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A BILL
20-203

IN THE DISTRICT OF COLUMBIA

To amend the Business Improvement Districts Act of 1996, to update the laws concerning business improvement districts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Business Improvement District Amendment Act of 2014”.

Sec. 2. The Business Improvement District Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Official Code § 2-1215.01 *et seq.*) is amended as follows:

(a) Section 2 (D.C. Official Code § 12-215.01(4) is amended by striking the word “nonexempt” and inserting the word “taxable” in its place.

(b) Section 3 (D.C. Official Code § 2-1215.02) is amended by:

(1) Paragraph (8) is amended to read as follows:

“(8) “BID tax” means an additional real property tax or possessory interest tax assessed and levied by the District on, and payable by, the owners of taxable properties or holders of a possessory interest in a Business Improvement District subject to the BID certification processes of this act. ”.

(2) Paragraph (10) is amended by striking the word “nonexempt” and inserting the word “taxable” in its place.

(3) Paragraph (16) is amended to read as follows:

27 “(16) “Member” means a member of the BID Corporation, the membership of
28 which shall be comprised of each owner of taxable property and each commercial tenant in the
29 BID area, and each owner who becomes a member pursuant to section 21.”.

30 (4) Paragraph (18) is repealed.

31 (5) Paragraph (19) is amended by striking the phrase “nonexempt real property”
32 and inserting the phrase “taxable property” in its place.

33 (6) Paragraph (20) is amended by striking the phrase “nonexempt real property”
34 and inserting the phrase “taxable property” in its place.

35 (7) Paragraph (23) is amended by striking the phrase “nonexempt real property”
36 and inserting the phrase “taxable property” in its place.

37 (8) A new paragraph (24) is added to read as follows:

38 “(24) “Taxable property” means real property paying real property taxes or a
39 holder of a possessory interest paying possessory interest taxes, including:

40 “(A) Class 2, Class 3 and Class 4 Property, as defined in D.C. Official
41 Code § 47-813, located within any BID, excluding the properties exempt from paying real
42 property taxes pursuant to Chapters 10 or 46 of Title 47;

43 “(B) Class 1 Property, as defined in D.C. Official Code § 47-813, for
44 Mount Vernon Triangle, NoMa and Capitol Riverfront BIDs, excluding the following:

45 “(i) Real property improved by a residential building where 90% or
46 more of the leased units are households with at least one individual of 62 years of age or older
47 and all individuals of 55 years of age or older;

48 “(ii) Real property improved by a residential building where 20% or
49 more of the units are subject to a contract for project-based assistance under section 8 of the
50 United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 662; 42 U.S.C. § 1437f);

51 “(iii) Real property improved by a residential building with fewer
52 than 10 dwelling units, as defined in D.C. Official Code § 47-813(d)(3); and

53 “(iv) Real property exempt from paying real property
54 tax pursuant to Chapters 10 or 46 of Title 47; or

55 “(C) Real property belonging to government and international
56 organizations including, a leasehold interest, possessory interest, beneficial
57 interest, or beneficial use of real property, as provided in D.C. Official Code § 47-1005.01(b) for
58 periods beginning after September 30, 2014 where the real property would be taxable under
59 subparagraphs (A) or (B) of this paragraph if not exempt or immune from real property taxation
60 resulting in the possessory interest being taxable under D.C. Official Code § 47-1005.01; except
61 where a payment in lieu of tax agreement has been negotiated and payments related to such
62 agreement are current.”.

63 (c) Section 4 (D.C. Official Code § 2-1215.03) is amended by:

64 (1) Designate the current text as subsection (a), and insert the phrase “of a taxable
65 property” after the phrase “Each owner” in the second sentence.

66 (d) Section 5 (D.C. Official Code § 2-1215.04) is amended as follows:

67 (1) Subsection (a) is amended by striking the phrase “Deputy City Administrator
68 for Business Services and Economic Development” and inserting the phrase “Department of
69 Small and Local Business Development, or a successor thereto,” in its place.

70 (2) Subsection (a)(1) is amended as follows:

71 (A) Strike the phrase “nonexempt real property” wherever it appears and
72 inserting the phrase “taxable property” in its place;

73 (B) Strike the phrase “nonexempt properties” wherever it appears and
74 inserting the phrase “taxable properties” in its place; and

75 (C) Strike the phrase “assessing and levying any BID” and inserting the
76 phrase “assessing BID” in its place.

77 (3) Subsection (a)(6) is amended by striking the phrase “nonexempt real property”
78 and inserting the phrase “taxable property” in its place.

79 (4) Subsection (b) is repealed.

