

ENROLLMENT(S)

(5)



ENROLLED ORIGINAL

AN ACT

D.C. ACT 11-85

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 30, 1995

New
Subchapter
IIB,
Chapter 3,
Title 47

To authorize and provide for the issuance, sale, and delivery of up to \$850,000,000 aggregate principal amount of District of Columbia industrial revenue bonds in one or several separate series and to authorize and provide for establishment of a program for the making of loans to assist authorized projects pursuant to section 490 of the District of Columbia Self-Government and Governmental Reorganization Act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Industrial Revenue Bond Forward Commitment Program Authorization Act of 1995".

New Section
47-340.1

Sec. 2. Definitions.

For the purpose of this act, the term:

(1) "Applicant" means each person, sole proprietorship, corporation, partnership, limited partnership, joint venture, trust, firm, association, unincorporated organization, or a government or an agency or political subdivision thereof, or other legal entity, applying to receive revenue bond financing pursuant to section 490 of the Home Rule Act.

(2) "Authorized delegate" means the Assistant City Administrator for Economic Development, the Deputy Mayor for Financial Management, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated or to whom the foregoing individuals have subdelegated any of the Mayor's functions under this act pursuant to section 422(6) of the Home Rule Act.

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

(4) "Bonds" means one or the several separate series of District revenue bonds, notes, and other obligations authorized to be issued pursuant to this act.

(5) "Chairman" means the Chairman of the Council of the District of Columbia.

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(6) "Closing documents" means all documents and agreements other than financing documents that may be necessary and appropriate to issue, sell, and deliver each applicable series of bonds and to make the loans contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(7) "Council" means the Council of the District of Columbia.

(8) "Development" means the acquisition, purchase, construction, reconstruction, improvement, renovation, rehabilitation, restoration, remodeling, repair, expansion, or extension and the equipping and the furnishing of eligible projects.

(9) "District" means the District of Columbia.

(10) "Eligible project" means the financing, refinancing, or reimbursing of costs of the development of facilities in the areas of housing, health facilities, transit and utility facilities, recreation facilities, college and university facilities, college and university student loan programs, pollution control facilities, and industrial and commercial development authorized pursuant to this act.

(11) "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 contemplated thereby, including any offering documents and any required supplements to those documents.

(12) "Forward authorization program" means District approval of a program to expedite the issuance, sale, and delivery of revenue bonds in one or multiple separate series pursuant to this act.

(13) "Home Rule Act" means the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 774; D.C. Code § 1-201 *passim*).

(14) "Issuance costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of each applicable series of bonds and the making of loans contemplated thereby, including, but not limited to, program fees and administrative fees charged by the District; underwriting, legal, accounting, rating agency, and other financing fees, costs, and expenses; fees paid to financial institutions and insurance companies; initial letter of credit fees, compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District; and all other fees, costs, charges, and expenses incurred in connection with the development, and implementation of the financing documents, the closing documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of each applicable series of bonds and the making of loans contemplated thereby.

(15) "Loan" means the District's lending of proceeds from the sale of each applicable series of bonds, including by the purchase of any mortgage, note, or other security or by the purchase, lease, or sale of any property.

(16) "Mayor" means the Mayor of the District of Columbia.

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(17) "Rules of the Council" means the guidelines and standards governing Council conduct adopted by the Council.

Sec. 3. Bond authorization.

**New Section
47-340.2**

(a) The Mayor is authorized to assist in financing, refinancing, and reimbursing costs of the development of eligible projects by:

(1) Approving the issuance, sale, and delivery of one or more series of revenue bonds in multiple separate series in an aggregate principal amount not to exceed \$850,000,000; and

(2) The making of various loans, pursuant to the Home Rule Act, provided that each such contemplated project shall have been submitted for Council review and approval in accordance with section 4, and shall not have been the subject of a Council resolution of disapproval.

(b) The Mayor is authorized to make loans to various applicants for the purpose of financing, refinancing, or reimbursing the costs of development of eligible projects, pay issuance costs with respect to the bonds, and establish any fund with respect to the various series of bonds as required by the financing documents.

(c) The Mayor may charge a program fee to each applicant, including, but not limited to, an amount sufficient to cover costs and expenses incurred by the District in connection with the issuance, sale and delivery of each series of bonds and the District's participation in monitoring of the use of bond proceeds and compliance with any public benefit agreements with the District, maintaining official records of each bond transaction and assisting in the redemption, repurchase, and remarketing of the bonds.

Sec. 4. Council review for each individual project.

**New Section
47-340.3**

(a) For each individual project for which there is a proposed bond series issuance, the Mayor shall submit to the Council a resolution of project approval accompanied by a summary description of the proposed project, a listing of the public purpose benefits to be derived from the proposed undertaking, the preliminary legal sufficiency determinations of the Office of the Corporation Counsel and bond counsel, and a summary of any finding of approval by the Mayor for a 30-day period of Council review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

(b) The Council may approve, conditionally approve, or disapprove a proposed project by resolution within 30 days after the Mayor transmits to the Council the information set forth in subsection (a) of this section. Failure of the Council to take action on a resolution within the 30-day review period shall be deemed to be Council approval of the project.

(c) The Council shall transmit to the Mayor notice of expiration of the review period under subsections (a) and (b) of this section.

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New Section
47-340.4

Sec. 5. Details of each series of bonds.

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

- (1) The final form, content, designation, and terms of the bonds, including a determination that such bonds may be issued in certificate 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 such bonds;
- (5) The terms under which 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) Provisions for the registration, transfer, and exchange of each series of 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 they are properly applied to their respective project and used to accomplish the purposes of the Home Rule 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 shall be special obligations of the District, shall be without recourse to the District, shall not be a pledge of, and shall not involve, the faith and credit or the taxing power of the District, 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.

(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. The Mayor's execution and delivery of the bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the bonds.

(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 may be issued in accordance with the terms of the trust instruments entered into by the District and one or more trustees to be selected by the Mayor, and may be

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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.

Sec. 6. Sale of the bonds.

**New Section
47-340.5**

(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 interest of the District.

(b) The Mayor or an authorized delegate may execute, in relation to each sale of the bonds, offering documents on behalf of the District and may authorize the distribution of the documents in relation to the bonds being sold.

(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 and, if the interest on the bonds is expected to be exempt from federal income taxes, the treatment of the interest on the bonds for purposes of federal income taxation.

Sec. 7. Payment and security.

**New Section
47-340.6**

(a) The principal of, premium, if any, and interest on the bonds shall be payable solely from proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the loan, income realized from the temporary investment of those receipts and revenues prior to payment to the bond owners, other moneys that, as provided in the financing documents, may be made available to the District for the payment of the bonds, and other sources, other than the District, of payment, all as provided for in the financing documents.

(b) 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, including a security interest in certain collateral, to the trustee for the bonds pursuant to the financing documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the financing documents.

Sec. 8. Financing and closing documents.

**New Section
47-340.7**

(a) The Council approves the financing documents to which the District is a party in substantially the form in which these documents are filed by the Council with the Office of the Secretary to the Council, and authorizes the Mayor to make modifications to these documents that are within the limitations of the Home Rule Act, and that the Mayor considers appropriate to

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carry out the purposes of this act.

(b) 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 bonds and to make loans to applicants. Each of the financing documents and each of the closing documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(c) The Mayor is authorized to execute in the name of the District, and on its behalf, any financing documents and any closing documents to which the District is a party by the Mayor'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 financing documents and the closing documents to which the District is a party.

(e) 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.

(f) 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. 9. Authorized delegation of authority.

**New Section
47-340.8**

To the extent permitted by District and federal law, the Mayor may delegate to any authorized delegate the performance of any function authorized to be performed by the Mayor under this act.

Sec. 10. Limited liability.

**New Section
47-340.9**

(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, 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) Nothing contained in the bonds, in the financing documents, or in the closing documents shall create any obligation on the part of the District to make payments with respect to the bonds from sources other than those listed for that purpose in section 7.

(d) The District shall not have liability for the payment of any issuance costs or for any transaction or event to be effected by the financing documents.

(e) All covenants, obligations, and agreements of the District contained in this act, the

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bonds, and the executed, sealed, and delivered financing and closing documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this act.

(f) No person, including any applicant and 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 act, the bonds, the financing documents, or the closing documents, nor 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. 11. District officials.

**New Section
47-340.10**

(a) 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 act, 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 official ceases to be that official before delivery of the bonds, the financing documents, or the closing documents.

Sec. 12. Maintenance of documents.

**New Section
47-340.11**

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.

Sec. 13. Information reporting.

**New Section
47-340.12**

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

Sec. 14. Disclaimer.

**New Section
47-340.13**

(a) The issuance of bonds is in the discretion of the District. Nothing contained in this act, including, but not limited to, the bonds, the financing documents, the closing documents or the Council resolution, shall be construed as obligating the District to issue any bonds for the benefit of any applicant or to participate in or assist any applicant in any way with financing, refinancing, or reimbursing the costs of the development of any project. The applicant shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to

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issue any bonds for the benefit of any applicant.

(b) The District reserves the right to issue its bonds in the order or priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representations that any portion of any limited amount of bonds, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of any bonds authorized by this act.

(c) The District, by enacting this act or by taking any other action in connection with financing, refinancing, or reimbursing any project, does not provide any assurance that the project is viable or sound, that the applicant is financially sound, or that amounts owing on any bonds or under any loan will be paid. Neither the applicant, any purchaser of the bonds, nor any other person shall rely upon the District with respect to these matters.

Sec. 15. Expiration.

**New Section
47-340.14**

If any series of bonds is not issued, sold, and delivered to the original purchaser within 3 years of the date of Council approval of a project pursuant to section 4, the authorization provided in this act with respect to the issuance, sale, and delivery of such series of bonds shall expire.

Sec. 16. Severability.

**New Section
47-340.15**

If any particular provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this act is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuing of the bonds authorized by this act, and the validity of the bonds shall not be adversely affected.

Sec. 17. Conflict of laws.

**New Section
47-340.16**

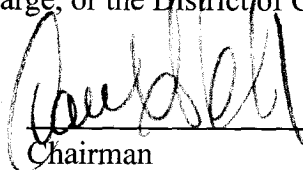
The procedures set forth in this act shall prevail over any other act of the Council or provision of District law that might be deemed to be inconsistent with this act.

Sec. 18. Effective date.

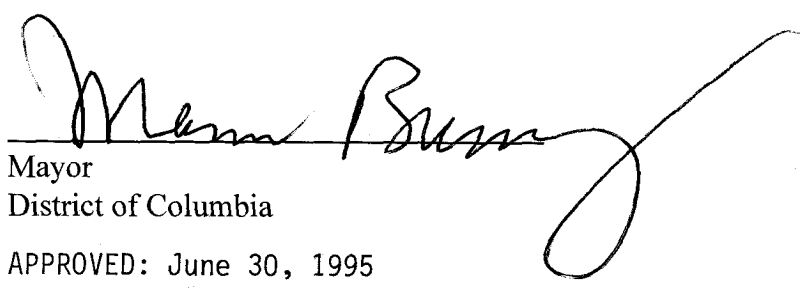
This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act,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

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233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: June 30, 1995



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

B11-119

Docket No.

[] ITEM ON CONSENT CALENDAR

Adopted First Reading, 06-06-95

[X] ACTION & DATE

Approved

[X] VOICE VOTE

RECORDED VOTE ON REQUEST

Chavous, Mason, Ray and Smith

ABSENT

[] ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Phyllis [Signature]
Secretary to the Council

June 22, 1995
Date

[X] ITEM ON CONSENT CALENDAR

Adopted Final Reading, 06-20-95

[X] ACTION & DATE

Approved

[X] VOICE VOTE

RECORDED VOTE ON REQUEST

all present

ABSENT

[] ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X-indicates no

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

Phyllis [Signature]
Secretary to the Council

June 22, 1995
Date

[] ITEM ON CONSENT CALENDAR

[] ACTION & DATE

[] VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

[] ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date