

AN ACT

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish, on an emergency basis, a non-lapsing, special revenue fund within the General Fund of the District of Columbia to be denominated as the Ballpark Revenue Fund; and to amend Title 47 of the District of Columbia Official Code to impose a sales tax at the point of sale within the District of Columbia on tickets of admission to certain events at a ballpark or arena, and to impose a sales tax on the sale of personal property and certain services at a ballpark or arena.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Ballpark Omnibus Financing and Revenue Tax Provisions Emergency Act of 2004”.

TITLE I. CREATION OF REVENUE FUND.

Sec. 101. (a) For the purposes of this section, the term “ballpark” shall have the meaning specified in D.C. Official Code § 47-2002.05(a)(1)(A).

Note,
§ 47-2002.05

(b) There is established within the General Fund of the District of Columbia, a segregated, non-lapsing Special Revenue Fund to be denominated as the Ballpark Revenue Fund. Except as provided in section 307 of the Washington Convention Center Authority Act of 1994, approved September 28, 1994 (D.C. Law 10-188; D.C. Official Code § 10-1203.07), the Chief Financial Officer of the District of Columbia shall pay into the Ballpark Revenue Fund all receipts from those fees and taxes specifically identified by any provision of District of Columbia law to be paid into the fund. The Chief Financial Officer of the District of Columbia shall create a sub-account within the Ballpark Revenue Fund for each type of fee and tax that is to be paid into the fund and shall allocate the receipts from each type of fee and tax to the appropriate sub-account. The Mayor, or any District government agency or instrumentality that has been designated by the Mayor, may pledge and create a security interest in the funds in the Ballpark Revenue Fund, or any sub-account or sub-accounts within the fund, for the payment of the costs of carrying out any of the purposes described in subsection (c) of this section, for the payment of the debt service on any bonds or other evidence of indebtedness, any fees and charges incurred in connection therewith, for any and all payments owing under any document or instrument entered into in connection with the indebtedness, including any credit enhancement agreement,

insurance policy, security agreement, or other agreement or instrument establishing a swap or other derivative arrangement entered into by the District or any District government agency or instrumentality, and any of the purposes described in subsection (c) of this section, without further action as permitted by section 490(f) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 809; D.C. Official Code § 1-204.90(f)). If bonds or other evidence of indebtedness are issued, the payment shall be made in accordance with the provisions of the documents entered into by the District or any District agency or instrumentality in connection with the issuance of any such bonds or other evidence of indebtedness. Notwithstanding Article 9 of Subtitle I of Title 28 of the District of Columbia, or any other provision to the contrary, any security interest created pursuant to this subsection shall be valid, binding, and perfected from the time the security interest is created, with or without the physical delivery of any funds or any other property, with or without further action, and whether or not any statement, document, or instrument relating to the security interest is recorded or filed. The lien created by such security interest shall be valid, binding, and perfected with respect to any person (as defined in D.C. Official Code § 47-2001(i)) having claims against the District, whether or not such person has notice of the lien.

(c) The purposes for which the funds deposited in the Ballpark Revenue Fund shall be used are as follows:

(1) To directly pay or to finance the reimbursement of any fund of the General Fund of the District which has been the source of the payment of any loan, reprogramming, or transfer of funds to any District government agency or instrumentality for the payment of, any and all reasonable and verified predevelopment and development costs that have been borne by the District or the District government agency or instrumentality for the ballpark;

(2) To directly pay, or to finance the reimbursement of the District or any District government agency or instrumentality for, any and all reasonable and verified predevelopment and development costs that were borne by the District or such District government agency or instrumentality for the ballpark;

(3) To directly pay, or to finance the reimbursement of the District or any District government agency or instrumentality for, any or all costs arising out of or relating to the acquisition of real property, by purchase, lease, or condemnation in accordance with D.C. Official Code §§ 16-1311 through 16-1321, or other means of acquiring or assembling real property or interests in real property, including rights-of-way or other easements, that will serve as the site for a ballpark or are otherwise necessary to facilitate the construction of the ballpark or use of the site for the ballpark;

(4) To directly pay or finance all or any of the costs of the demolition of buildings located on the future site of a ballpark and the cost of environmental remediation of the land that is the future site of the ballpark;

(5) To directly pay or finance all or any of the costs of the design, development, construction, improvement, furnishing, and equipping of the ballpark;

(6) To directly pay or finance all or any of the costs of renovating Robert F. Kennedy Stadium for use as a ballpark until construction of the new ballpark has been completed;

(7) To directly pay or finance all or any of the costs of any future renovations, improvements, maintenance or upgrades to Robert F. Kennedy Stadium or the new ballpark after its construction has been completed;

(8) To directly pay or finance all or any other costs of the District or any District government agency associated with the financing, development, construction or renovation of the ballpark; and

(9) To pay debt service on bonds issued in accordance with the Ballpark Omnibus Financing and Revenue Act of 2004, passed on 2nd reading on December 14, 2004 (Enrolled version of Bill 15-1028).

TITLE II. SALES TAXES.

