

AN ACT

Codification
District of
Columbia
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Tobacco Settlement Trust Fund Establishment Act of 1999 to authorize and provide for the transfer of certain monies to the Tobacco Settlement Financing Corporation; and to amend the Tobacco Settlement Financing Act of 2000 to authorize the Tobacco Settlement Financing Corporation to issue additional bonds to finance the costs of the National Capital Medical Center, healthcare related issues, other capital projects, or for debt defeasance.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Tobacco Settlement Trust Fund and Tobacco Settlement Financing Amendment Act of 2006".

Sec. 2. The Tobacco Settlement Trust Fund Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; D.C. Official Code 7-1811.01 *et seq.*), is amended as follows:

(a) Subsection 2302 (D.C. Official Code § 7-1811.01) is amended as follows:

Amend
§ 7-1811.01

(1) Subsection (a)(1) is amended as follows:

(A) Subparagraph(A) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking by word "and" at the end.

(ii) Sub-subparagraph (ii) is amended by striking the phrase "Act of 2000." and insert "Act of 2000; and" in its place.

(iii) Add a new sub-subparagraph (iii) to read as follows:

"(iii) All payments under the Residual Bond sold to the District of Columbia Tobacco Settlement Financing Corporation under section 3703 of the Tobacco Settlement Financing Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 7-1831.02) ;".

(B) Subparagraph (B) is amended to read as follows:

"(B) If the Residual Bond has not been sold by the Fund, all payments received with respect to the Residual Interest, as the term is defined in section 3702(7) of the Tobacco Settlement Financing Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 7-1831.01(7)); and".

(2) Add a new subparagraph (B-i) to read as follows:

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"(B-i) If the Residual Bond has been sold by the Fund, all payments received under the Remainder Certificate, if any; and".

(3) Add a new subsection (c) read as follows:

"(c) The Fund shall have the power to indemnify or insure members of the board and officers of the Fund as it determines appropriate."

(b) Section 2302a(d) (D.C. Official Code § 7-1811.02(d)) is amended by striking the word "quarter" and inserting the word "year" in its place. Amend
§ 7-1811.02

(c) Section 2302b (D.C. Official Code § 7-1811.03) is amended as follows: Amend

(1) Subsection (b) is amended as follows: § 7-1811.03

(A) Paragraph (5)(A) is amended as follows:

(i) Strike the phrase "For fiscal years 2005 through 2008," and insert the phrase "For fiscal year 2005," in its place.

(ii) Add at the end of the subparagraph the following 2 sentences:

"Commencing in fiscal year 2006, 100% of the residual (unless the Residual Bond has been sold) and 100% of the annual savings from debt defeasance and prepayment shall be transferred to the General Fund. Unless the Residual Bond has been sold by the Fund, the Council may direct all or a portion of the residual to be transferred to the Fund."

(B) Add a new paragraph (7) to read as follows:

"(7) If the Residual Bond has been sold by the Fund, 100% of the residual shall be payable to the Corporation for so long as the Bonds issued to purchase the Residual Bond are Outstanding."

(2) Add new subsections (d) and (e) to read as follows:

"(d) For the purpose of financing the costs of the National Capital Medical Center, healthcare related issues, or other capital projects, and repayment of outstanding indebtedness issued for certain capital projects and other undertakings of the District, the Fund may sell to the Corporation all of the Fund's right, title, and interest in and to the Residual Bond, including all the moneys, and any interest thereon, payable to or received by the Fund, in exchange for:

"(1) A cash payment in the amount of the net sales proceeds of the Bonds (other than the Residual Bond); and

"(2) The Remainder Certificate, if any.

"(e) Subject to the authorization and restrictions of this act, the terms and conditions of the Residual Bond Purchase Agreement shall be determined by the Mayor, which determination shall be conclusively evidenced by his execution of the Residual Bond Purchase Agreement. The Mayor may execute and deliver any administrative or other documents or agreements that are necessary or desirable relating to the sale of the Fund's right, title, and interest in and to the Residual Bond or in connection with the issuance of the Bonds. Proceeds from the sale of the Bonds and other moneys received by the Corporation pursuant to the Residual Bond Purchase Agreement shall be used to repay certain outstanding indebtedness of the District, to finance or refinance the National Capital Medical Center, healthcare related issues, or other capital projects or undertakings of the District, to pay costs of issuance of the Bonds, to establish and fund reserve funds, and to pay other expenses

and fees related to the issuance of the Bonds.”.

Sec. 3. The Tobacco Settlement Financing Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 7-1831.01*et seq.*), is amended as follows:

(a) Section 3702 (D.C. Official Code § 7-1831.01) is amended as follows:

Amend
§ 7-1831.01

(1) Paragraph (1) is amended by striking the phrase "obligations), which would include" and inserting the phrase "obligations), which may be issued on a senior or subordinate basis and would include" in its place.

(2) Add a new paragraph (5A) to read as follows:

“(5A) “Remainder Certificate” means a certificate evidencing an interest in the payments to be made under the Residual Bond after payment in full of all outstanding Bonds secured thereby.”.

(3) Add a new paragraph (6A) to read as follows:

“(6A) “Residual Bond Purchase Agreement” means a contract, as authorized under section 3704, between the Corporation and the Fund, under which the Fund sells to the Corporation all or a portion of the Fund’s right, title, and interest in and to the Residual Bond, including all the moneys, and any interest thereon, payable to or received by the Fund thereunder, in exchange for a cash payment from the net proceeds of the sale of the Bonds (other than the Residual Bond) and the Remainder Certificate, if any.”.

(b) Section 3703 (D.C. Official Code § 7-1831.02) is amended as follows:

Amend
§ 7-1831.02

(1) Subsection (a) is amended by striking the phrase "For the purpose of the repayment" and inserting the phrase "For the purpose of financing the costs of the National Capital Medical Center, healthcare related issues, or other capital projects, and the repayment" in its place.

(2) Subsection (b) is amended as follows:

(A) Strike the phrase "Purchase Agreement" and insert the phrase "Purchase Agreement or the Residual Bond Purchase Agreement" wherever it appears.

(B) Strike the phrase "indebtedness of the District" and insert the phrase "indebtedness of the District, to finance or refinance the National Capital Medical Center, healthcare related issues, or other capital projects or undertakings of the District," in its place.

(3) Add a new subsection (b-1) to read as follows:

“(b-1) For the purpose of financing the costs of the National Capital Medical Center, healthcare related issues, or other capital projects, and repayment of outstanding indebtedness issued for certain capital projects and other undertakings of the District, the Fund may sell to the Corporation all of the Fund's right, title, and interest in and to the Residual Bond, including all the moneys, and any interest thereon, payable to or received by the Fund thereunder, in exchange for:

“(1) A cash payment in the amount of the net sales proceeds of Bonds secured by the Residual Bond; and

“(2) The Remainder Certificate, if any.”.

(c) Section 3704 (D.C. Official Code § 7-1831.03) is amended as follows:

Amend
§ 7-1831.03

(1) Subsection (b) is amended as follows:

(A) Strike the phrase "by the District), issuing" and insert the phrase "by the District and the Residual Bond, issuing" in its place.

(B) Strike the "Purchase Agreement and" and insert the phrase "Purchase Agreement or the Residual Bond Purchase Agreement and" in its place.

(C) Strike the phrase "including repayment, refinancing," and insert the phrase "including financing the costs of the National Capital Medical Center indebtedness of the District, to finance or refinance the National Capital Medical Center, healthcare related issues, or other capital projects or undertakings of the District, or other capital projects, repayment, refinancing," in its place.

(2) Subsection (c) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase "to refinance" and insert the phrase "to finance or refinance" in its place.

(ii) Strike the phrase "the refinancing of, capital projects and other undertakings" and insert the phrase "the financing or refinancing of the National Capital Medical Center, healthcare related issues, or other capital projects or undertakings" in its place.

(iii) Strike the last sentence.

(B) Paragraph 2(B) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking the phrase "Corporation; and" and inserting the phrase "Corporation;" in its place.

(ii) Sub-subparagraph (ii) is amended by striking the phrase "taxable basis." and inserting the phrase "taxable basis; and" in its place.

(iii) Add a new sub-subparagraph (iii) to read as follows:

“(iii) Whether the Bonds are intended to be issued on a senior or subordinate basis.”.

(C) Paragraph (3) is amended by striking the phrase "Act of 1999" and inserting the phrase "Act of 1999, and the terms and conditions of the Remainder Certificate, if any, shall be consistent with the provisions of the Residual Bond Purchase Agreement and shall provide that the payments under the Master Settlement Agreement after payment in full of all Bonds outstanding shall be paid to the Tobacco Settlement Trust Fund established by the Tobacco Settlement Trust Fund Establishment Act of 1999.” in its place.

(D) Paragraph (6) is amended as follows:

(i) Strike the sentence "The Bonds are special obligations of the Corporation payable solely from, and secured by, the payments received under the Master Settlement Agreement." and insert the following in its place:

"The Bonds issued to purchase the District's right, title, and interest in the Master Settlement Agreement are special obligations of the Corporation payable solely from, and secured by, the payments received under the Master Settlement Agreement. The Bonds issued to purchase the Fund's right, title, and interest in the Residual Bond are obligations of the Corporation payable solely from, and secured by, the payments received under the Residual Bond."

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(ii) Strike the phrase "Settlement Agreement." in the last sentence and insert the phrase "Settlement Agreement or under the Fund under the Residual Bond." in its place.

(E) Paragraph (9) is amended to read as follows:

“(9) The District pledges, which pledge the Corporation may include in any agreement with the holders of the Bonds, to the Corporation that the District will:

"(i) Continue to diligently enforce the Model Statute against all tobacco product manufacturers selling tobacco products in the District that are not signatories to the Master Settlement Agreement;

"(ii) Enforce the District’s rights to receive the payments to be made to the District pursuant to the Master Settlement Agreement to the full extent permitted by the terms of the Master Settlement Agreement;

"(iii) Not amend the Master Settlement Agreement in any way that would materially impair the rights of the holders of Bonds;

"(iv) Not limit or alter rights vested in the Corporation to fulfill agreements made with holders of the Bonds; or

"(v) Not in any way impair the rights and remedies of the holders of the Bonds until the Bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the Bonds are fully met and discharged.".

(d) Section 3705 (D.C. Official Code § 7-1831.04) is amended as follows:

**Amend
§ 7-1831.04**

(1) Designate the existing text subsection (a).

(2) Add a new subsection (b) to read as follows:

“(b) The transfer of the Fund's right, title, and interest in and to the Residual Bond to the Corporation or any assignee that the parties have in the governing documentation expressly stated to be a sale or other absolute transfer shall be treated as an absolute transfer of all of the Fund's right, title, and interest, as in a true sale, and not as a pledge or other financing, of the Fund's right, title, and interest in and to the Residual Bond, including the moneys payable or received thereunder and any interest thereon. The grant to the holders of the Bonds of a security interest in, and a lien on, all of the Fund’s right, title, and interest in and to the Residual Bond, including the moneys payable or received thereunder and any interest thereon, the provision by the Fund or the District of any credit enhancement with respect to the Bonds (other than the Residual Bond), or the characterization of the transaction for accounting purposes or securities regulation shall not impair or negate the characterization of any transfer as a true sale. The transfer of the Fund's right, title, and interest in and to the Residual Bond to the Corporation or any assignee shall be deemed perfected as against third persons having claims in tort, contract, or otherwise, including any judicial lien creditors, when a sale or transfer of the right, title, and interest in and to the Residual Bond in writing has been executed and delivered by the Fund to the Corporation or any assignee.”.

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Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206(c)(3)).

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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-602.02(c)(1)) and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia