

ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 12-56

"Financial Institutions Deposit and Investment Amendment Act of 1997"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 12-264, on first and second readings, September 22, 1997, and October 7, 1997, respectively. Following the signature of the Mayor on October 17, 1997, pursuant to Section 404(e) of "the Act", and was assigned Act No. 12-177, and published in the November 14, 1997, edition of the D.C. Register (Vol. 44 page 6933) and transmitted to Congress on November 12, 1997 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 this enactment as D.C. Law 12-56, effective March 18, 1998.



LINDA W. CROPP
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

Nov.	12,13
Jan.	27,28,29
Feb.	2,3,4,5,9,10,11,12,23,24,25,26,27
Mar.	2,3,4,5,6,9,10,11,12,13,16,17

AN ACT

D.C. ACT 12-177

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCTOBER 17, 1997

*Codification
District of
Columbia
Code
1998 Supp.*

To amend chapter 3 of Title 47 of the District of Columbia Code to establish methods for depositing and investing District funds and obtaining financial services, including a system that will award banking business based upon a competitive bidding process involving the ranking of financial institutions, and diversification of the District's investment portfolio.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Financial Institutions Deposit and Investment Amendment Act of 1997".

Sec. 2. Chapter 3 of Title 47 of the District of Columbia is amended as follows:

*Sections
47-341 -
47-350*

- (a) Sections 47-341 through 47-350 are repealed.
- (b) A new subchapter index is added to read as follows:
 - "Subchapter III-A. Financial Institutions Deposits and Investments.
 - "Sec.
 - "47-351.1. Definitions.
 - "47-351.2. Powers of the Mayor.
 - "47-351.3. General deposit and investment requirements.
 - "47-351.4. Eligibility requirements; bidding; awards process.
 - "47-351.5. Competition for banking business.
 - "47-351.6. Financial score.
 - "47-351.7. Community development score.
 - "47-351.8. Collateral and reporting requirements.
 - "47-351.9. Linked deposits for community development lending.
 - "47-351.10. Preservation of banking services.
 - "47-351.11. District funds reserved for certain insured institutions.
 - "47-351.12. Public disclosure.
 - "47-351.13. Protection of District funds at risk.
 - "47-351.14. Check cashing; identification.

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"47-351.15. Penalties.

"47-351.16. Rulemaking."

(c) A new subchapter III-A is added to read as follows:

"Subchapter III-A. Financial Institutions Deposits and Investments.

"§ 47-351.1 Definitions.

"For the purposes of this subchapter, the term:

New Section
47-351.1

"(1) "Bank" means an insured financial institution as defined in section 2 of the Federal Deposit Insurance Act, approved September 21, 1950 (64 Stat. 873; 12 U.S.C. § 1813), which:

"(A) Accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others; and

"(B) Is engaged in the business of making commercial loans.

"(2) "Banking business" means the deposit or investment of District funds or the use of District funds for the provision of financial services.

"(3) "Community Reinvestment Act" means the Community Reinvestment Act of 1977, approved October 12, 1977 (91 Stat. 1147; 12 U.S.C. §§ 2901-2907).

"(4) "Compensating balances" means collected balances held by the depository to compensate the depository for the cost of financial services rendered.

"(5) "Credit union" means an institution insured by the National Credit Union Administration, and either serving designated geographical areas within the District of Columbia or serving the employees of the District.

"(6) "Deposit" means District funds which are held by a financial institution subject to withdrawal upon demand by the District or upon a check or warrant of the District or the act of entrusting District funds into a financial institution.

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

"(8) "District funds" means money, currency, notes, or drafts 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 funds received from the federal government, and funds paid to or received by a board, agency, commission, institution, committee, or office of the District or from any other source. This does not include any assets of a pension, assets held by the District of Columbia Financial Responsibility and Management Assistance Authority, an employee deferred compensation program of the District, or an irrevocable trust established pursuant to § 1-627.11.

"(9) "Eligible financial institution" means any bank or any brokerage firm registered with the United States Securities and Exchange Commission ("SEC") or any savings and loan association, savings bank, credit union, or any subsidiary or affiliate thereof meeting the requirements to become eligible to submit a bid pursuant to § 47-351.4.

"(10) "Financial services" means those services performed by a financial

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institution in connection with the retention of deposits, including check payment, check clearing, reconciliation of accounts, check printing, the collection and transfer of taxes and fees, night depository services, custodial services, and other services that may be necessary for the efficient management of District funds.

"(11) "Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act of 1975, approved December 31, 1975 (89 Stat. 1124; 12 U.S.C. § 2801 *et seq.*).

"(12) "Insured financial institution" or "insured institution" means a bank, savings and loan association, savings bank, credit union, or any subsidiary or affiliate thereof.

"(13) "Invest" means to commit District funds in order to gain profit or interest.

"(14) "Investment" means property acquired with District funds for future profit or interest.

"(15) "Investment grade obligation" means securities that have a minimum rating of BBB, Baa, or BBB- from Standard and Poor's, Moody's Investor Service, or Fitch Investor Service rating agencies that rate the securities.

"(16) "Linked deposit" means limited deposits in an insured financial institution made pursuant to an authorization from the Mayor, or CFO pursuant to § 47-351.2(c), to waive the competitive bidding requirements of the act in order to make a deposit in return for that institution's commitment to make community development loans in low-to-moderate income areas.

"(17) "Low-to-moderate income area" means a census tract in which more than 50% of the households have a median household income of less than 100% of the District's median household income based on the most recent decennial census.

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

"(19) "Mortgage loan" means a loan that is secured by residential real property.

"(20) "Non-insured financial institution" means an investment advisor, investment banker, investment company, investment trust, or any other company, subsidiary, or affiliate thereof designated by the Mayor, or the CFO during a control year.

"(21) "Quasi-governmental corporation" means United States government-sponsored enterprises that issue investment-grade obligations. This includes, but is not limited to, banks for cooperatives, federal land banks, federal intermediate credit banks, federal farm credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley District, the Small Business Administration, or any such agency or enterprise that may be created.

"(22) "Savings and loan association" means an institution organized as a savings and loan association under the laws of the United States, a state, or the District, the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(23) "Savings bank" means an institution organized as a savings bank under the laws of the United States, a state, or the District, the deposits of which are insured by the Federal Deposit Insurance Corporation.

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"(24) "Small business" means a business with annual gross sales or revenues of \$5 million or less.

"§ 47-351.2. Powers of the Mayor.

New Section
47-351.2

"(a) The Mayor or the Mayor's designated officer shall invest, deposit, or obtain financial services for all District funds that the Mayor does not need for immediate disbursement.

"(b) The Mayor may exercise any power that is necessary to implement and enforce this subchapter.

"(c) During a control year, as defined in § 47-393(4), the powers exercised by the Mayor pursuant to this subchapter, except for § 47-351.16, shall be exercised by the Chief Financial Officer of the District of Columbia ("CFO").

"§ 47-351.3. General deposit and investment requirements.

New Section
47-351.3

"(a) Unless otherwise provided by law, the Mayor, or the CFO pursuant to § 47-351.2(c), shall invest and deposit District funds in, and obtain financial services from, eligible financial institutions.

"(b) The Mayor, or the CFO pursuant to § 47-351.2(c), shall determine what amount of District funds are needed immediately and maintain deposit funds in amounts great enough to satisfy that need. The Mayor, or the CFO pursuant to § 47-351.2(c), shall invest all other funds.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), shall invest District funds in:

"(1) Bonds, bills, notes, or other obligations issued by the United States government;

"(2) Federally insured negotiable certificates of deposit or other insured or uninsured evidences of deposit at a financial institution;

"(3) Bonds, bills, notes, mortgage-backed or asset-backed securities, or other obligations of a quasi-governmental corporation;

"(4) Prime banker acceptances that do not exceed 270 days maturity;

"(5) Prime commercial paper that does not:

"(A) Have a maturity that exceeds 180 days; and

"(B) Exceed 10% of the outstanding commercial paper of the issuing corporation at the time of purchase;

"(6) Investment grade obligations of the District or a state or local government;

"(7) Repurchase agreements for the sale or purchase of securities by the District under the condition that, after a stated period of time, the original seller or purchaser will buy back or sell the securities at an agreed price that shall include interest;

"(8) Investment grade asset-backed or mortgaged-backed securities; or

"(9) Money market funds registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, approved August 22, 1940 (54 Stat 789; 15 U.S.C. § 80a-1 *et seq.*).

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"(d) The Mayor, or the CFO pursuant to § 47-351.2(c), shall not allow the amount of District funds deposited or placed for the provision of financial services in a single eligible financial institution to exceed the lesser of either:

"(1) Twenty-five percent of the total assets of the eligible financial institution, exclusive of District funds; or

"(2) Twenty-five percent of the total District funds available for deposit or investment as of the date of such deposit or placement and as of the end of each fiscal quarter thereafter.

"§ 47-351.4. Eligibility requirements; bidding; awards process.

**New Section
47-351.4**

"(a) To become eligible to submit a bid under this subsection:

"(1) An insured institution shall provide the Mayor, or the CFO pursuant to § 47-351.2(c), with information from which the Mayor, or the CFO pursuant to § 47-351.2(c), can calculate a community development score under § 47-351.7. This information may include, but need not be limited to, current community development data, Community Reinvestment Act statement and evaluation with a minimum of "satisfactory" rating on its latest Community Reinvestment Act examination, and Home Mortgage Disclosure Act reports.

"(2) A non-insured institution shall submit to the Mayor, or the CFO pursuant to § 47-351.2(c), a statement of Equal Employment Opportunity or Affirmative Action.

"(b) Each year the Mayor, or the CFO pursuant to § 47-351.2(c), shall compile a list of eligible financial institutions that submit the information pursuant to the requirements of subsection (a) of this section.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), shall send the solicitations for bids to all financial institutions that are eligible. The Mayor, or the CFO pursuant to § 47-351.2(c), shall remove from the eligible list those financial institutions that the Mayor, or the CFO pursuant to § 47-351.2(c), has deemed to be financially unsound and those bidders that have put District funds at risk pursuant to § 47-351.13(a).

"(d) In solicitations for bids, the Mayor, or the CFO pursuant to § 47-351.2(c), shall include the following information:

"(1) In the case of deposits or investments:

"(A) The term of the deposit or investments;

"(B) The approximate amount available for deposit or investment;

"(C) The evaluation criteria; and

"(D) All other information required by the Mayor, or the CFO pursuant to § 47-351.2(c), or that is necessary for compliance with this subchapter.

"(2) In the case of financial services:

"(A) A list of the financial services needed;

"(B) The evaluation criteria; and

"(C) All other information required by the Mayor, or the CFO pursuant

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to § 47-351.2(c), or that is necessary for compliance with this subchapter.

"(e) The Mayor, or the CFO pursuant to § 47-351.2(c), may solicit bids for either single financial services or groups of financial services.

"(f) If applicable, a bidder shall provide the following information in a bid:

"(1) The identity of the bidder;

"(2) The minimum and maximum amount of District funds the bidder will accept;

"(3) The rate of return;

"(4) The type of financial services to be provided and the cost to the District for the financial services;

"(5) The amount of the compensating balances, if any, and the rate of return on any deposit used for a compensating balance;

"(6) A description of the experience and capacity of the financial institution to perform the banking business for which the bid is submitted;

"(7) Information necessary to assess risk and liquidity; and

"(8) Any other information required by the Mayor, or the CFO pursuant to § 47-351.2(c).

"(g) The Mayor, or the CFO pursuant to § 47-351.2(c), shall make available to each bidder the notice of the bid award including the terms of the bid award.

"(h) Two or more eligible financial institutions may submit a joint bid.

"(i) The Mayor, or the CFO pursuant to § 47-351.2(c), may at any time prior to the notice of award withdraw a bid solicitation for good cause. The Mayor, or the CFO pursuant to § 47-351.2(c), shall notify any financial institution that has submitted a bid prior to the withdrawal of the bid solicitation.

"(j) The Mayor, or the CFO pursuant to § 47-351.2(c), may retain or maintain deposits, investments, or financial services agreements at a financial institution which is a successor to the contractual agreement.

"§ 47-351.5. Competition for banking business.

"(a) Except as otherwise provided by §§ 47-351.9, 47-351.10, and 47-351.11, the Mayor, or the CFO pursuant to § 47-351.2(c), shall select eligible financial institutions with which to conduct the banking business of the District based on the highest composite score for a bid. If 2 or more eligible financial institutions receive the highest composite score, the Mayor, or the CFO pursuant to § 47-351.2(c), shall select the eligible financial institution with the highest community development score calculated under § 47-351.7.

"(b) The Mayor, or the CFO pursuant to § 47-351.2(c), shall calculate the composite score of an eligible financial institution in the following manner:

"(1) Eighty percent based upon a financial score, calculated under § 47-351.6;
and

"(2) Twenty percent based upon a community development score, calculated

New Section
47-351.5

under § 47-351.7.

"§ 47-351.6. Financial score.

New Section
47-351.6

"The Mayor, or the CFO pursuant to § 47-351.2(c), shall calculate a financial score for each eligible financial institution. For each bid solicitation, the Mayor, or the CFO pursuant to § 47-351.2(c), shall decide how much weight and how many points to give each of the following elements to calculate the financial score:

- "(1) Investment and deposit bids based on the rate of return that a bidder offers;
- "(2) Financial services bids based on the cost of service;
- "(3) All bids based on an assessment of risk and financial condition;
- "(4) All bids based on the capacity of a bidder to perform and prior performance record; and
- "(5) Any other criteria required to evaluate a bid.

"§ 47-351.7. Community development score.

New Section
47-351.7

"(a) The Mayor, or the CFO pursuant to § 47-351.2(c), shall calculate the community development score by calculating a ratio of the eligible financial institution's performance for 1 or more of the criteria in each of the 3 categories under subsection (b) of this section; multiplying the ratio by the weight for each category listed in subsection (c) of this section; and then adding the weighted points for all 3 categories to produce the final community development score.

"(b) The Mayor, or the CFO pursuant to § 47-351.2(c), shall calculate a ratio for an eligible financial institution's performance listed within the categories of mortgage lending, community development lending, and financial services. A ratio is the level of activity for a specific criterion divided by the institution's overall performance in the generic activity that includes the specific criterion. The criteria to be considered for mortgage lending are the total mortgage lending made in low-to-moderate income areas in the District and the total mortgage lending made in low-to-moderate income areas by third parties and purchased by the bidding financial institution in the secondary market; for community development lending are the total lending activity to small businesses located in low-to-moderate income areas in the District and the total lending to small businesses located in low-to-moderate income areas in the District by third parties and purchased by the financial institution in the secondary market; and for financial services is the number of branches in low-to-moderate income areas in the District.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), shall assign the following weighing factors to the numerical scores given under the categories listed in subsection (b) of this section, to calculate the community development score for an eligible financial institution:

- "(1) Forty percent for mortgage lending;
 - "(2) Forty percent for community development lending; and
 - "(3) Twenty percent for financial services.
- "(d) Non-insured institutions providing investment services are exempt from providing

data for a community development score as prescribed in this section. Investment services from non-insured institutions shall be awarded on the basis of a financial score, as calculated under § 47-351.6.

"(e) The Mayor, or the CFO pursuant to § 47-351.2(c), shall periodically issue a report on the community development efforts of the eligible financial institutions on the eligible bidder's list.

"§ 47-351.8. Collateral and reporting requirements.

New Section
47-351.8

"(a) Except for securities directly purchased without a repurchase agreement and money market funds, an eligible financial institution must at all times provide collateral equal to at least 102% of the District funds held by the eligible financial institution for deposits and investments that are not fully federally insured.

"(b) The Mayor, or the CFO pursuant to § 47-351.2(c), may accept as collateral any combination of the following:

"(1) Bonds, bills, or notes for which the interest and principal are guaranteed by the United States government;

"(2) Securities of a quasi-governmental corporation; or

"(3) Investment grade obligations of the District or a state or local government.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), may at any time classify the use of a particular type of collateral as ineligible.

"(d) The Mayor, or the CFO pursuant to § 47-351.2(c), may at any time require that collateral exceed 102% of the District funds held for deposit or investment.

"(e) The Mayor, or the CFO pursuant to § 47-351.2(c), shall require the eligible financial institution to place required collateral in a joint custody account established for the benefit of the District at the Federal Reserve Bank under procedures of the Federal Reserve Bank, or in an independent third-party insured institution. Collateral for investments may be placed at a third-party insured institution customer account in a Federal Reserve Bank with the approval of the Mayor, or the CFO pursuant to § 47-351.2(c).

"(f) Upon written approval of the Mayor, or the CFO pursuant to § 47-351.2(c), an eligible financial institution may substitute collateral of greater or equivalent value from the various types listed in subsection (b) of this section.

"(g) An eligible financial institution may not withdraw collateral previously pledged without the prior approval of the Mayor, or the CFO pursuant to § 47-351.2(c).

"(h) An eligible financial institution shall submit to the Mayor, or the CFO pursuant to § 47-351.2(c), monthly verified reports that list all segregated collateral for District funds and its market value. The report shall also include the average daily balance of the amount of District funds on deposit or invested for the previous month. An insured institution shall submit copies of its quarterly call reports within 45 days after each fiscal quarter. A non-insured institution shall submit its Form 10K or annual financial statements within 60 days after each fiscal year.

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"§ 47-351.9. Linked deposits for community development lending.

**New Section
47-351.9**

"(a) The Mayor, or the CFO pursuant to § 47-351.2(c), may make a deposit in an insured financial institution in return for a commitment by that institution to make specific community development loans in a low-to-moderate income area. The Mayor, or the CFO pursuant to § 47-351.2(c), shall determine the amount and scope of community development loans required to qualify for such linked deposits.

"(b) When making a linked deposit, the Mayor, or the CFO pursuant to § 47-351.2(c), may accept a below-market interest rate that is within 3 % of the market rate interest if the insured financial institution provides an equivalent reduction in the interest rate charged for the community development lending to which the deposit is linked.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), may make deposits linked to either specific loans or loan types.

"(d) An insured financial institution may submit to the Mayor, or the CFO pursuant to § 47-351.2(c), a linked deposit application that includes information about the proposed community development lending and any other information the Mayor, or the CFO pursuant to § 47-351.2(c), requires.

"(e) If the Mayor, or the CFO pursuant to § 47-351.2(c), approves a linked deposit application, the Mayor, or the CFO pursuant to § 47-351.2(c), and the insured financial institution shall enter into an agreement that includes each of the following terms and conditions and any others the Mayor, or the CFO pursuant to § 47-351.2(c), may require:

"(1) A requirement that the insured institution shall not assign or sell a loan made with the proceeds of a linked deposit without approval of the Mayor, or the CFO pursuant to § 47-351.2(c), as long as the linked deposit is in effect;

"(2) A requirement that a delay in payment or default by a borrower receiving a linked deposit loan does not affect the agreement between the insured financial institution and the Mayor, or the CFO pursuant to § 47-351.2(c);

"(3) The terms of the deposit;

"(4) A requirement that the Mayor, or the CFO pursuant to § 47-351.2(c), shall monitor compliance with the agreement; and

"(5) The terms of the community development loans lending effort.

"(f) The total amount of linked deposits and community development program deposits shall not exceed 7% of the average annual investment balance of the latest audited fiscal year.

"§ 47-351.10. Preservation of banking services.

**New Section
47-351.10**

"(a) Without regard to the competitive bidding requirements of §§ 47-351.4 and 47-351.5, the Mayor, or the CFO pursuant to § 47-351.2(c), may place deposits or investments at an insured financial institution for the purpose of maintaining banking services in a low-to-moderate income area in the District.

"(b) If the Mayor, or the CFO pursuant to § 47-351.2(c), waives the requirements of §§

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47-351.4 and 47-351.5, the Mayor, or the CFO pursuant to § 47-351.2(c), shall execute a community development program agreement with the insured financial institution or certify that the insured financial institution is meeting the objectives of an existing community development program.

"(c) For the purposes of this section only, a community development program agreement shall meet the requirements of § 26-804(d).

"§ 47-351.11. District funds reserved for certain insured institutions.

**New Section
47-351.11**

"Without regard to the competitive bidding requirements of §§ 47-351.5 and 47-351.7, the Mayor, or the CFO pursuant to § 47-351.2(c), may reserve up to 1% of District funds available for deposit or investment in order to make an investment or a deposit with one or more insured financial institutions located in the District that have less than \$350 million in assets. The amount available for deposit or investment is to be calculated based upon the prior year's average investment balance. In selecting an insured financial institution under this section, the Mayor, or the CFO pursuant to § 47-351.2(c), shall follow the provisions of § 47-351.4 and shall encourage the use of women-owned banks and federally or District chartered minority-owned banks certified by the District of Columbia Minority Business Opportunity Commission in accordance with § 1-1141 *et seq.* The amount of District funds deposited in any such institution shall not exceed the federally insured amount.

"§ 47-351.12. Public disclosure.

**New Section
47-351.12**

"(a) Except as provided in subsection (b) of this section, all information submitted by a financial institution to the Mayor, or the CFO pursuant to § 47-351.2(c), shall be available for public inspection and reproduction during regular business hours.

"(b) Proprietary financial and commercial information of any financial institution shall be kept confidential.

"(c) A breach of confidentiality shall be subject to the penalties set forth in § 47-351.15.

"§ 47-351.13. Protection of District funds at risk.

**New Section
47-351.13**

"(a) The Mayor, or the CFO pursuant to § 47-351.2(c), may take the action provided for in subsection (b) of this section to protect District funds if:

"(1) A financial institution fails to return a deposit upon demand or upon the termination of or pursuant to the terms of an agreement;

"(2) A financial institution fails to pay a valid check, draft, or warrant issued by the Mayor, or the CFO pursuant to § 47-351.2(c);

"(3) A financial institution fails to honor a request for the electronic transfer of District funds;

"(4) A financial institution fails to account for a check, draft, warrant, order, deposit, certificate, or money that the District entrusts to it;

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"(5) A financial institution fails to return an investment under the terms of an agreement or upon the termination of an agreement;

"(6) A financial institution fails to perform under the terms of an agreement involving banking business;

"(7) A financial institution fails to maintain the required collateral pursuant to § 47-351.8;

"(8) A court or a federal, District, or state banking regulator orders a financial institution to refrain from making payments on its liabilities;

"(9) A court or a federal, District, or state banking regulator appoints a conservator or receiver for the financial institution;

"(10) The Mayor, or the CFO pursuant to § 47-351.2(c), determines that the financial institution is financially unsound;

"(11) A financial institution fails to comply with this subchapter; or

"(12) Any other action has occurred or is impending which the Mayor, or the CFO pursuant to § 47-351.2(c), decides would place District funds in jeopardy.

"(b) If the Mayor, or the CFO pursuant to § 47-351.2(c), determines that any condition under subsection (a) of this section exists, the Mayor, or the CFO pursuant to § 47-351.2(c), may, without any further action:

"(1) Withdraw or demand the return of District funds immediately;

"(2) Take action to seize all collateral provided under section 9;

"(3) Liquidate collateral and retain proceeds in the amount equal to District funds held by the financial institution plus liquidation costs;

"(4) Direct the financial institution to immediately stop performing any financial services for the District;

"(5) Terminate any agreement relating to banking business;

"(6) Remove the financial institution from the eligible bidder's list; or

"(7) Take other action deemed necessary for the protection of District funds.

"§ 47-351.14. Check cashing; identification.

**New Section
47-351.14**

"(a) An eligible financial institution shall cash checks issued by the District government without charge for both account and non-account holders.

"(b) An insured institution may require a holder of a check meeting the requirements of subsection (a) of this section to show proper identification. Proper identification is any form of identification as required by the bank in accordance with its rules and regulations.

"§ 47-351.15. Penalties.

**New Section
47-351.15**

"Any director, officer, manager, agent, or employee of an eligible financial institution who knowingly violates a provision of this subchapter may, upon conviction, be fined not less than \$500 nor more than \$2,000.

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"§ 47-351.16. Rulemaking.

New Section
47-351.16

"The Mayor, pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code §1-1501 *et seq.*), shall issue rules to implement the provisions of this subchapter."

Sec. 3. Conforming amendments.

Section
36-340

Section 41(b) of the District of Columbia Worker's Compensation Act of 1980, approved July 1, 1980 (D.C. Law 3-77; D.C. Code § 36-340(b)), is amended by striking the phrase "District of Columbia Depository Act of 1977, effective October 26, 1977 (D.C. Law 2-32; D.C. Code § 47-271 *et seq.*)" and inserting the phrase "Financial Institutions Deposit and Investment Act of 1997." in its place.

Sec. 4. Fiscal impact statement.

(a) The District is estimated to gain approximately \$400,000 to \$500,000 in additional interest income over the course of an entire fiscal year. Approximately \$45,000 would be at risk in lost interest income with the establishment and immediate implementation of a linked deposit or community lending program. The estimated cost would be off-set by additional interest earnings associated with higher yielding investments. The additional interest income would be derived from investing for a marginally longer period of time and with investing in other safe instruments that were previously prohibited.

(b) The District's average investment balance in Fiscal Year 1995 was \$355,300,000, of which \$150,000,000 can be considered as balances eligible for investments for a period of longer than 91 days. Balances included in this core group of funds are capital proceeds, trust funds notes, proceeds and balances in the General Fund in the first and second quarter of the fiscal year. The yield differentials in the 2-year U.S. Agency Bonds and the current rate on District investments in repurchase agreements are approximately 85 basis points. The differential is 24 basis points with commercial paper invested for 90 days.

(c) A conservative scenario would be an average composite 30 basis point (one basis point is .1% in interest rate) increase in yield by having a short term portfolio which includes high grade commercial paper and investments in U.S. Treasury or Agency Bonds for a 2-year term on balances not needed for disbursements longer than 91 days. It is very likely that the District, even with a passive investment strategy, could increase interest earnings by \$450,000 per year. There would be no additional expense since the budget of the Treasurer's Office includes the necessary tools to safely invest District funds.

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), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TWELVE

RECORD OF OFFICIAL COUNCIL VOTE

Docket No.

B12-264

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 09-22-97

VOICE VOTE RECORDED VOTE ON REQUEST

APPROVED

ABSENT

DIXON

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Dixon					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Chavous					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Angie Lew
Secretary to the Council

October 10, 1997
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 10-07-97

VOICE VOTE RECORDED VOTE ON REQUEST

APPROVED

ABSENT

ALL PRESENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Dixon					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Chavous					Patterson									

X - Indicates Vote

AB-Absent

NV-Present not voting

CERTIFICATION RECORD

Angie Lew
Secretary to the Council

October 10, 1997
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. Cropp					Dixon					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Chavous					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date

AN ACT

*Codification
District of
Columbia
Code
1998 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend chapter 3 of Title 47 of the District of Columbia Code to establish methods for depositing and investing District funds and obtaining financial services, including a system that will award banking business based upon a competitive bidding process involving the ranking of financial institutions, and diversification of the District's investment portfolio.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Financial Institutions Deposit and Investment Amendment Act of 1997".

Sec. 2. Chapter 3 of Title 47 of the District of Columbia is amended as follows:

**Sections
47-341 -
47-350**

(a) Sections 47-341 through 47-350 are repealed.

(b) A new subchapter index is added to read as follows:

"Subchapter III-A. Financial Institutions Deposits and Investments.

"Sec.

"47-351.1. Definitions.

"47-351.2. Powers of the Mayor.

"47-351.3. General deposit and investment requirements.

"47-351.4. Eligibility requirements; bidding; awards process.

"47-351.5. Competition for banking business.

"47-351.6. Financial score.

"47-351.7. Community development score.

"47-351.8. Collateral and reporting requirements.

"47-351.9. Linked deposits for community development lending.

"47-351.10. Preservation of banking services.

"47-351.11. District funds reserved for certain insured institutions.

"47-351.12. Public disclosure.

"47-351.13. Protection of District funds at risk.

"47-351.14. Check cashing; identification.

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"47-351.15. Penalties.

"47-351.16. Rulemaking."

(c) A new subchapter III-A is added to read as follows:

"Subchapter III-A. Financial Institutions Deposits and Investments.

"§ 47-351.1 Definitions.

"For the purposes of this subchapter, the term:

**New Section
47-351.1**

"(1) "Bank" means an insured financial institution as defined in section 2 of the Federal Deposit Insurance Act, approved September 21, 1950 (64 Stat. 873; 12 U.S.C. § 1813), which:

"(A) Accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others; and

"(B) Is engaged in the business of making commercial loans.

"(2) "Banking business" means the deposit or investment of District funds or the use of District funds for the provision of financial services.

"(3) "Community Reinvestment Act" means the Community Reinvestment Act of 1977, approved October 12, 1977 (91 Stat. 1147; 12 U.S.C. §§ 2901-2907).

"(4) "Compensating balances" means collected balances held by the depository to compensate the depository for the cost of financial services rendered.

"(5) "Credit union" means an institution insured by the National Credit Union Administration, and either serving designated geographical areas within the District of Columbia or serving the employees of the District.

"(6) "Deposit" means District funds which are held by a financial institution subject to withdrawal upon demand by the District or upon a check or warrant of the District or the act of entrusting District funds into a financial institution.

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

"(8) "District funds" means money, currency, notes, or drafts 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 funds received from the federal government, and funds paid to or received by a board, agency, commission, institution, committee, or office of the District or from any other source. This does not include any assets of a pension, assets held by the District of Columbia Financial Responsibility and Management Assistance Authority, an employee deferred compensation program of the District, or an irrevocable trust established pursuant to § 1-627.11.

"(9) "Eligible financial institution" means any bank or any brokerage firm registered with the United States Securities and Exchange Commission ("SEC") or any savings and loan association, savings bank, credit union, or any subsidiary or affiliate thereof meeting the requirements to become eligible to submit a bid pursuant to § 47-351.4.

"(10) "Financial services" means those services performed by a financial

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institution in connection with the retention of deposits, including check payment, check clearing, reconciliation of accounts, check printing, the collection and transfer of taxes and fees, night depository services, custodial services, and other services that may be necessary for the efficient management of District funds.

"(11) "Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act of 1975, approved December 31, 1975 (89 Stat. 1124; 12 U.S.C. § 2801 *et seq.*).

"(12) "Insured financial institution" or "insured institution" means a bank, savings and loan association, savings bank, credit union, or any subsidiary or affiliate thereof.

"(13) "Invest" means to commit District funds in order to gain profit or interest.

"(14) "Investment" means property acquired with District funds for future profit or interest.

"(15) "Investment grade obligation" means securities that have a minimum rating of BBB, Baa, or BBB- from Standard and Poor's, Moody's Investor Service, or Fitch Investor Service rating agencies that rate the securities.

"(16) "Linked deposit" means limited deposits in an insured financial institution made pursuant to an authorization from the Mayor, or CFO pursuant to § 47-351.2(c), to waive the competitive bidding requirements of the act in order to make a deposit in return for that institution's commitment to make community development loans in low-to-moderate income areas.

"(17) "Low-to-moderate income area" means a census tract in which more than 50% of the households have a median household income of less than 100% of the District's median household income based on the most recent decennial census.

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

"(19) "Mortgage loan" means a loan that is secured by residential real property.

"(20) "Non-insured financial institution" means an investment advisor, investment banker, investment company, investment trust, or any other company, subsidiary, or affiliate thereof designated by the Mayor, or the CFO during a control year.

"(21) "Quasi-governmental corporation" means United States government-sponsored enterprises that issue investment-grade obligations. This includes, but is not limited to, banks for cooperatives, federal land banks, federal intermediate credit banks, federal farm credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley District, the Small Business Administration, or any such agency or enterprise that may be created.

"(22) "Savings and loan association" means an institution organized as a savings and loan association under the laws of the United States, a state, or the District, the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(23) "Savings bank" means an institution organized as a savings bank under the laws of the United States, a state, or the District, the deposits of which are insured by the Federal Deposit Insurance Corporation.

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"(24) "Small business" means a business with annual gross sales or revenues of \$5 million or less.

"§ 47-351.2. Powers of the Mayor.

New Section
47-351.2

"(a) The Mayor or the Mayor's designated officer shall invest, deposit, or obtain financial services for all District funds that the Mayor does not need for immediate disbursement.

"(b) The Mayor may exercise any power that is necessary to implement and enforce this subchapter.

"(c) During a control year, as defined in § 47-393(4), the powers exercised by the Mayor pursuant to this subchapter, except for § 47-351.16, shall be exercised by the Chief Financial Officer of the District of Columbia ("CFO").

"§ 47-351.3. General deposit and investment requirements.

New Section
47-351.3

"(a) Unless otherwise provided by law, the Mayor, or the CFO pursuant to § 47-351.2(c), shall invest and deposit District funds in, and obtain financial services from, eligible financial institutions.

"(b) The Mayor, or the CFO pursuant to § 47-351.2(c), shall determine what amount of District funds are needed immediately and maintain deposit funds in amounts great enough to satisfy that need. The Mayor, or the CFO pursuant to § 47-351.2(c), shall invest all other funds.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), shall invest District funds in:

"(1) Bonds, bills, notes, or other obligations issued by the United States government;

"(2) Federally insured negotiable certificates of deposit or other insured or uninsured evidences of deposit at a financial institution;

"(3) Bonds, bills, notes, mortgage-backed or asset-backed securities, or other obligations of a quasi-governmental corporation;

"(4) Prime banker acceptances that do not exceed 270 days maturity;

"(5) Prime commercial paper that does not:

"(A) Have a maturity that exceeds 180 days; and

"(B) Exceed 10% of the outstanding commercial paper of the issuing corporation at the time of purchase;

"(6) Investment grade obligations of the District or a state or local government;

"(7) Repurchase agreements for the sale or purchase of securities by the District under the condition that, after a stated period of time, the original seller or purchaser will buy back or sell the securities at an agreed price that shall include interest;

"(8) Investment grade asset-backed or mortgaged-backed securities; or

"(9) Money market funds registered with the Securities and Exchange Commission and which meet the requirements of Rule 2(a)(7) of the Investment Company Act of 1940, approved August 22, 1940 (54 Stat 789; 15 U.S.C. § 80a-1 *et seq.*).

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"(d) The Mayor, or the CFO pursuant to § 47-351.2(c), shall not allow the amount of District funds deposited or placed for the provision of financial services in a single eligible financial institution to exceed the lesser of either:

"(1) Twenty-five percent of the total assets of the eligible financial institution, exclusive of District funds; or

"(2) Twenty-five percent of the total District funds available for deposit or investment as of the date of such deposit or placement and as of the end of each fiscal quarter thereafter.

"§ 47-351.4. Eligibility requirements; bidding; awards process.

New Section
47-351.4

"(a) To become eligible to submit a bid under this subsection:

"(1) An insured institution shall provide the Mayor, or the CFO pursuant to § 47-351.2(c), with information from which the Mayor, or the CFO pursuant to § 47-351.2(c), can calculate a community development score under § 47-351.7. This information may include, but need not be limited to, current community development data, Community Reinvestment Act statement and evaluation with a minimum of "satisfactory" rating on its latest Community Reinvestment Act examination, and Home Mortgage Disclosure Act reports.

"(2) A non-insured institution shall submit to the Mayor, or the CFO pursuant to § 47-351.2(c), a statement of Equal Employment Opportunity or Affirmative Action.

"(b) Each year the Mayor, or the CFO pursuant to § 47-351.2(c), shall compile a list of eligible financial institutions that submit the information pursuant to the requirements of subsection (a) of this section.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), shall send the solicitations for bids to all financial institutions that are eligible. The Mayor, or the CFO pursuant to § 47-351.2(c), shall remove from the eligible list those financial institutions that the Mayor, or the CFO pursuant to § 47-351.2(c), has deemed to be financially unsound and those bidders that have put District funds at risk pursuant to § 47-351.13(a).

"(d) In solicitations for bids, the Mayor, or the CFO pursuant to § 47-351.2(c), shall include the following information:

"(1) In the case of deposits or investments:

"(A) The term of the deposit or investments;

"(B) The approximate amount available for deposit or investment;

"(C) The evaluation criteria; and

"(D) All other information required by the Mayor, or the CFO pursuant to § 47-351.2(c), or that is necessary for compliance with this subchapter.

"(2) In the case of financial services:

"(A) A list of the financial services needed;

"(B) The evaluation criteria; and

"(C) All other information required by the Mayor, or the CFO pursuant

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to § 47-351.2(c), or that is necessary for compliance with this subchapter.

"(e) The Mayor, or the CFO pursuant to § 47-351.2(c), may solicit bids for either single financial services or groups of financial services.

"(f) If applicable, a bidder shall provide the following information in a bid:

"(1) The identity of the bidder;

"(2) The minimum and maximum amount of District funds the bidder will accept;

"(3) The rate of return;

"(4) The type of financial services to be provided and the cost to the District for the financial services;

"(5) The amount of the compensating balances, if any, and the rate of return on any deposit used for a compensating balance;

"(6) A description of the experience and capacity of the financial institution to perform the banking business for which the bid is submitted;

"(7) Information necessary to assess risk and liquidity; and

"(8) Any other information required by the Mayor, or the CFO pursuant to § 47-351.2(c).

"(g) The Mayor, or the CFO pursuant to § 47-351.2(c), shall make available to each bidder the notice of the bid award including the terms of the bid award.

"(h) Two or more eligible financial institutions may submit a joint bid.

"(i) The Mayor, or the CFO pursuant to § 47-351.2(c), may at any time prior to the notice of award withdraw a bid solicitation for good cause. The Mayor, or the CFO pursuant to § 47-351.2(c), shall notify any financial institution that has submitted a bid prior to the withdrawal of the bid solicitation.

"(j) The Mayor, or the CFO pursuant to § 47-351.2(c), may retain or maintain deposits, investments, or financial services agreements at a financial institution which is a successor to the contractual agreement.

"§ 47-351.5. Competition for banking business.

**New Section
47-351.5**

"(a) Except as otherwise provided by §§ 47-351.9, 47-351.10, and 47-351.11, the Mayor, or the CFO pursuant to § 47-351.2(c), shall select eligible financial institutions with which to conduct the banking business of the District based on the highest composite score for a bid. If 2 or more eligible financial institutions receive the highest composite score, the Mayor, or the CFO pursuant to § 47-351.2(c), shall select the eligible financial institution with the highest community development score calculated under § 47-351.7.

"(b) The Mayor, or the CFO pursuant to § 47-351.2(c), shall calculate the composite score of an eligible financial institution in the following manner:

"(1) Eighty percent based upon a financial score, calculated under § 47-351.6;

and

"(2) Twenty percent based upon a community development score, calculated

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under § 47-351.7.

"§ 47-351.6. Financial score.

**New Section
47-351.6**

"The Mayor, or the CFO pursuant to § 47-351.2(c), shall calculate a financial score for each eligible financial institution. For each bid solicitation, the Mayor, or the CFO pursuant to § 47-351.2(c), shall decide how much weight and how many points to give each of the following elements to calculate the financial score:

- "(1) Investment and deposit bids based on the rate of return that a bidder offers;
- "(2) Financial services bids based on the cost of service;
- "(3) All bids based on an assessment of risk and financial condition;
- "(4) All bids based on the capacity of a bidder to perform and prior performance

record; and

- "(5) Any other criteria required to evaluate a bid.

"§ 47-351.7. Community development score.

**New Section
47-351.7**

"(a) The Mayor, or the CFO pursuant to § 47-351.2(c), shall calculate the community development score by calculating a ratio of the eligible financial institution's performance for 1 or more of the criteria in each of the 3 categories under subsection (b) of this section; multiplying the ratio by the weight for each category listed in subsection (c) of this section; and then adding the weighted points for all 3 categories to produce the final community development score.

