

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2015 Legislative Session

Bill No. CB-102-2015

Chapter No. 82

Proposed and Presented by The Chairman (by request – County Executive) and
Council Member Karen R. Toles

Introduced by Council Members Toles, Franklin, Davis, Glaros, Taveras, Turner, Harrison
and Patterson

Date of Introduction October 20, 2015

BILL

1 AN ACT concerning

2 The Pledge of the Tax Increment from the Suitland-Naylor Road Development District
3 For the purpose of pledging the Tax Increment from the Suitland-Naylor Road Development
4 District (the "Development District") established pursuant to Sections 12-201 through 12-213,
5 inclusive, of the Economic Development Article of the Annotated Code of Maryland, as
6 amended (the "Tax Increment Financing Act") and CR-94-2014 of the County Council of Prince
7 George's County, Maryland (the "Formation Resolution") as security for revenue bonds (the
8 "Bonds") to be issued by the Revenue Authority of Prince George's County (the "Revenue
9 Authority") under Sections 21A-101 through 21A-307 of the Prince George's County Code (the
10 "County Code"), the proceeds of which will be used by the Revenue Authority and/or the
11 Redevelopment Authority of Prince George's County (the "Redevelopment Authority") for
12 purposes of acquiring and assembling land and improvements, paying entitlement fees, financing
13 working capital and financing improvements related to the Development District, including, but
14 not limited to, financing the costs of roads, streets, water and sewer utilities, and financing other
15 costs and improvements permitted to be undertaken by the Revenue Authority and/or the
16 Redevelopment Authority, in each case for the development of various properties within the
17 Development District into mixed-use projects which may include a performing arts center with a
18 theatre, a town center, retail, residential, office and other commercial development, along with
19 financing costs of issuance, underwriter's discount, and the funding of reserves for the Bonds;
20 approving the inclusion in the Revenue Authority's Capital Improvement Program of the
21 foregoing project and the undertaking thereof by the Revenue Authority, including the deposit of

1 funds by the Revenue Authority into a reserve fund for the Bonds, in each case as required under
2 Section 21A-119 of the Prince George's County Code; making certain findings and
3 determinations, among others, concerning the public benefit and purpose of the pledging of such
4 Tax Increment as security for the Bonds and the undertaking of the foregoing project by the
5 Revenue Authority; providing for the delivery of a contribution agreement (the "Contribution
6 Agreement") whereby the County will agree to contribute the Tax Increment to the Revenue
7 Authority to pay debt service, including any early redemptions, on the Bonds (and administrative
8 expenses with respect to the Development District); and authorizing the County Executive of the
9 County to approve certain details, forms, documents or procedures in connection with the pledge
10 of the Tax Increment and the Bonds to be issued by the Revenue Authority and any other matters
11 necessary or desirable in connection with the pledge of the Tax Increment and the authorization,
12 issuance, delivery and payment of such Bonds consistent with the provisions of this Act.

13 WHEREAS, CR-94-2014, the Formation Resolution, designated the Development District
14 and established a special fund designated the "Suitland-Naylor Road Development District Tax
15 Increment Fund" (the "Tax Increment Fund"); and

16 WHEREAS, the County desires to assist in the redevelopment of various properties within
17 the Development District into mixed-use projects which may include a performing arts center
18 with a theatre, a town center, retail, residential, office and other commercial development within
19 the Development District; and

20 WHEREAS, pursuant to Sections 21A-101 through 21A-307 of the Prince George's County
21 Code, the Revenue Authority is authorized to issue bonds for purposes of financing or
22 refinancing the "cost" of a "project", including financing the costs of acquiring land and other
23 property, and in furtherance of such authority, the Revenue Authority expects to issue the Bonds
24 for purposes of financing certain costs of the Revenue Authority and/or the Redevelopment
25 Authority for purposes of acquiring and assembling land and improvements, paying entitlement
26 fees, financing working capital and financing improvements related to the Development District,
27 including, but not limited to, financing the costs of roads, streets, water and sewer utilities, and
28 financing other costs and improvements permitted to be undertaken by the Revenue Authority
29 and/or the Redevelopment Authority, along with financing costs of issuance, underwriter's
30 discount, and the funding of reserves for the Bonds (collectively, the "Project"); and

31 WHEREAS, pursuant to Section 21A-119 of the Prince George's County Code, the

1 Revenue Authority is required to obtain prior authorization of the County Executive and the
2 County Council before including the Project in the Revenue Authority's Capital Improvement
3 Program and undertaking the Project; and

4 WHEREAS, pursuant to Sections 21A-109 and 21A-110 of the Prince George's County
5 Code, the County is authorized to assign, pledge, grant, contribute or provide to the Revenue
6 Authority any taxes or other funds held or receivable by the County as security for the Bonds;
7 and

8 WHEREAS, pursuant to Section 12-209(a)(4) of the Tax Increment Financing Act, the Tax
9 Increment deposited into the Tax Increment Fund may be used for any legal purpose determined
10 by the County provided the balance of the Tax Increment Fund exceeds the unpaid debt service
11 payable in the fiscal year on bond obligations outstanding under the Tax Increment Financing
12 Act with respect to the Development District, and the Tax Increment Fund is not restricted so as
13 to prohibit the use, and in connection therewith, the County is agreeing not to issue bonds with
14 respect to any property comprising the Development District under the Tax Increment Financing
15 Act, and not to restrict the Tax Increment Fund so as to prohibit any such use, so long as the
16 Bonds are outstanding; and

17 WHEREAS, the County desires to pledge the Tax Increment deposited into the Tax
18 Increment Fund as security for the Bonds, and in connection therewith, the County will enter into
19 a Contribution Agreement whereby the County will agree to contribute the Tax Increment
20 deposited into the Tax Increment Fund to the Revenue Authority to pay debt service, including
21 any early redemptions on the Bonds (and administrative expenses with respect to the
22 Development District); and

23 WHEREAS, to the extent that the balance on the deposit in the Tax Increment Fund
24 representing the levy on the Tax Increment in any given fiscal year of the County exceeds the
25 debt service, including any early redemptions, payable on the Bonds in any such fiscal year, as
26 well as any other payment required to be satisfied by the Tax Increment, such excess will be paid
27 over at the end of each such fiscal year to the County for deposit into its general fund in such
28 amounts and for such uses as set forth herein; and

29 WHEREAS, the Development will further economic development within the County and
30 thus meet the public purposes contemplated by the Tax Increment Financing Act, CR-94-2014-
31 the Formation Resolution and Sections 21A-101 through 21A-307 of the Prince George's County

1 Code; and

2 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
3 Maryland, as follows:

4 A. The words and terms used in this Act that are defined in the Tax Increment Act,
5 the Formation Resolution or Sections 21A-101 through 21A-307 of the Prince George's County
6 Code shall have the meanings indicated in the Tax Increment Act, CR-94-2014-the Formation
7 Resolution or Sections 21A-101 through 21A-307 of the Prince George's County Code, as the
8 case may be, unless the context clearly requires a contrary meaning.

9 B. Acting pursuant to the Tax Increment Act, CR-94-2014-the Formation Resolution
10 and 21A-101 through 21A-307 of the Prince George's County Code, it is hereby found and
11 determined that the pledge of the Tax Increment as security for the Bonds, the proceeds of which
12 will be used for purposes of financing the Project for the Development, and the undertaking of
13 the Project by the Revenue Authority, accomplishes the public purposes of the Tax Increment
14 Act, CR-94-2014-the Formation Resolution and 21A-101 through 21A-307 of the Prince
15 George's County Code.

16 C. It is recognized that the total costs of the Project will be acquired, financed or
17 reimbursed through the issuance of the Bonds.

18 D. Pursuant to Section 21A-119 of the Prince George's County Code, the Revenue
19 Authority is hereby authorized to include the Project in the Revenue Authority's Capital
20 Improvement Program and to undertake the Project, and the Project is hereby approved,
21 including the deposit of funds by the Revenue Authority into a reserve fund for the Bonds,
22 subject to the conditions in this Ordinance, in satisfaction of Section 21A-119(d) of the Prince
23 George's County Code; provided, however, before issuing the Bonds, or undertaking the Project,
24 the Revenue Authority shall adopt a resolution approving the inclusion of such Project in its
25 Capital Improvement Program and the undertaking of the Project, which resolution shall meet
26 the requirements of Section 21A-119 of the Prince George's County Code , and shall submit
27 such resolution to the County Executive for authorization pursuant to Section 21A-119 of the
28 Prince George's County Code.

29 E. The County shall receive a certification of the Supervisor of Assessments of the
30 amount of the Original Assessable Base, or if applicable, the Adjusted Assessable Base, prior to
31 the issuance of the Bonds.

1 F. Pursuant to the provisions of the Tax Increment Financing Act, CR-94-2014-the
2 Formation Resolution, 21A-101 through 21A-307 of the Prince George's County Code and this
3 Act, so long as the Bonds remain outstanding, the County shall cause to be deposited into the
4 Tax Increment Fund all real property taxes received by the County for any tax year after the
5 effective date of the Formation Resolution equal to that portion of the taxes payable to the
6 County representing the levy on the Tax Increment that would normally be paid to the County.
7 Monies in the Tax Increment Fund are pledged to the payment of the Bonds and administrative
8 expenses related to the Development District. The balance remaining in the Tax Increment Fund
9 at the end of any fiscal year for the County after such payments shall be transferred to the general
10 fund of the County. The County shall enter into a Contribution Agreement with the Revenue
11 Authority whereby the County will agree to deposit the Tax Increment needed to pay debt
12 service, including any early redemptions on the Bonds (together with administrative expenses
13 related to the Development District), but solely to the extent such Tax Increment has been
14 received by the County.

15 G. The County shall not issue any bond obligations with respect to any property
16 comprising the Development District, and shall not restrict the Tax Increment Fund so as to
17 prohibit any use permitted under the Tax Increment Financing Act so long as the Bonds are
18 outstanding. The County shall not revoke the Formation Resolution or this Ordinance for so
19 long as the Bonds are outstanding.

20 H. After the issuance of the Bonds, the County Executive, by Executive Order, may
21 only enlarge the boundaries of the Development District under the Formation Resolution but
22 may not reduce the size of the Development District so long as there are any Bonds outstanding
23 pursuant to the Tax Increment Financing Act, the Formation Resolution and this Resolution,
24 unless the ordinance with respect to the Bonds adopted by the Revenue Authority permits the
25 County to reduce the area constituting the Development District or the holders of the Bonds or a
26 representative on their behalf consents to any such reduction.

27 I. Prior to the issuance of the Bonds by the Revenue Authority and the delivery of
28 the Contribution Agreement, the County Executive by Executive Order:

29 (1) shall approve the form, tenor, terms and conditions of and security for the
30 Bonds;

31 (2) shall approve the principal amounts (which shall not exceed an aggregate

1 principal amount of Twenty-Eight Million Dollars (\$28,000,000), rate or rates of interest,
 2 premiums, if any, denominations, date, maturity or maturities, and the time and place or places of
 3 payment of the Bonds, and the terms and conditions and details under which the Bonds may be
 4 called for redemption prior to their stated maturities;

5 (3) shall approve the form and contents of, and execute and deliver (where
 6 applicable), the Contribution Agreement and such other documents to which the County is a
 7 party and which may be necessary to effectuate the pledge of the Tax Increment and the
 8 issuance, sale and delivery of the Bonds;

9 (4) shall approve the time of execution, issuance, sale and delivery of the Bonds
 10 and prescribe any and all other details of the Bonds; and

11 (5) shall do any and all things necessary, proper or expedient in connection with
 12 the pledge of the Tax Increment and the issuance, sale and delivery of the Bonds in order to
 13 accomplish the legislative policy of the Tax Increment Act, the Formation Resolution, the Prince
 14 George's County Code and the public purposes of this Act, subject to the limitations set forth in
 15 the Tax Increment Act, the Prince George's County Code, the Formation Resolution and any
 16 limitations prescribed by this Act.

17 This delegation of authority to the County Executive is subject to his discretion and to the
 18 extent he does not exercise such discretion pursuant to the provisions of this Act, neither such
 19 officer nor the County shall be subject to any liability.

20 SECTION 2. BE IT FURTHER ENACTED, that the Bonds to be issued by the Revenue
 21 Authority and the development costs to be financed by such Bonds are not deemed to be
 22 construction, monetary contributions or procurement for purposes of Subtitle 10A of the Prince
 23 George's County Code and the development costs to be financed in whole or part by said Bonds
 24 are specifically exempted from the provisions of Subtitle 10A, provided, however, that Section
 25 10A-121 and Sections 2-247 through 2-253.05, of the Prince George's County Code shall apply.

26 SECTION 3. BE IT FURTHER ENACTED, that the provisions of this Act are severable,
 27 and if any provision, sentence, clause, section or part hereof is held or determined to be illegal,
 28 invalid or unconstitutional or inapplicable to any person or circumstances, such illegality,
 29 invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining
 30 provisions, sentences, clauses, sections or parts of this Act or their application to other persons or
 31 circumstances. It is hereby declared to be the legislative intent that this Act would have been

1 passed if such illegal, invalid, unconstitutional or inapplicable provision, sentence, clause,
2 section or part had not been included herein, and as if the person or circumstances to which this
3 Act or any part hereof are inapplicable had been specifically exempted herefrom.

Adopted this 17th day of November, 2015.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.

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