solicitation shall request bids to provide financial services for three (3) years.
- (5) The bids submitted shall state the cost to the District in terms of both the payment for financial services and the maintenance of compensating balances. The bid solicitation may require bids on either single financial services or groups of financial services.
- (6) The award of the financial services set-aside pursuant to section 4(c)(1) of this act and of those not set-aside shall be made based on the lowest cost to the District: PROVIDED, HOWEVER, That the cost to the District of specific financial services within the set-aside portion shall not exceed one hundred and seventy-five percent (175%)

of the cost to the District of identified financial services awarded on non-set-aside bids received in the same solicitation and: PROVIDED, FURTHER, That the Bayor shall select not less than three (3) demand depositories for the District and shall deposit funds with those depositories according to the following timetable:

- (A) the first deposit within one hundred and eighty (180) days after the effective date of this act;
- (B) the second deposit within two hundred and seventy (270) days after the effective date of this act; and
- (C) the third deposit within three hundred and sixty (360) days after the effective date of this act.

Of the above mentioned depositories at least one of the first two (2) shall be a depository with a set-aside pursuant to section 4(c)(1) of this act.

- (7) No award to a commercial bank may be made unless that bank's evaluation score pursuant to section 5(a) of this act has increased by five (5) percentage points in each evaluation category for each three (3) year period after the first ranking.
- (8) In the event that two (2) bids are identical the depository ranked bighest pursuant to section 5(a) of this act shall be given precedence for the award.

(d) Notwithstanding any other provision of this section, no depository shall be required to exceed a score of fifty percent (50%) in each of the evaluation criteria in section 5(a) of this act.

Sec. 5. Evaluation Criteria.

- (a) The ranking of depositories shall be made based on the average of the three (3) following categories:
- (1) two (2) year loan origination for qualifying loans, as defined in subsection (b) of this section, expressed as a percentage of total loans originated;
- (2) outstanding loans to an individual District resident or a business whose primary place of business is in the District expressed as a percentage of total deposits at the end of the previous calendar year; and
- (3) employment practices expressing the average number of minority persons and women in management level positions and on the board of directors as a percentage of the total number of such positions and board seats, respectively, for an eligible depository during the previous calendar year.
 - (b) Qualifying loans shall be comprised of:
 - all moderately-priced housing lcans;

- (2) all moderately-priced housing loans on houses priced at or below eighty percent (80%) of the median sales price for those houses in the District;
 - (3) all student loans;
 - (4) all small business loans;
 - (5) all installment credit lcans;
- (6) all moderately-priced multi-family housing loans:
 - (7) all obligations of the District;
- (8) all eligible rehabilitation loans for a term of ten (10) years or longer;
- (9) all eligible mortgage loars for moderatelypriced housing or multi-family units for a term of twentyfive (25) years or longer; and
- (10) all eligible small business lcans for five (5) years or longer.

Sec. 6. <u>Limitation on Amounts of Fublic Punds on</u> Deposit.

Notwithstanding any other provision of this act, no depository shall at any time have on deposit public funds in an amount exceeding the lesser of (1) an amount equal to twenty-five percent (25%) of the total assets, exclusive of public funds, of such depository, or (2) an amount equal to

twenty-five percent (25%) of the total public funds of the District on/or available for deposit during the fiscal year.

Sec. 7. Collateral Required Upon Derosit of Public Funds.

- (a) No collateral shall be required for any deposit to the extent that the deposit is fully insured by an agency of the United States government, but if required the collateral shall be received by the Mayor at the close of the business day on which the deposit is made.
- (b) Any public funds on deposit in excess of the amount insured by an agency of the Pederal government shall be fully secured by:
- (1) obligations issued and fully insured or guaranteed by the United States or any United States government agency and obligations of government sponsored corporations which under specific statute may be accepted as security for public funds at market value or par value, whichever is lower, at the close of business on the day previous to their placement as collateral;
- (2) obligations insured or quaranteed by an agency of the United States government or a District agency at a value equal to the amount of the insurance or quarantee:

PROVIDED, That insured mortgages shall be secured by property located in the District.

- (c) Each eligible depository shall submit with its bid
 the financial information and reports the Bayor determines
 are necessary to evaluate the condition of each eligible
 depository: PROVIDED, That no eligible depository shall be
 required to submit information and reports not made public
 under Pederal regulations. Depositories shall keep current
 the information required to be submitted under this
 subsection and shall immediately notify the Mayor of any
 change which causes deposits to exceed the limitation in
 section 6 of this act.
- (d) No depository shall be entitled to the return of collateral except upon the repayment of the public funds on deposit with such depository: PROVIDER, HOWEVER, That any depository may, with the approval of the Mayor, substitute different and acceptable collateral of the type specified in subsection (b) of this section.
- (e) Upon the insolvency or default of any depository,
 the District shall be entitled to such of the collateral as
 may be necessary to recover all public funds on deposit with
 such depository, net of such public funds as may be fully
 insured by an agency of the Federal government. Each
 depository shall, at the time of the deposit of collateral.

deliver to the Mayor a power of attorney authorizing him or her to transfer any securities or any part thereof for the purpose of repaying any deposit made under this act.

(f) Nothing in this section shall be construed as limiting any right of the District to share in any distribution of the assets of any depository to the extent that the public funds on deposit at the time of the depository's default or insolvency exceed the net proceeds of the collateral.

Sec. 8. Public Disclosure.

- (a) All bids and information submitted by eligible depositories to the Mayor pursuant to this act shall also be submitted to the Office of the District of Columbia Auditor.
- (b) All such bids and information shall be available for public inspection and reproduction during regular working hours at the offices of the Hayor and the District of Columbia Auditor.
- (c) Within ten (10) days after the last day of each calendar month and whenever requested by the Bayor or the District of Columbia Auditor, each depository receiving public funds shall submit to the Bayor and to the Office of the District of Columbia Auditor a written report, under oath, indicating:

- (1) the total amount of public funds held by it at the close of business on the last banking day in the month;
- (2) the average daily balance for the month of all public funds held by it during the month;
- (3) a detailed schedule of pledged collateral at its value for the purpose of collateral at the close of business on the last banking day in the month; and
- (4) any other information that may be required by the Bayor with respect to public funds.
- (d) The Mayor shall quarterly report to the Council concerning which depositories hold public funds, the amounts of public funds, and the interest dividend rate bid for each individual depository.
- (e) The Mayor shall have available for public inspection the free balances and short-term investments at the close of business on the previous day.
- (f) The Mayor shall identify investments of pension fund assets.

Sec. 9. Termination of Depositories.

(a) Any depository which misrepresents any material information required to be submitted pursuant to this act shall be terminated as a depository by the Mayor and shall

be ineligible as a depository for public funds for a period of not less than two (2) years.

- (b) Any demand depository which is unable to provide financial services pursuant to its contract or bid shall be terminated or refused a contract as a demand depository by the Mayor.
- (c) The Mayor shall, prior to terminating or refusing a contract pursuant to this section, provide the affected depository and the Office of the District of Columbia Auditor with the following written information:
- (1) the proposed date of the termination or refusal:
- (2) the specific reason for the termination or refusal;
- (3) the right of the affected depository to appeal the proposed termination or refusal to the Board of Appeals and Review within one (1) week of receipt by that depository of the notice to terminate or the refusal.
- (d) The Mayor may, upon a written determination that the interests of the District require the immediate withdrawal of public funds, withdraw the public funds immediately after a proper notice is submitted to the affected depository and the Office of the District of Columbia Auditor.

- (e) after receiving notice of a withdrawal under subsection (d) of this section, the affected depository is entitled to a hearing by the Board of Appeals and Review within three (3) days following the receipt of such notice (exclusive of Saturdays, Sundays and bolidays and of any continuance(s) which may be requested by such depository). Any notice of an immediate withdrawal shall state clearly the right of the affected depository to have a hearing by the Board of Appeals and Review within three (3) business days following the receipt of such notice.
- (f) The District of Columbia Auditor may intervene, as an independent party to the dispute, in any hearing before the Board of Appeals and Review concerning any dispute between the Bayor and a depository.
- Sec. 10. Powers of the Mayor and the District of Columbia Auditor.
- (a) The Hayor and the District of Columbia Auditor are authorized to:
- (1) make and enforce regulations necessary and proper to the full and complete performance of his or her respective functions under this act;
- (2) inspect and reproduce all information and documents in the possession of a depository necessary to

determine compliance with and to the enforcement of this act: and

- (3) perform such duties and responsibilities as may be required by this act.
- (b) The District of Columbia Auditor shall be directly accountable to the Council, through its Committee on Employment and Economic Development, for the purpose of reporting on the implementation of this act: FRCVIDED, That the District of Columbia Auditor shall prepare and submit to the Council an annual report on the District's depository activities including the ranking of each institution submitting bids for the deposit of public funds.

Sec. 11. Staff.

- (a) The Office of the District of Columbia Auditor is authorized two (2) positions to carry out the purposes of this act, together with the necessary supporting facilities.
- (b) The Committee on Employment and Economic Development is authorized two (2) staff positions for the purposes of coordinating the implementation of this act with the Office of the District of Columbia Auditor and of assuming the responsibilities specified in this act.

This act shall take effect as provided for acts of the Council in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act.

RECORD OF OFFICIAL COUNCIL ACTION

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RECORD OF OFFICIAL COUNCIL ACTION (Page 2)

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