"(b) The Mayor, or the CFO pursuant to § 47-351.2(c), shall calculate a ratio for an eligible financial institution's performance listed within the categories of mortgage lending, community development lending, and financial services. A ratio is the level of activity for a specific criterion divided by the institution's overall performance in the generic activity that includes the specific criterion. The criteria to be considered for mortgage lending are the total mortgage lending made in low-to-moderate income areas in the District and the total mortgage lending made in low-to-moderate income areas by third parties and purchased by the bidding financial institution in the secondary market; for community development lending are the total lending activity to small businesses located in low-to-moderate income areas in the District and the total lending to small businesses located in low-to-moderate income areas in the District by third parties and purchased by the financial institution in the secondary market; and for financial services is the number of branches in low-to-moderate income areas in the District.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), shall assign the following weighing factors to the numerical scores given under the categories listed in subsection (b) of this section, to calculate the community development score for an eligible financial institution:

- "(1) Forty percent for mortgage lending;
- "(2) Forty percent for community development lending; and
- "(3) Twenty percent for financial services.

"(d) Non-insured institutions providing investment services are exempt from providing

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data for a community development score as prescribed in this section. Investment services from non-insured institutions shall be awarded on the basis of a financial score, as calculated under § 47-351.6.

"(e) The Mayor, or the CFO pursuant to § 47-351.2(c), shall periodically issue a report on the community development efforts of the eligible financial institutions on the eligible bidder's list.

"§ 47-351.8. Collateral and reporting requirements.

New Section
47-351.8

"(a) Except for securities directly purchased without a repurchase agreement and money market funds, an eligible financial institution must at all times provide collateral equal to at least 102% of the District funds held by the eligible financial institution for deposits and investments that are not fully federally insured.

"(b) The Mayor, or the CFO pursuant to § 47-351.2(c), may accept as collateral any combination of the following:

"(1) Bonds, bills, or notes for which the interest and principal are guaranteed by the United States government;

"(2) Securities of a quasi-governmental corporation; or

"(3) Investment grade obligations of the District or a state or local government.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), may at any time classify the use of a particular type of collateral as ineligible.

"(d) The Mayor, or the CFO pursuant to § 47-351.2(c), may at any time require that collateral exceed 102% of the District funds held for deposit or investment.

"(e) The Mayor, or the CFO pursuant to § 47-351.2(c), shall require the eligible financial institution to place required collateral in a joint custody account established for the benefit of the District at the Federal Reserve Bank under procedures of the Federal Reserve Bank, or in an independent third-party insured institution. Collateral for investments may be placed at a third-party insured institution customer account in a Federal Reserve Bank with the approval of the Mayor, or the CFO pursuant to § 47-351.2(c).

"(f) Upon written approval of the Mayor, or the CFO pursuant to § 47-351.2(c), an eligible financial institution may substitute collateral of greater or equivalent value from the various types listed in subsection (b) of this section.

"(g) An eligible financial institution may not withdraw collateral previously pledged without the prior approval of the Mayor, or the CFO pursuant to § 47-351.2(c).

"(h) An eligible financial institution shall submit to the Mayor, or the CFO pursuant to § 47-351.2(c), monthly verified reports that list all segregated collateral for District funds and its market value. The report shall also include the average daily balance of the amount of District funds on deposit or invested for the previous month. An insured institution shall submit copies of its quarterly call reports within 45 days after each fiscal quarter. A non-insured institution shall submit its Form 10K or annual financial statements within 60 days after each fiscal year.

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"§ 47-351.9. Linked deposits for community development lending.

**New Section
47-351.9**

"(a) The Mayor, or the CFO pursuant to § 47-351.2(c), may make a deposit in an insured financial institution in return for a commitment by that institution to make specific community development loans in a low-to-moderate income area. The Mayor, or the CFO pursuant to § 47-351.2(c), shall determine the amount and scope of community development loans required to qualify for such linked deposits.

"(b) When making a linked deposit, the Mayor, or the CFO pursuant to § 47-351.2(c), may accept a below-market interest rate that is within 3 % of the market rate interest if the insured financial institution provides an equivalent reduction in the interest rate charged for the community development lending to which the deposit is linked.

"(c) The Mayor, or the CFO pursuant to § 47-351.2(c), may make deposits linked to either specific loans or loan types.

"(d) An insured financial institution may submit to the Mayor, or the CFO pursuant to § 47-351.2(c), a linked deposit application that includes information about the proposed community development lending and any other information the Mayor, or the CFO pursuant to § 47-351.2(c), requires.

"(e) If the Mayor, or the CFO pursuant to § 47-351.2(c), approves a linked deposit application, the Mayor, or the CFO pursuant to § 47-351.2(c), and the insured financial institution shall enter into an agreement that includes each of the following terms and conditions and any others the Mayor, or the CFO pursuant to § 47-351.2(c), may require:

"(1) A requirement that the insured institution shall not assign or sell a loan made with the proceeds of a linked deposit without approval of the Mayor, or the CFO pursuant to § 47-351.2(c), as long as the linked deposit is in effect;

"(2) A requirement that a delay in payment or default by a borrower receiving a linked deposit loan does not affect the agreement between the insured financial institution and the Mayor, or the CFO pursuant to § 47-351.2(c);

"(3) The terms of the deposit;

"(4) A requirement that the Mayor, or the CFO pursuant to § 47-351.2(c), shall monitor compliance with the agreement; and

"(5) The terms of the community development loans lending effort.

"(f) The total amount of linked deposits and community development program deposits shall not exceed 7% of the average annual investment balance of the latest audited fiscal year.

"§ 47-351.10. Preservation of banking services.

**New Section
47-351.10**

"(a) Without regard to the competitive bidding requirements of §§ 47-351.4 and 47-351.5, the Mayor, or the CFO pursuant to § 47-351.2(c), may place deposits or investments at an insured financial institution for the purpose of maintaining banking services in a low-to-moderate income area in the District.

"(b) If the Mayor, or the CFO pursuant to § 47-351.2(c), waives the requirements of §§

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47-351.4 and 47-351.5, the Mayor, or the CFO pursuant to § 47-351.2(c), shall execute a community development program agreement with the insured financial institution or certify that the insured financial institution is meeting the objectives of an existing community development program.

"(c) For the purposes of this section only, a community development program agreement shall meet the requirements of § 26-804(d).

"§ 47-351.11. District funds reserved for certain insured institutions.

**New Section
47-351.11**

"Without regard to the competitive bidding requirements of §§ 47-351.5 and 47-351.7, the Mayor, or the CFO pursuant to § 47-351.2(c), may reserve up to 1% of District funds available for deposit or investment in order to make an investment or a deposit with one or more insured financial institutions located in the District that have less than \$350 million in assets. The amount available for deposit or investment is to be calculated based upon the prior year's average investment balance. In selecting an insured financial institution under this section, the Mayor, or the CFO pursuant to § 47-351.2(c), shall follow the provisions of § 47-351.4 and shall encourage the use of women-owned banks and federally or District chartered minority-owned banks certified by the District of Columbia Minority Business Opportunity Commission in accordance with § 1-1141 *et seq.* The amount of District funds deposited in any such institution shall not exceed the federally insured amount.

"§ 47-351.12. Public disclosure.

**New Section
47-351.12**

"(a) Except as provided in subsection (b) of this section, all information submitted by a financial institution to the Mayor, or the CFO pursuant to § 47-351.2(c), shall be available for public inspection and reproduction during regular business hours.

"(b) Proprietary financial and commercial information of any financial institution shall be kept confidential.

"(c) A breach of confidentiality shall be subject to the penalties set forth in § 47-351.15.

"§ 47-351.13. Protection of District funds at risk.

**New Section
47-351.13**

"(a) The Mayor, or the CFO pursuant to § 47-351.2(c), may take the action provided for in subsection (b) of this section to protect District funds if:

"(1) A financial institution fails to return a deposit upon demand or upon the termination of or pursuant to the terms of an agreement;

"(2) A financial institution fails to pay a valid check, draft, or warrant issued by the Mayor, or the CFO pursuant to § 47-351.2(c);

"(3) A financial institution fails to honor a request for the electronic transfer of District funds;

"(4) A financial institution fails to account for a check, draft, warrant, order, deposit, certificate, or money that the District entrusts to it;

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"(5) A financial institution fails to return an investment under the terms of an agreement or upon the termination of an agreement;

"(6) A financial institution fails to perform under the terms of an agreement involving banking business;

"(7) A financial institution fails to maintain the required collateral pursuant to § 47-351.8;

"(8) A court or a federal, District, or state banking regulator orders a financial institution to refrain from making payments on its liabilities;

"(9) A court or a federal, District, or state banking regulator appoints a conservator or receiver for the financial institution;

"(10) The Mayor, or the CFO pursuant to § 47-351.2(c), determines that the financial institution is financially unsound;

"(11) A financial institution fails to comply with this subchapter; or

"(12) Any other action has occurred or is impending which the Mayor, or the CFO pursuant to § 47-351.2(c), decides would place District funds in jeopardy.

"(b) If the Mayor, or the CFO pursuant to § 47-351.2(c), determines that any condition under subsection (a) of this section exists, the Mayor, or the CFO pursuant to § 47-351.2(c), may, without any further action:

"(1) Withdraw or demand the return of District funds immediately;

"(2) Take action to seize all collateral provided under section 9;

"(3) Liquidate collateral and retain proceeds in the amount equal to District funds held by the financial institution plus liquidation costs;

"(4) Direct the financial institution to immediately stop performing any financial services for the District;

"(5) Terminate any agreement relating to banking business;

"(6) Remove the financial institution from the eligible bidder's list; or

"(7) Take other action deemed necessary for the protection of District funds.

"§ 47-351.14. Check cashing; identification.

**New Section
47-351.14**

"(a) An eligible financial institution shall cash checks issued by the District government without charge for both account and non-account holders.

"(b) An insured institution may require a holder of a check meeting the requirements of subsection (a) of this section to show proper identification. Proper identification is any form of identification as required by the bank in accordance with its rules and regulations.

"§ 47-351.15. Penalties.

**New Section
47-351.15**

"Any director, officer, manager, agent, or employee of an eligible financial institution who knowingly violates a provision of this subchapter may, upon conviction, be fined not less than \$500 nor more than \$2,000.

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"§ 47-351.16. Rulemaking.

New Section
47-351.16

"The Mayor, pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code §1-1501 *et seq.*), shall issue rules to implement the provisions of this subchapter."

Sec. 3. Conforming amendments.

Section
36-340

Section 41(b) of the District of Columbia Worker's Compensation Act of 1980, approved July 1, 1980 (D.C. Law 3-77; D.C. Code § 36-340(b)), is amended by striking the phrase "District of Columbia Depository Act of 1977, effective October 26, 1977 (D.C. Law 2-32; D.C. Code § 47-271 *et seq.*)" and inserting the phrase "Financial Institutions Deposit and Investment Act of 1997." in its place.

Sec. 4. Fiscal impact statement.

(a) The District is estimated to gain approximately \$400,000 to \$500,000 in additional interest income over the course of an entire fiscal year. Approximately \$45,000 would be at risk in lost interest income with the establishment and immediate implementation of a linked deposit or community lending program. The estimated cost would be off-set by additional interest earnings associated with higher yielding investments. The additional interest income would be derived from investing for a marginally longer period of time and with investing in other safe instruments that were previously prohibited.

(b) The District's average investment balance in Fiscal Year 1995 was \$355,300,000, of which \$150,000,000 can be considered as balances eligible for investments for a period of longer than 91 days. Balances included in this core group of funds are capital proceeds, trust funds notes, proceeds and balances in the General Fund in the first and second quarter of the fiscal year. The yield differentials in the 2-year U.S. Agency Bonds and the current rate on District investments in repurchase agreements are approximately 85 basis points. The differential is 24 basis points with commercial paper invested for 90 days.

(c) A conservative scenario would be an average composite 30 basis point (one basis point is .1% in interest rate) increase in yield by having a short term portfolio which includes high grade commercial paper and investments in U.S. Treasury or Agency Bonds for a 2-year term on balances not needed for disbursements longer than 91 days. It is very likely that the District, even with a passive investment strategy, could increase interest earnings by \$450,000 per year. There would be no additional expense since the budget of the Treasurer's Office includes the necessary tools to safely invest District funds.

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), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia



COUNCIL PERIOD TWELVE
RECORD OF OFFICIAL COUNCIL VOTE

Docket No. B12-264

ITEM ON CONSENT CALENDAR

ACTION & DATE ADOPTED FIRST READING, 09-22-97

VOICE VOTE APPROVED
 RECORDED VOTE ON REQUEST

ABSENT DIXON

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Dixon					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Chavous					Patterson									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

Guyle
Secretary to the Council

October 10, 1997
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE ADOPTED FINAL READING, 10-07-97

VOICE VOTE APPROVED
 RECORDED VOTE ON REQUEST

ABSENT ALL PRESENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Dixon					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Chavous					Patterson									

X - Indicates Vote AB - Absent NV - Present not voting

CERTIFICATION RECORD

Guyle
Secretary to the Council

October 10, 1997
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. Cropp					Dixon					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Chavous					Patterson									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date