

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 10 of Title 47 of the District of Columbia Official Code to extend the deadline by which a grant must be funded in lieu of a payment in lieu of taxes for a Qualified Theater Company.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Square 456 Payment in Lieu of Taxes Act of 2002".

Sec. 2. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

Chapter 10
Title 47

(a) The table of contents is amended by striking the section designation "47-1052. Payments in lieu of taxes, lots 878 and 880, square 856." and inserting the section designation "47-1052. Payments in lieu of taxes, lots 878 and 880, square 456.".

(b) Section 47-1002 is amended as follows:

Amend
§ 47-1002

(1) Paragraph (26) is amended by striking the phrase "; and" at the end of the paragraph and inserting a semicolon in its place.

(2) Paragraph (27) is amended by striking the period at the end of the paragraph and inserting the phrase "; and" in its place.

(3) A new paragraph (28) is added to read as follows:

"(28)(A) Land and improvements that are located in the Housing Overlay District established pursuant to section 1706 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 1706), the Arts Overlay District established pursuant to section 1704 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 1704), and the Historic Preservation District established pursuant to section 1707 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 1707), and not otherwise exempt pursuant to this section, for the period specified in subparagraph (C) of this paragraph; provided, that the land and improvements satisfy at least one of the requirements set forth in subparagraph (B) of this paragraph.

"(B) The exemption granted by this paragraph shall only apply to:

"(i) Land and improvements as to which a theater company of the type described in paragraph (19) of this section is or was, as of the effective date of the Square 456 Payment in Lieu of Taxes Extension Emergency Act of 2002, passed on an emergency basis on June 18, 2002 (Enrolled version of Bill 14-701), the contract purchaser or owner; or

"(ii) Improvements developed pursuant to a vertical subdivision, horizontal property regime, condominium regime, or common building permit, or pursuant to a combined lot development method or sharing a common primary ingress or egress on a single or one or more adjoining lots of record concurrent with the development of a theater of the type described in paragraph (19) of this section, with a floor area of not less than 18,000, and not more than 100,000 square feet, to be used for theater and ancillary purposes by a theater company of the type described in paragraph (19) of this section.

"(C) The exemption granted by this paragraph shall only apply if, to the extent that the property is not otherwise exempt, the property owner is obligated under § 47-1052 or any other law to make payments in lieu of taxes in furtherance of the public interest to promote the economic development of the District of Columbia and the improvement of the general public welfare and for the benefit of the District of Columbia and its residents.

"(D) This paragraph shall expire on the day after the date on which the District and Qualified Theater Company have entered into a grant agreement for the making of the grant identified in § 47-1052(a)(7)(B), and the funding of that grant."

Amend
§ 47-1052

(c) Section 47-1052 is amended as follows:

(1) The section heading is amended by striking the phrase "square 856" and inserting the phrase "square 456" in its place.

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

(A) Paragraph (7)(B) is amended to read as follows:

"(B) Notwithstanding subparagraph (A) of this paragraph, the PILOT period and Initial PILOT period shall not begin if, on or before November 15, 2002, the District shall make and fund a grant to a Qualified Theater Company in an amount of not less than \$20 million, less reasonably projected earnings on the proceeds pending disbursement determined as of the date the grant is funded, for use by the Qualified Theater Company for capitalizable expenditures incurred in connection with the planning, development, acquisition, or construction of a building to include a theater of the type described in § 47-1002(19) on all or a portion of the Site. The Mayor may make and fund such grant, which shall, if made, be subject to the following condition: if a building permit has not been issued for a theater with a floor area of not less than 18,000 square feet to be used for theater and ancillary facilities on any Parcel before the 6th anniversary of the date the grant is made and funded or, if the grant recipient determines that it is unable or unwilling to acquire title to all or a portion of the Site by December 31, 2003, the grant recipient shall:

"(i) Repay the District the principal amount of the grant, less the actual third-party capitalizable expenditures incurred by the grant recipient for capitalizable costs

incurred in furtherance of the acquisition and development of a building to include a theater with a floor area of not less than 18,000 square feet on all or a portion of the Site including, architectural and engineering fees and expenses; title, survey, and environmental fees and expenses; development and consulting fees and expenses; legal fees; permit fees; insurance costs; issuance costs and related costs, fees, and expenses; land acquisition deposits, costs, fees, and expenses; and capitalizable interest costs; which costs shall not to exceed \$6 million in the aggregate; and

"(ii)(I) Convey title to such portions of the Site as it has acquired to the District for the sum of its cost thereof, plus any interest costs incurred by it in carrying the property so conveyed; or

"(II) Proceed to closing and convey title to the District at the grant recipient's cost pursuant to simultaneous all-cash closings."

(B) Paragraph (8)(B)(ii) is amended to read as follows:

"(ii) Is or was the contract purchaser of some or all of the Site as of the date of enactment of the Square 456 Payment in Lieu of Taxes Extension Emergency Act of 2002, passed on an emergency basis on June 18, 2002 (Enrolled version of Bill 14-701)."

(3) Subsection (e) is amended to read as follows:

"(e) The PILOT shall constitute a prior lien on the applicable Parcels to the same extent as a real property tax lien."

(4) New subsections (m) and (n) are added to read as follows:

"(m) The remedies available to a Qualified Theater Company under subsections (h), (i), and (j) of this section shall be satisfied only by execution against the Site and no deficiency arising therefrom shall give rise to a personal obligation of the Owners. The penalties, interest, and legal fees provided for in subsections (h), (i), and (j) of this section shall be limited to those available to the District in connection with a tax sale for delinquent real property taxes under Chapter 13A.

"(n) This section shall expire on the day after the date on which the District and the Qualified Theater Company have entered into a grant agreement for the making of the grant identified in subsection (a)(7)(B) of this section, and the funding of that grant. The Mayor shall notify the Council when the District and the Qualified Theater Company have entered into the grant agreement and the grant is funded."

Sec. 3. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Note,
§§ 47-1002,
47-1052

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 § 1-206.02(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. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia