

**CITY OF BALTIMORE
COUNCIL BILL 08-0076
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of Planning)
Introduced and read first time: March 17, 2008
Assigned to: Taxation, Finance and Economic Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Planning Commission, Department of Housing and Community Development, Baltimore Development Corporation, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Bond Issue — Everyman Theatre Loan — \$500,000**

3 FOR the purpose of authorizing the Mayor and City Council of Baltimore (pursuant to Resolution
4 IV of 2008 approved by the members of the Maryland General Assembly representing
5 Baltimore City) to create a debt, and to issue and sell its certificates of indebtedness as
6 evidence thereof, and proceeds not exceeding \$500,000 from the sale of such certificates to
7 be used for the cost of issuance, including the expense of engraving, printing, advertising,
8 attorneys' fees, and all other incidental expenses connected therewith, and the remainder of
9 such proceeds to be used for the acquisition, by purchase, condemnation, or any other legal
10 means, of land or property, or any rights therein, in the City of Baltimore, and for
11 constructing and erecting, on said land or property, or on any land or property, new
12 buildings, structures and other auxiliary facilities, and for the renovation, alternation,
13 construction, reconstruction, installation, improvement and repair of existing buildings,
14 structures and facilities to be or now being used in connection with the operations, functions,
15 and activities of the Everyman Theatre; and to equip all facilities authorized to be
16 constructed, renovated, altered or improved by the provisions hereof; the payment of any and
17 all costs and expenses incurred for or in connection with doing any or all of the things herein
18 mentioned, including, but not limited to, the costs and expenses of securing administrative,
19 appraisal, economic analysis, engineering, planning, designing, architectural, surveying, and
20 other professional services; and for doing any and all things necessary, proper or expedient in
21 connection with or pertaining to any or all of the matters or things hereinbefore mentioned;
22 authorizing the issuance of refunding bonds; conferring and imposing upon the Board of
23 Finance of Baltimore City certain powers and duties; authorizing the submission of this
24 Ordinance to the legal voters of the City of Baltimore, for their approval or disapproval, at
25 the General Election to be held in Baltimore City on Tuesday, the 4th day of November,
26 2008; and providing for the expenditure of the proceeds of sale of said certificates of
27 indebtedness in accordance with the provisions of the Charter of the Mayor and City Council
28 of Baltimore, and by the municipal agency designated in the annual Ordinance of Estimates
29 of the Mayor and City Council of Baltimore.

30 **WHEREAS**, By Resolution IV of 2008, approved by the members of the Maryland General
31 Assembly representing Baltimore City, the Mayor and City Council of Baltimore is authorized to
32 create a debt and to issue and sell its certificates of indebtedness (hereinafter called "bonds") as

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 evidence thereof, and proceeds not exceeding \$500,000 from the sale of such bonds to be used in
2 connection with the operations, functions, and activities of the Everyman Theatre as authorized
3 by said Resolution; and

4 **WHEREAS**, Funds are now needed for said purposes; now, therefore,

5 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE**, That the
6 Mayor and City Council of Baltimore, acting by and through the Board of Finance of said
7 municipality, be and it is hereby authorized and empowered to create a debt and to issue and sell
8 bonds of the Mayor and City Council of Baltimore from time to time, as may be needed or
9 required for the purposes hereinafter named and said bonds shall be sold by the Board of Finance
10 from time to time and at such times as shall be requisite, and proceeds not exceeding \$500,000
11 from the sale of such bonds shall be used for the purposes hereinafter named, provided that this
12 Ordinance shall not become effective unless it shall be approved by a majority of the votes of the
13 legal voters of Baltimore City cast at the time and place hereinafter designated by this
14 Ordinance.

15 **SECTION 2. AND BE IT FURTHER ORDAINED**, That:

16 (a) The denomination or denominations of the bonds to be issued at any particular time
17 and the place or places for the payment of principal and interest thereof are to be determined by
18 the Board of Finance.

19 (b) The bonds authorized to be issued and sold under the provisions of this Ordinance
20 may be issued to mature on such dates and in such amounts as the Board of Finance may
21 determine; provided that the entire principal amount represented thereby shall be discharged not
22 more than 40 years from the date of issuance of the bonds.

23 (c) The bonds, when issued, shall bear interest at such rate or rates as may be determined
24 by the Board of Finance, which rate or rates may be fixed or variable or as determined by a
25 method approved by the Board of Finance, and such interest shall be payable at such time or
26 times as may be determined by the Board of Finance.

27 **SECTION 3. AND BE IT FURTHER ORDAINED**, That a majority of the Board of Finance of the
28 Mayor and City Council of Baltimore be, and they are hereby, authorized to pass a resolution or
29 resolutions, from time to time, to determine and set forth any or all of the following:

30 (a) The amount of debt to be incurred by the Mayor and City Council of Baltimore at any
31 particular time, and from time to time, under and pursuant to the provisions of this Ordinance;
32 the date or dates when any bonds representing said debt, or any part thereof, are to mature, and
33 the amount or amounts of said debt, or any part thereof, which shall mature upon the aforesaid
34 date or dates; and the date or dates in each year, during the entire period of time when any of
35 said bonds are outstanding, when interest on any of said bonds shall be payable;

36 (b) The form or forms of the bonds representing the debt, or any part thereof, authorized
37 to be issued under the provisions of this Ordinance at any particular time; and

38 (c) If the bonds are to be sold at public sale, the time, place, manner and medium of
39 advertisement of the readiness of the Board of Finance, acting for and on behalf of the Mayor
40 and City Council of Baltimore, to receive bids for the purchase of the bonds authorized to be
41 issued hereunder or any part thereof; the form, terms and conditions of such bids; the time, place

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1 and manner of awarding bonds so bid for, including the right whenever any of the bonds
2 authorized by this Ordinance are offered for sale and sold at the same time as other bonds of the
3 City, to establish the conditions for bids and awards and to award all of the bonds on an all or
4 none basis, and the time, place, terms and manner of settlement for the bonds so bid for;
5 provided, however, that notwithstanding anything in this section, the Mayor and City Council of
6 Baltimore, or the Board of Finance, as the case may be, shall have the right to reject any or all
7 bids therefor for any reason.

8 **SECTION 4. AND BE IT FURTHER ORDAINED, That:**

9 (a) All premiums resulting from the sale of any of the bonds issued and sold pursuant to
10 the provisions of this Ordinance shall be applied as directed by the Board of Finance.

11 (b) The debt authorized by the provisions of this Ordinance, and the bonds issued and
12 sold pursuant thereto and their transfer, and the principal and interest payable thereon (including
13 any profit made in the sale thereof), shall be and remain exempt from any and all State, county
14 and municipal taxation in the State of Maryland.

15 (c) All bonds issued and sold pursuant to the provisions of this Ordinance may be sold at
16 public sale by the solicitation of competitive bids or at private (negotiated) sale without
17 advertisement or solicitation of competitive bids, for a price or prices which may be at, above or
18 below par value of the bonds, as determined by resolution of the Board of Finance of the Mayor
19 and City Council of Baltimore.

20 **SECTION 5. AND BE IT FURTHER ORDAINED, That** until all of the interest on and principal of
21 any bonds issued pursuant to the provisions of this Ordinance have been paid in full, the Mayor
22 and City Council of Baltimore shall levy and impose an annual tax on each \$100 of assessable
23 property in the City of Baltimore at a rate sufficient to produce revenue to pay all interest on and
24 principal of all bonds theretofore issued and outstanding or authorized to be issued and
25 outstanding, payable in the next succeeding year.

26 **SECTION 6. AND BE IT FURTHER ORDAINED, That** this Ordinance shall be submitted to the
27 legal voters of the City of Baltimore, for their approval or disapproval, at the General Election to
28 be held in Baltimore City, on Tuesday, the 4th day of November, 2008.

29 **SECTION 7. AND BE IT FURTHER ORDAINED, That** prior to the date of the election
30 hereinbefore mentioned, notice shall be given to the public of the amount of money which the
31 Mayor and City Council of Baltimore is authorized to borrow, and the general purposes for
32 which such borrowed funds may be expended, under the terms and provisions of this Ordinance,
33 and the time when the election hereinbefore mentioned is to be held; and such public notice shall
34 be given in such manner and by such means or through such media and at such time or times as
35 may be determined, from time to time, by a majority of the Board of Finance.

36 **SECTION 8. AND BE IT FURTHER ORDAINED, That** the actual cash proceeds derived from the
37 sale of the bonds authorized to be issued under the provisions of this Ordinance shall be used
38 exclusively for the following purposes, to wit:

39 (a) So much thereof as may be necessary for the cost of issuance, including the expense
40 of engraving, printing, advertising, attorneys' fees, and all other incidental expenses connected
41 therewith (which may include the proportion of the compensation of employees and general

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1 administrative expenses of the Department of Finance reasonably allocated to the issuance of the
2 bonds); and

3 (b) The remainder of such proceeds shall be used for the acquisition, by purchase,
4 condemnation or any other legal means, of land or property, or any rights therein, in the City of
5 Baltimore, and for constructing and erecting, on said land or property or on any land or property
6 new buildings, structures and other auxiliary facilities and for the renovation, alteration,
7 construction, reconstruction, installation, improvement and repair of existing buildings,
8 structures and facilities to be or now being used for or in connection with the operations,
9 functions and activities of the Everyman Theatre; and to equip all buildings authorized to be
10 constructed, renovated, altered or improved under the provisions hereof; the payment of any and
11 all costs and expenses incurred for or in connection with doing any or all of the things herein
12 mentioned, including, but not limited to, the costs and expenses of securing administrative,
13 appraisal, economic analysis, engineering, planning, designing, architectural, surveying, and
14 other professional services; and for doing any and all things necessary, proper or expedient in
15 connection with or pertaining to any or all of the matters or things hereinbefore mentioned.

16 **SECTION 9. AND BE IT FURTHER ORDAINED, That:**

17 (a) The Mayor and City Council of Baltimore, acting by and through the Board of
18 Finance thereof, is hereby authorized and empowered to issue its bonds for the purpose of
19 refunding any bonds authorized to be issued under the provisions of this Ordinance by payment
20 at maturity or the purchase or redemption of bonds in advance of maturity. The validity of any
21 refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the
22 bonds being refunded. Such refunding bonds may be issued by the Mayor and City Council of
23 Baltimore, acting by and through the Board of Finance thereof, for the purpose of providing it
24 with funds to pay any of its outstanding bonds authorized to be issued under the provisions of
25 this Ordinance at maturity, to purchase in the open market any of its outstanding bonds
26 authorized to be issued under the provisions of this Ordinance prior to their maturity, to redeem
27 prior to their maturity any outstanding bonds which are, by their terms, redeemable, to pay
28 interest on any outstanding bonds prior to their payment at maturity or purchase or redemption in
29 advance of maturity, or to pay any redemption or purchase premium in connection with the
30 refunding of any of its outstanding bonds authorized to be issued under the provisions of this
31 Ordinance.

32 (b) Any refunding bonds authorized to be issued and sold under the provisions of this
33 Ordinance may be issued for the public purpose of:

34 (1) Realizing savings to Baltimore City in the aggregate cost of debt service on either
35 a direct comparison or present value basis; or

36 (2) Debt restructuring that:

37 (i) In the aggregate effects such a reduction in the cost of debt service; or

38 (ii) Is determined by the Board of Finance of the Mayor and City Council of
39 Baltimore to be in the best interests of Baltimore City, to be consistent with Baltimore City's
40 long-term financial plan, and to realize a financial objective of Baltimore City including,
41 improving the relationship of debt service to a source of payment such as taxes, assessments, or
42 other charges.

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1 (c) Any refunding bonds authorized to be issued and sold under the provisions of this
2 Ordinance may be issued in whatever principal amount shall be required to achieve the purpose
3 for the issuance of the refunding bonds, which amount may be in excess of the principal amount
4 of the bonds refunded or the maximum principal amount of bonds authorized to be issued under
5 Section 1 of this Ordinance.

6 (d) Any refunding bonds authorized to be issued and sold under the provisions of this
7 Ordinance may be issued to mature on such dates and in such amounts as the Board of Finance
8 may determine; provided that the entire principal amount represented by the refunding bonds
9 shall be discharged not more than 40 years from the date of issuance of the bonds being
10 refunded.

11 (e) Any refunding bonds authorized to be issued and sold under the provisions of this
12 Ordinance may be sold at public sale by the solicitation of competitive bids or at private
13 (negotiated) sale without advertisement or solicitation of competitive bids, for a price or prices
14 which may be at, above or below the par value of the refunding bonds, as determined by
15 resolution of the Board of Finance of the Mayor and City Council of Baltimore.

16 (f) Any refunding bonds authorized to be issued and sold under the provisions of this
17 Ordinance shall bear interest at such rate or rates as may be determined by the Board of Finance
18 of the Mayor and City Council of Baltimore, which rate or rates may be fixed or variable or as
19 determined by a method approved by the Board of Finance, and such interest shall be payable at
20 such time or times as may be determined by the Board of Finance.

21 (g) The proceeds of the sale of any refunding bonds authorized to be issued and sold
22 under the provisions of this Ordinance, after the payment of issuance costs relating thereto, shall
23 be set aside by the Mayor and City Council of Baltimore as a separate trust fund to be used
24 solely for the purposes stated in this Section 9.

25 (h) Except as otherwise provided in this Section 9, the powers granted in, the limitations
26 and obligations imposed by, and the procedures specified in this Ordinance with respect to the
27 issuance of bonds shall be applicable to the issuance of refunding bonds.

28 (i) Any refunding bonds authorized to be issued and sold under the provisions of this
29 Ordinance shall not be subject to any debt policy limitation that may from time to time be
30 established by the Mayor and City Council of Baltimore.

31 **SECTION 10. AND BE IT FURTHER ORDAINED,** That the expenditure of the proceeds derived
32 from the sale of the bonds authorized to be issued under the provisions of this Ordinance shall be
33 in accordance with the provisions of the Charter of the Mayor and City Council of Baltimore,
34 and by the municipal agency designated in the annual Ordinance of Estimates of the Mayor and
35 City Council of Baltimore.