80 (e) Section 6 (D.C. Official Code § 2-1215.05(a)) is amended by striking the phrase
81 “Deputy City Administrator for Business Services and Economic Development” and inserting
82 the phrase “Department of Small and Local Business Development, or a successor thereto,” in its
83 place.

84 (f) Section 7 (D.C. Official Code § 2-1215.06) is amended as follows:

85 (1) Subsection (a) is amended by striking the phrase “Deputy City Administrator
86 for Business Services and Economic Development” and inserting the phrase “Department of
87 Small and Local Business Development, or a successor thereto,” in its place.

88 (2) Subsection (c) is amended to read as follows:

89 “(c) The Mayor shall advertise the notice of the public hearing along with the
90 notice of preliminary finding in the District of Columbia Register.”.

91 (3) Subsection (d) is amended as follows:

92 (d) No less than 21 days prior to the public hearing, the applicant shall send, to
93 the extent reasonably ascertainable, by first class mail or electronically, notice of the Mayor's
94 preliminary determination; notice of the public hearing, including the date, time, and place and
95 availability of the BID application for review; and a summary of the application stating the
96 borders of the proposed BID, the BID plan, and the BID taxes, to:

97 (1) The Secretary to the Council;

98 (2) Each owner of taxable property within the proposed BID area at the
99 address shown in the most recent real property tax assessment records of the District or, at the
100 election of the applicant, at another address if it is reasonably determined that the information in
101 the District's records is dated;

102 (3) Each commercial tenant;

103 (4) Each advisory neighborhood commission in which the proposed BID is
104 located; and

105 (5) Each major citizens association covering the area in which the proposed
106 BID is located,”

107 (4) Subsection (e) is amended by inserting the phrase “on a publicly accessible
108 web site,” after the phrase “proposed BID area designated by the applicant”.

109 (g) Section 9 (D.C. Official Code § 2-1215.08) is amended by:

110 (1) Subsection (b) is amended by inserting the phrase “or voting by proxy, to
111 the extent not otherwise provided for in BID bylaws,” after the phrase “members present and
112 voting”.

113 (2) Subsection (b)(2) is amended by striking the phrase “Deputy City
114 Administrator for Business Services and Economic Development” and inserting the phrase
115 “Department of Small and Local Business Development, or a successor thereto,” in its place.

116 (h) Section 10 (D.C. Official Code § 2-1215.09) is amended as follows:

117 (1) Subparagraph (a)(1)(A) is amended by striking the word “or” at the end.

118 (2) Subsection (a) is amended by striking the phrase “nonexempt” where it
119 appears and inserting “taxable” in its place.

120 (3) Subparagraph (a)(1)(B) is repealed.

121 (4) Subsection (c) is amended by striking the phrase “nonexempt properties”
122 where it appears and inserting the phrase “taxable BID properties” in its place.

123 (i) New sections 10a, 10b, and 10c are added to read as follows:

124 “Sec. 10a. Adjacent or abutting properties.

125 “(a) An owner of an adjacent or abutting property may petition to join an existing BID if
126 the owner sends a letter requesting to be added to a BID to the BID Board and to the Mayor,
127 listing the address, square and lot number, owner, and owner's contact information. The BID
128 board must vote to approve the addition. If the BID Board votes to approve adding the additional
129 property, the BID Board shall send a letter to the Mayor with the results of the vote.

130 “(b) The Mayor shall have 30 days after receiving the letter from the BID Board to
131 review the proposed addition and determine if the addition is an adjacent or abutting property not
132 currently located in another BID. If the Mayor finds that the proposed addition is not an adjacent
133 or abutting property, or that the proposed addition is currently located in another BID, the Mayor
134 may issue an order rejecting the addition.

135 “(c) If the proposed addition is approved or if the Mayor does not issue an order rejecting
136 the addition within the 30 day review period, the addition will be deemed approved and the
137 property will be added to the BID at the next regularly scheduled billing pursuant to section 15.”

138 “(d) The proposed addition shall be subject to section 10(c).

139 “Sec. 10b. Expanding the taxable real property within a BID.

140 “(a) An established BID may only expand categories of taxable real property if:

141 “(1) Owners of at least 51% interest in the assessed value of the taxable real
142 properties and at least 25% in number of individual real properties, consisting of a new type of
143 taxable real property of record within the BID’s geographic area, petition the existing BID to join
144 the BID;

145 “(2) Such petition is accepted by a majority vote of the existing BID Board; and

146 “(3) The petition is submitted to the Mayor with:

147 “(A) The name and address of the BID Corporation and a copy of the
148 resolution adopted by the Board of Directors of the BID Corporation accepting the petition;

149 “(B) A description by lot, square, and street address of the property of
150 each owner of the proposed new taxable real property type, to the extent reasonably

151 ascertainable; provided, that a property subdivided into separate condominium units shall
152 constitute a single property for purposes of this subparagraph;

153 “(C) The most recent assessed value of each taxable real property of the
154 proposed new taxable real property type, to the extent reasonably ascertainable from District
155 property tax records or a final determination of the Real Property Tax Appeals Commission for
156 the District of Columbia; provided, that a property subdivided into separate condominium units
157 shall constitute a single real property for purposes of this subparagraph;

158 “(D) A business plan for including the petition area in the operations of
159 the BID. The business plan shall contain, at a minimum:

160 “(i) The specific goals and objectives for the inclusion of the
161 petitioning real property class in the BID consistent with the BID activity as defined in this
162 subchapter; and

163 “(ii) The applicable BID taxes.

164 “(E) A list of the current members of the Board of Directors of the BID;
165 and

166 “(F) The current articles of incorporation and the bylaws of the BID.

167 “(4) Such petition is approved by the Mayor in accordance with the procedures set
168 forth in sections 6 and 7; provided, that wherever the word “application” or phrase “BID
169 application” appears in sections 6 and 7, the word or phrase shall be considered to refer to the
170 expansion petition, and wherever reference is made to the registration of the BID and the
171 nonprofit corporation in section 7, the reference shall be considered to refer to registration of the

172 expanded BID. The Mayor may designate the Department of Small and Local Business
173 Development, or a successor thereto, to perform the review functions described by this section;

174 “(5) The Mayor shall approve a petition if the Mayor determines that the petition
175 was properly filed and adoption of the petition is consistent with the purposes of this subchapter
176 and the definition of BID activity in section 3(6)(b). An expansion of a BID's taxable real
177 property pursuant to this section shall become effective on the effective date of an act of Council
178 which approves such BID's taxable real property expansion. Initial BID taxes for such area shall
179 be collected at the next practicable regularly scheduled billing pursuant to section 15;

180 “(b) For the purposes of this section, individual taxable properties shall mean properties
181 identified by separate lot and square numbers to the extent reasonably ascertainable from the
182 records of the Office of Taxation and Revenue or Office of Recorder of Deeds; provided, that
183 any property subdivided into separate condominium units shall constitute a single property for
184 the purpose of determining the number of taxable properties referred to in subsection (a) of this
185 section; provided further, that such condominium units shall constitute separate properties for
186 purposes of assessing and levying any BID charges. Changes in the assessed values occurring
187 after submission of a BID application, whether through regular reassessment, appeals, or
188 otherwise, shall not affect the validity of the BID application to be taken into account in the
189 Mayor's review of the BID application.”.

190 “Sec. 10c. Expanding the taxable real property within a BID for newly enacted BIDs.

191 “(a) A BID established after the enactment of Business Improvement District
192 Amendment Act of 2014 may only expand categories of taxable real property to include Class I
193 residential property if:

194 “(1) Owners of at least 51% interest in the assessed value of the taxable real
195 properties and at least 25% in number of individual real properties, consisting of a new type of
196 taxable real property of record within the BID’s geographic area, petition the existing BID to join
197 the BID;

198 “(2) Such petition is accepted by a majority vote of the existing BID Board; and

199 “(3) The petition is submitted to the Mayor with:

200 “(A) The name and address of the BID Corporation and a copy of the
201 resolution adopted by the Board of Directors of the BID Corporation accepting the petition;

202 “(B) A description by lot, square, and street address of the property of
203 each owner of the proposed new taxable real property type, to the extent reasonably
204 ascertainable; provided, that a property subdivided into separate condominium units shall
205 constitute a single property for purposes of this subparagraph;

206 “(C) The most recent assessed value of each taxable real property of the
207 proposed new taxable real property type, to the extent reasonably ascertainable from District
208 property tax records or a final determination of the Real Property Tax Appeals Commission for
209 the District of Columbia;

210 “(D) A business plan for including the petition area in the operations of
211 the BID. The business plan shall contain, at a minimum:

212 “(i) The specific goals and objectives for the inclusion of the
213 petitioning real property class in the BID consistent with the BID activity as defined in this
214 subchapter; and

215 “(ii) The applicable BID taxes.

216 “(E) A list of the current members of the Board of Directors of the BID;
217 and

218 “(F) The current articles of incorporation and the bylaws of the BID.

219 “(4) Such petition is approved by the Mayor in accordance with the procedures set
220 forth in sections 6 and 7; provided, that wherever the word “application” or phrase “BID
221 application” appears in sections 6 and 7, the word or phrase shall be considered to refer to the
222 expansion petition, and wherever reference is made to the registration of the BID and the
223 nonprofit corporation in section 7, the reference shall be considered to refer to registration of the
224 expanded BID. The Mayor may designate the Department of Small and Local Business
225 Development, or a successor thereto, to perform the review functions described by this section;

226 “(5) The Mayor shall approve a petition if the Mayor determines that the petition
227 was properly filed and adoption of the petition is consistent with the purposes of this subchapter
228 and the definition of BID activity in section 3(6)(b). An expansion of a BID's taxable real
229 property pursuant to this section shall become effective on the effective date of an act of Council
230 which approves such BID's taxable real property expansion. Initial BID taxes for such area shall
231 be collected at the next practicable regularly scheduled billing pursuant to section 15;

232 “(b) For the purposes of this section, individual taxable properties shall mean properties
233 identified by separate lot and square numbers to the extent reasonably ascertainable from the
234 records of the Office of Taxation and Revenue or Office of Recorder of Deeds; Changes in the
235 assessed values occurring after submission of a BID application, whether through regular
236 reassessment, appeals, or otherwise, shall not affect the validity of the BID application to be
237 taken into account in the Mayor's review of the BID application.”.

238 (j) Section 11 (D.C. Official Code § 2-1215.10) is amended as follows:

239 (1) Subsection (a) is amended to read as follows:

240 “(a) Except as otherwise provided by this act, meetings of the members shall be held in
241 accordance with the provisions of the bylaws but shall occur at least once each year after the
242 formation of the BID. The bylaws shall specify an officer who shall send each member notice of
243 the time, place, and purposes of the meeting. Notice shall be given at least 21 days in advance of
244 any annual or regularly scheduled meeting and at least 7 days in advance of any other meeting, in
245 one of the following ways:

246 (1) First class mail to all members of record at the address of their respective
247 properties and to such other address as may have been designated to such officer;

248 (2) Hand delivered by the officer, or his or her agent, provided the officer certifies
249 in writing that notice was actually delivered to the member; or

250 (3) Electronically to the member’s email address of record as may have been
251 designated to such officer.”.

252 (2) Add a new subsection (c) to read as follows:

253 “(c) Meetings can be held by telephone, electronically, or by other means of
254 communication, provided that all participants can hear or read the proceeding, vote on matters
255 discussed and make comments.”.

256 (k) Section 13 (D.C. Official Code § 2-1215.12) is amended by adding a new subsection
257 (f) to read as follows:

258 “(f) BIDs are exempt from the records requirement under D.C. Official Code § 29-
259 413.01.”.

260 (l) Section 14(d) (D.C. Official Code § 2-1215.13(d)) is amended by striking the phrase
261 “mail or by personal delivery” and inserting the phrase “mail, personal delivery, or
262 electronically. Annual reports shall also be posted on BID websites.” in its place.

263 (m) Section 16 (D.C. Official Code § 2-1215.15) is amended as follows:

264 (1) Subsection (d) is amended by striking the last sentence and inserting “BID
265 taxes related to real properties affected by a geographic or taxable real property tax base
266 expansion of the BID shall be effective as of the date such an expansion becomes effective.” in
267 its place.

268 (2) A new subsection (g-1) is inserted to read as follows:

269 “(g-1)(i) Notwithstanding subsection (g) of this section, a BID tax resulting from a
270 possessory interest shall be collected in accordance with Chapter 44 of Title 47 and the holder of
271 the possessory interest shall be liable.

272 “(ii) The BID tax resulting from the possessory interest shall be in
273 proportion to the pro rata share of the real property, as determined by the Chief Financial Officer,

274 occupied by holder of the possessory interest where the BID tax is based on assessed value, net
275 rentable area, gross building area, square footage or number of hotel rooms. BID taxes based on
276 a per unit basis shall not be apportioned.”.

277 (n) Section 19 (D.C. Official Code § 2-1215.18) is amended as follows:

278 (1) Subsection (a) is amended to read as follows:

279 “(a) Each BID shall have an initial term which shall end on the last day of the 5th full
280 fiscal year of the District during which the BID has been registered pursuant to section 7(h). A
281 BID may be extended for successive 5-year terms if:

282 “(1) The BID notifies the Mayor at least 180 days prior to the end of the BID's
283 term that it desires to extend its status as a registered BID for a 5-year term;

284 “(2) The Board and membership approve a BID plan for the next 5 years of BID
285 operations, and submit that plan to the Mayor;

286 “(3) The Mayor holds a public hearing and subsequently issues a notice of BID
287 re-registration. The Mayor may designate the Department of Small and Local Business
288 Development to perform the functions described by this section. Notice to the public shall be
289 made no less than 21 days prior to the hearing. The Mayor shall advertise the notice of the public
290 hearing along with the notice of preliminary finding in the District of Columbia Register, and
291 ensure that such notices are advertised in at least 2 sources of local general interest print or
292 electronic media. The Mayor shall hold the public hearing no earlier than 120 days prior to the
293 end of the fiscal year, and no later than 30 days prior to the end of the fiscal year.”.

294 (2) New subsection (a-1) is added to read as follows:

295 “(a-1) If, at the end of the fiscal year, the BID has requested an extension and the Mayor
296 has not issued an order revoking registration or denying an extension, then the BID shall be
297 deemed to be re-registered for a subsequent 5-year term.”.

298 (2) Subsection (b)(2) is amended by striking the phrase “nonexempt real”
299 wherever it appears and inserting the word “taxable”.

300 (o) Section 20 (D.C. Official Code 2-1215.21) is amended by striking the phrase “located
301 in the BID, may” and inserting the phrase “located in the BID, or adjacent to or abutting BID
302 boundaries, may” in its place.

303 (p) Section 201 (D.C. Official Code 2-1215.51) is amended by striking the phrase
304 “nonexempt real” wherever it appears and inserting the word “taxable”.

305 (q) Section 202 (D.C. Official Code 2-1215.52) is amended by striking the phrase
306 “nonexempt real” wherever it appears and inserting the word “taxable”.

307 (r) Section 203 (D.C. Official Code 2-1215.53) is amended as follows:

308 (1) Strike the phrase “nonexempt real” wherever it appears and insert the word
309 “taxable”.

310 (2) Strike the phrase “nonexempt” wherever it appears and insert the word
311 “taxable”.

312 (3) Strike the phrase “Nonexempt” wherever it appears and insert the word
313 “Taxable”.

314 (s) Section 204 (D.C. Official Code 2-1215.54) is amended as follows:

315 (1) Subsection (a) is amended by striking the phrase “nonexempt real” and
316 inserting the word “taxable”.

317 (2) Subparagraph (c)(1) is amended by striking the phrase “nonexempt” where it
318 appears and inserting the word “taxable”.

319 (t) Section 205 (D.C. Official Code 2-1215.55) is amended as follows:

320 (1) Subsection (a) is amended by striking the phrase “nonexempt real” and
321 inserting the word “taxable”.

322 (2) Subsection (c) is amended as follows:

323 (A) Paragraph (1) is amended by striking the phrase “nonexempt real” and
324 inserting the word “taxable”.

325 (B) Sub-subparagraph (1)(D)(i) is amended by striking the phrase
326 “nonexempt” and inserting the word “taxable”.

327 (u) Section 206 (D.C. Official Code 2-1215.56) is amended as follows:

328 (1) Subsection (a) is amended by striking the phrase “nonexempt real” and
329 inserting the word “taxable”.

330 (2) Subsection (c) is amended as follows:

331 (A) Strike the phrase “nonexempt real” and insert the word “taxable”.

332 (B) Strike the phrase “nonexempt” and insert the word “taxable”.

333 (v) Section 207 (D.C. Official Code 2-1215.57) is amended as follows:\

334 (1) Subsection (a) is amended by striking the phrase “nonexempt real” and
335 inserting the word “taxable”.

336 (2) Subsection (c) is amended as follows:

337 (A) Paragraph (1) is amended by striking the phrase “nonexempt real” and
338 inserting the word “taxable”.

339 (B) Subparagraph (1)(D) is amended by striking the phrase “nonexempt”
340 and inserting the word “taxable”.

341 (w) Section 208 (D.C. Official Code 2-1215.58) is amended by striking the phrase
342 “nonexempt real” wherever it appears and inserting the word “taxable”.

343 (x) Section 209 (D.C. Official Code 2-1215.59) is amended by striking the phrase
344 “nonexempt real” wherever it appears and inserting the word “taxable”.

345 Sec. 3. Applicability.

346 Section 16(g-1) of this act shall apply as of March 31, 2015.

347 Sec. 4. Fiscal impact statement.

348 The Council adopts the fiscal impact statement in the committee report as the fiscal
349 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
350 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

351 Sec. 5. Effective date.

352 This act shall take effect following approval by the Mayor (or in the event of veto by the
353 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
354 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
355 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
356 Columbia Register.