



City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Legislation Text

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INTRODUCTORY*

CITY OF BALTIMORE
COUNCIL BILL

Introduced by: The Council President
At the request of: The Administration (Baltimore Development Corporation)

A BILL ENTITLED

AN ORDINANCE concerning
Westport Waterfront Development District

FOR the purpose of designating a "development district" to be known as the "Westport Waterfront Development District"; providing for and determining various matters in connection with the establishment of the development district; creating a special, tax increment fund for the development district; allocating certain property taxes to that fund; making certain findings and determinations; providing for a special effective date; and generally providing for matters relating to the designation and operation of the development district and the establishment and use of the special, tax increment fund to provide for the payment by or reimbursement to the City for debt service which the City is obligated to pay or has paid (whether such obligation is general or limited) on any special obligation bonds or notes issued by the City or any "state obligations" issued in connection with the development district, the replenishment of any reserve fund, and the payment of certain expenses and administrative costs related to the operation of the development district.

BY authority of
Article II - General Powers
Section (62)
Baltimore City Charter
(1996 Edition)

Recitals

The Tax Increment Financing Act, Article II, Section (62) of the Baltimore City Charter (the "Act") authorizes the Mayor and City Council of Baltimore (the "City") to establish a "development district" (as defined in the Act) and a special, tax increment fund into which the revenues and receipts from the real property taxes representing the levy on the "tax increment" (as defined in the Act) for the development district are deposited for the purpose of providing funds for the development of the development district.

The Act also authorizes the City, subject to certain requirements, to borrow money by issuing and selling Bonds (as defined herein) for the purpose of financing and refinancing the development of an industrial, commercial, or residential area in Baltimore City. The Act provides, however, that no Bonds may be issued by the City until an

ordinance is enacted that (i) designates an area or areas within the City as a “development district” and (ii) provides that, until the Bonds have been fully paid, the property taxes on real property within the development district shall be allocated as provided in the Act.

The Act also authorizes the City, subject to certain requirements, to pledge tax increment revenues to the payment by or reimbursement to the City for debt service which the City is obligated to pay or has paid (whether such obligation is general or limited) on bonds or State Obligations (as defined herein) issued and sold by the Maryland Economic Development Corporation (“MEDCO”) or any other State Issuer (as defined herein) for the purpose of providing funds for the development of the development district.

MEDCO, pursuant to a resolution adopted on February 25, 2008, authorized the issuance of its non-recourse, tax-exempt, limited obligation revenue bonds, from time to time and in one or more issues or series, pursuant to the provisions of Sections 5-201 through 5217, inclusive, of Article 83A of the Annotated Code of Maryland, as amended, for the purpose of financing and refinancing the costs of the Project (as defined herein).

The City wishes to establish a development district within Baltimore City and to establish a special, tax increment fund for that development district for the purpose of providing funds for the costs of the infrastructure improvements and related costs permitted by the Act, including, without limitation, street and road improvements, the acquisition of land, construction of buildings or structures that will provide affordable housing or otherwise be devoted to a governmental use or purpose, and other improvements relating to the development of residential, commercial and office uses both to or from or within the development district.

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That for the purposes of this Ordinance, the following terms have the meanings indicated:

- (a) “Act” means the Tax Increment Financing Act, as codified in Article II, Section (62) of the Baltimore City Charter.
- (b) “Assessable base” means the total assessable base of all real property in the Development District subject to taxation, as determined by the Supervisor of Assessments.
- (c) (1) “Assessment ratio” means any real property tax assessment ratio, however designated or calculated, that is used or applied under applicable general law in determining the assessable base.
(2) “Assessment ratio” includes the assessment percentage provided under §8-103(c) of the State Tax-Property Article, as amended, replaced, or supplemented from time to time.
- (d) “Bond” means any bond, note, or other similar instrument issued by the Mayor and City Council of Baltimore under the Act.
- (e) “City expenses” shall have the meaning set forth in the Pledge Ordinance.
- (f) “Contribution Agreement” means one or more contribution agreements or such other agreements executed by the City and a State Issuer, pursuant to which the City will evidence a pledge of certain tax revenues for the purpose of securing the payment of debt service on State Obligations, the replenishment of any reserve fund, and the payment of other costs with respect to the State Obligations, including, without limitation, any City expenses, State Issuer Expenses, and other administrative costs.
- (g) “Development District” means the area in the City designated in Section 3 of this Ordinance as a

development district under the Act.

- (h) “MEDCO” means the Maryland Economic Development Corporation.
- (i) “Original assessable base” means the assessable base as of January 1, 2007.
- (j) “Original full cash value” means the dollar amount that is determined by dividing the original assessable base by the assessment ratio used to determine the original assessable base.
- (k) “Original taxable value” means, for any tax year, the dollar amount that is the lesser of:
 - (1) the product of the original full cash value times the assessment ratio applicable to that tax year; or
 - (2) the original assessable base.
- (l) “Pledge Ordinance” means the Ordinance of the City authorizing the pledge of certain tax revenues for the purpose set forth therein.

(m) “Project” means the following improvements and activities completed in accordance with all required City approvals:

- (1) the design and construction of street and road improvements to, from or within the Development District, including, without limitation, the installation of curbs, gutters, sidewalks, lighting and landscaping, and the improvements to the Waterview Avenue bridge which are designed to improve traffic flow to and from the Development District;
 - (2) the installation of utilities, including, without limitation, water and sewer, and the construction of bike trails, parks and playgrounds, and other necessary improvements including lighting, stormwater management facilities and other facilities;
 - (3) the acquisition by purchase, lease, or condemnation of land or other property, or an interest in them, in the Development District or as necessary for a right-of-way or other easement to or from the Development District;
 - (4) the acquisition, design, construction, reconstruction, renovation, and development of buildings that provide units of affordable housing and condemning or otherwise acquiring structures, real or personal property, rights, rights-of-way, franchises, easements, and interests in furtherance of this purpose;
 - (5) parking facilities;
 - (6) site removal, including site preparation, earthwork, clearing, grading, and filling; and
 - (7) the acquisition, construction, renovation, and development of other related infrastructure improvements and the financing or refinancing of any related costs as permitted by the Act that are necessary for the completion of the foregoing for their intended public purposes.
- (n) “Revenues” means collectively the tax increment revenues and the special tax revenues.
 - (o) “State Issuer” means MEDCO, the State of Maryland, or any agency, department, or political subdivision thereof.

(p) “State Issuer Expenses” means administrative costs and other expenses related to the State Obligations of the State Issuer permitted by the Act and approved by the Director of Finance to be paid by the City pursuant to a contribution agreement.

(q) “State Obligations” means any bonds or bond, notes or note, or other similar instruments or instrument issued by a State Issuer, the proceeds of which have been used to finance a portion of the costs of the Project, including, without limitation, bonds issued by MEDCO pursuant to the provisions of Sections 5-201 through 5-217, inclusive, of Article 83A of the Annotated Code of Maryland, as amended.

(r) “Tax increment” means for any tax year, the amount by which the assessable base as of January 1 preceding that tax year exceeds the original taxable value, divided by the assessment ratio used to determine the original taxable value.

(s) “Tax Increment Fund” means the special fund established by Section 4 of this Ordinance.

(t) “Tax year” means the period from July 1 of a calendar year through June 30 of the next calendar year.

SECTION 2. AND BE IT FURTHER ORDAINED, That the Mayor and City Council of Baltimore finds and determines that the establishment of the Development District, the creation of the Tax Increment Fund for the Development District and the pledge of amounts on deposit in the Tax Increment Fund to the payment of debt service and other costs on or related to Bonds or State Obligations pursuant to the Pledge Ordinance and the Contribution Agreement, all for the purpose of providing funds for the financing and refinancing of a portion of the costs of the Project, accomplishes the purposes of the Act, serves public purposes, including the direct and indirect enhancement of the taxable base of the City and the facilitation of planned improvements to the Development District, and generally promotes the health, welfare, and safety of the residents of the State of Maryland and of the City of Baltimore.

SECTION 3. AND BE IT FURTHER ORDAINED, That the contiguous area consisting of the properties designated as Ward 25, Section 05, Block 7611, Lot 001 and Block 7612, Lots 001, 003, 005, 005A and 006 (as the same may be renumbered or redesignated as a result of any resubdivision of such property), together with the adjoining roads, highways, alleys, rights-of-way and other similar property, shown on the map attached to this Ordinance as Exhibit 1, and made a part of this Ordinance, is designated as a development district to be known as the “Westport Waterfront Development District.”

SECTION 4. AND BE IT FURTHER ORDAINED, That a special fund is established for the Development District to be known as the “Westport Waterfront Development District Tax Increment Fund.” The Director of Finance and other officers and employees of the City shall take all necessary steps to establish the Tax Increment Fund as a separate fund to be held by or for the account of the City.

SECTION 5. AND BE IT FURTHER ORDAINED, That:

(a) For each tax year that begins after the effective date of this Ordinance, the Director of Finance shall divide the property taxes on real property within the Development District so that:

(1) the portion of the taxes that would be produced by the rate at which taxes are levied each year by the City upon the original taxable value shall be allocated to and, when collected, paid into the funds of the City in the same manner as taxes levied and collected by the City on all other property are paid; and

(2) the portion of the taxes representing the levy on the tax increment that would normally be paid to the City

shall be paid into the Tax Increment Fund, to be applied in accordance with the provisions of this Ordinance, the Pledge Ordinance and the Act.

(b) The City acknowledges that neither the rate at which taxes are levied on real property within the Development District nor the manner of assessment of the value of real property within the Development District may vary from the rate or manner of assessment that otherwise would have applied if the Development District were not designated and the Tax Increment Fund not created.

SECTION 6. AND BE IT FURTHER ORDAINED, That:

(a) If no Bonds or State Obligations are outstanding with respect to the Development District, money in the Tax Increment Fund may be:

(1) used for any other purposes described in the Act, including the payment or reimbursement of costs of the Project;

(2) accumulated for payment of debt service on Bonds or State Obligations to be subsequently issued under the Act or by a State Issuer, respectively;

(3) used to pay or reimburse the City for debt service or other related costs that the City is obligated to pay or has paid (whether as a general or limited obligation of the City) on any Bonds issued by the City or State Obligations issued by any State Issuer, the proceeds of which have been used for any of the purposes specified in the Act; or

(4) paid to the City to provide funds to be used for any legal purpose.

(b) In the case of Sections 6(a)(2) and (a)(3) above, the use must be approved by appropriate action of the Mayor and City Council, and in the case of Sections 6(a)(1) and (a)(4), the use must be approved by the appropriate action of the Board of Finance, which action may generally specify the purpose for which the Tax Increment Fund may be used and the maximum amount that may be applied for that purpose, without specifying the actual amounts to be applied.

SECTION 7. AND BE IT FURTHER ORDAINED, That:

(a) If any Bonds or State Obligations are outstanding with respect to the Development District, money in the Tax Increment Fund may be used in any fiscal year as provided in Section 6 of this Ordinance and in the indenture authorizing the issuance of the Bonds or State Obligations, but only to the extent that:

(1) the amount in the Tax Increment Fund exceeds the debt service payable on the Bonds and the State Obligations and the amounts necessary to replenish any reserves and to pay any City expenses, State Issuer Expenses, and administrative costs in that fiscal year, and is not otherwise restricted so as to prohibit its use; and

(2) the use is not prohibited by the ordinance authorizing the issuance of the Bonds or the State Obligations or the pledge of amounts on deposit in the Tax Increment Fund, including the limitation set forth in Section 4(b) of the Pledge Ordinance.

(b) In each case, the use must be approved by appropriate action of the Board of Finance, which action may generally specify the purpose for which the Tax Increment Fund may be used and the maximum amount that may be applied for that purpose, without specifying the actual amounts to be applied.

SECTION 8. AND BE IT FURTHER ORDAINED, That the Director of Finance may do all acts and things and execute all documents and certificates relating to the Development District and the Tax Increment Fund.

SECTION 9. AND BE IT FURTHER ORDAINED, That any approvals, authorizations, or activities provided in this Ordinance do not constitute and may not be deemed to constitute or imply that the City Council, the Mayor, or any department, office or agency of the City has given or will give, any approval, authorization or consent to any action or activity within or required for the development of the Development District, including any land use approval, requirements for the provision of public utilities or services, or any other administrative, judicial, quasijudicial, or legislative approval, authorization, or consent.

SECTION 10. AND BE IT FURTHER ORDAINED, That this Ordinance may be amended by a subsequent ordinance of the Mayor and City Council of Baltimore, which ordinance may enlarge or reduce the size of the Development District. However, no ordinance may be effective to reduce the size of the Development District so long as there are any outstanding Bonds or State Obligations secured by the Tax Increment Fund, unless the ordinance authorizing the issuance of the Bonds or the State Obligations permits the City to reduce the area constituting the Development District, the holders of the Bonds or the State Obligations or an authorized representative on their behalf consents to the reduction or the indenture authorizing the issuance of the Bonds or the State Obligations permits the reduction.

SECTION 11. AND BE IT FURTHER ORDAINED, That the provisions of this Ordinance are severable. If any provision, sentence, clause, section or other part of this Ordinance is held or determined to be illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, that illegality, invalidity, unconstitutionality, or inapplicability does not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their application to other persons or circumstances. It is the intent of the Mayor and City Council that this Ordinance would have been passed even if the illegal, invalid, unconstitutional, or inapplicable provision, sentence, clause, section, or other part had not been included in this Ordinance, and as if the person or circumstances to which this Ordinance or part are inapplicable had been specifically exempted.

SECTION 12. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is enacted.

EXHIBIT 1

Map of Development District

dlr08-0357~intro/15Jul08
devdist/westport/nbr

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devdist/westport/nbr