Sec. 201. Title 47 of the District of Columbia Official Code is amended as follows:

Note,
§ 47-1817.01

(a) Section 47-1817.01(5)(B) is amended to read as follows:

“(B) "Qualified High Technology Company" shall not include:

“(i) An individual or entity that derives 51% or more of its gross revenues from the operation in the District of:

“(I) A retail store; or

“(II) An electronic equipment facility that is primarily occupied, or intended to be occupied, by electronic and computer equipment that provides electronic data switching, transmission, or telecommunication functions between computers, both inside and outside the facility; or

“(ii) A professional athletic team, as defined in § 47-2002.05(a)(3)).”.

(b) Chapter 20 is amended as follows:

(1) The table of contents is amended by adding the section designation “47-2002.05. Ballpark sales taxes.” after the section designation “47-2002.04. Special event promoter obligations and penalties.”.

(2) A new section 47-2002.05 is added to read as follows:

“§ 47-2002.05. Ballpark sales taxes.

“(a) For the purposes of this section, the term:

“(1) “Ballpark” means:

(A) A stadium or arena constructed after October 1, 2004 on a site bounded by N Street, S.E., Potomac Avenue, S.E., South Capitol Street, S.E., and 1st Street, S.E., or such other site determined pursuant to section 105 of the Ballpark Omnibus Financing and Revenue Act of 2004, passed on 2nd reading on December 14, 2004 (Enrolled version of Bill 15-1028) if the primary site shall be unavailable, including facilities functionally related and subordinate thereto and the accompanying infrastructure, including office and transportation

facilities (including parking) adjacent to or serving a ballpark, that has as its primary purpose the hosting of professional athletic team events and is constructed in whole or in part with funds deposited in, or bonds or other evidence of indebtedness the debt service upon which is financed in whole or in part by funds deposited in, the Ballpark Revenue Fund; and

(B) Until such time as the hosting of professional athletic team events for which tickets are sold has commenced at the aforementioned newly-constructed stadium or arena, Robert F. Kennedy Stadium, described as that geographic area of the District of Columbia consisting of the areas designated as A, B, C, D, or E on the revised map entitled "Map to Designate Transfer of Stadium and Lease of Parking Lots to the District," prepared jointly by the National Park Service (National Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS Drawing number 831/87284-A), and any other future additions thereto.

"(2) "Ballpark Revenue Fund" means the fund established by section 101.

"(3) "Professional athletic team" includes any professional baseball, basketball, football, soccer, hockey, lacrosse or other athletic team whose members receive financial compensation from their participation in the team's athletic exhibitions.

"(4) "Ticket" means any physical, electronic, or other form of a certificate, documents, or token showing that a fare, admission, or license fee for a revocable right to enter the ballpark, or a right to purchase future rights to enter the ballpark, has been paid.

"(b) Notwithstanding any other provision of this chapter relating to the imposition of sales tax on either a retail sale or a sale at retail, there is hereby imposed a sales tax of 10% on the gross receipts of any person from the sale of tickets to any public event referred to in § 47-2001(n)(1)(H) sponsored by the person (or any affiliate of the person) and to be performed at the ballpark, regardless of whether the ticket is sold to a person who resells the ticket to another person or to a person who uses the ticket for admission to the event; provided, that with respect to tickets to events at Robert F. Kennedy Stadium, the tax shall apply only to professional baseball games or professional baseball-related events and exhibitions. The sales tax imposed by this section shall be in lieu of any sales tax imposed on tickets by this chapter.

"(c) Notwithstanding any other provision of this chapter, there is hereby imposed a sales tax of 10% on the gross receipts of any person from the sales at the ballpark during such times as shall reasonably relate to the performance of baseball games at the ballpark of tangible personal property or services otherwise taxable under the provisions of this chapter, except that the rate shall be 12% of the gross receipts from the sale of or charge for the service of parking motor vehicles; provided, that with respect to the sale of tangible personal property or services at Robert F. Kennedy Stadium, the tax shall apply only to professional baseball games or professional baseball-related events.

"(d) The revenues received by the District of Columbia from the taxes imposed by this section shall be deposited into one or more accounts within the Ballpark Revenue Fund.

"(e) The Chief Financial Officer or his delegate shall promulgate regulations as may be necessary and appropriate to carry out the provisions of this section, including regulations

relating to the determination of District gross receipts and electronic filing and payment of sales taxes and fees. Until such time as the Chief Financial Officer or his delegate shall promulgate the regulations, any promoter of any event at which gross receipts from the sale of tickets, tangible personal property, or services are potentially subject to the taxes imposed by this section shall comply with the requirements of § 47-2002.04 as if the event were a special event.

“(f) Except in the case of street vendors described in § 47-2002.01, the Chief Financial Officer may require taxpayers subject to the sales taxes imposed by this section to make payment of those taxes electronically.”.

**TITLE III. FISCAL IMPACT STATEMENT; APPLICABILITY PROVISION;
EFFECTIVE DATE.**

Sec. 301. Fiscal impact statement.

The Council adopts the attached fiscal impact statement 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 § 1-206.02(c)(3)).

Sec. 302. Applicability.

Titles I and II shall apply as of December 1, 2004.

Sec. 303. 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), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia