

  
Councilmember Jack Evans

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A BILL

IN THE DISTRICT OF COLUMBIA

Councilmember Evans introduced the following bill, which was referred to the Committee on \_\_\_\_\_.

To amend the Business Improvement Districts Act of 1996 to update the laws concerning business improvement districts, to update the payment of business improvement district and vault taxes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the “DC Business Improvement District Amendment Act of 2013”.

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

(a) DC Official Code § 2-215.01 *et seq.*) is amended by:

(i) Striking the word “nonexempt” wherever it appears in this Subtitle and inserting the word “taxable” in its place; and

(ii) Striking the phrase “Deputy City Administrator for Business Services and Economic Development” wherever it appears in this Subtitle and inserting the phrase “Deputy Mayor for Planning and Economic Development” in its place.

(b) Section 3 (DC Official Code § 2-1215.02) is amended by:

1 (i) Paragraph (16) is amended to read as follows:

2 “(16) “Member” means a member of the BID Corporation, the  
3 membership of which shall be comprised of each owner of taxable real property and each  
4 commercial tenant in the BID area, each person who becomes a member pursuant to § 2-  
5 215.21.

6 (ii) Paragraph (18) is amended to read as follows:

7 “(18) “Taxable real property” means real property paying real property  
8 taxes, including:

9 “(A) Commercial, vacant and blighted properties as defined in §  
10 47-813, for all BID, excluding the properties exempt from paying real property taxes  
11 pursuant to Chapter 10 of Title 47;

12 “(B) Residential Properties as defined in §47-813, for Mount  
13 Vernon Triangle, NoMa and Capitol Riverfront BIDs, excluding the following:

14 “(i) A residential building where 90% or more of the leased  
15 units to households with at least one individual of 62 years of age or older and all  
16 individuals of 55 years of age or older;

17 “(ii) A residential building where 20% or more of the units  
18 are subject to a contract for project-based assistance under Section 8 of the United States  
19 Housing Act of 1937; and

20 “(iii) A residential building with fewer than ten residential  
21 units.”

22 “(iv) Properties exempt from paying real property taxes  
23 pursuant to Chapter 10 of Title 47; and

1                   “(C) A leasehold interest, possessory interest, beneficial interest, or  
2 beneficial use of a property as defined in § 47-1005.01(b) as of May 29, 1996.

3           (c) Section 4 (DC Official Code § 2-1215.03) is amended by:

4                   (i) Designating the current paragraph as (a);

5                   (ii) Inserting the phrase “of taxable real property” after the phrase “Each owner”  
6 in the second sentence;

7                   (iii) Inserting a new subsection (b):

8                   “(b) The definition of BID Member under § 2-1215.02(16) and the requirements  
9 of this section for BIDs supersedes the definition of Member under § 29-404.02;”;

10                  (iv) Inserting a new subsection (c):

11                  “(c) BIDs are also exempt from the records requirement under § 29-413.01(c).”.

12           (d) Section 5 (DC Official Code § 2-1215.04 ) is amended by:

13                   (i) Subsection (a)(1) is amended by inserting the phrase “, but levying may  
14 be made against the condominium owners’ pursuant to § 2-1215.15(e)(3)” at the end of  
15 the third sentence.

16                   (ii) Subsection (b) is repealed.

17           (e) Section 7 (DC Official Code § 2-1215.06) is amended by:

18                   (i) Subsection (c) is amended to read as follows:

19                   “(c) The Mayor shall advertise the notice of the public hearing along with  
20 the notice of preliminary finding in the District of Columbia Register, and ensure that  
21 such notices are advertised in at least two sources of local general interest print or  
22 electronic media.”

23                   (ii) Subsection (d) is amended by inserting the phrase “or electronically  
24 with receipt” after the phrase “by first class mail”.

1           (iii) Subsection (d)(2) is amended by inserting the phrase “or to an email  
2 address;” at the end of the section.

3           (iv) Subsection (e) is amended by inserting the phrase “or via the internet  
4 on a publicly accessible web site that can be viewed at DC public library computers,”  
5 after the phrase “proposed BID area designated by the applicant”.

6           (f) Section 9(b) (DC Official Code § 2-215.08 (b)) is amended by inserting the  
7 phrase “or voting by proxy” after the phrase “members present and voting”.

8           (g) Section 10 (DC Official Code § 2-1215.10 *et. seq.*) is amended by:

9           (i) Subsection (a) is amended to read as follows:

10           “(a) An established BID may expand its geographic area by:

11           “(1) Adjacent or abutting properties may petition to join an existing  
12 BID. A letter requesting to be added to a BID must be sent to the BID Board and to the  
13 Mayor, listing the address, square and lot number, owner, and owner's contact  
14 information. The BID board must vote to approve the addition and send a letter to the  
15 Mayor with the results of the vote. The Mayor shall have 30 days after receiving the  
16 letter from the BID Board to review the proposed addition and determine if the addition  
17 meets the qualifications for being part of a BID. Where the Mayor takes no action within  
18 the 30 day review period, the addition will be deemed approved. If the BID Board  
19 approves adding the additional property, and the Mayor does not issue an order rejecting  
20 the addition, the property will be added to the BID in the next billing cycle;

21           “(2) An adjacent or abutting area can join a BID by following the petition  
22 and application process described in this subsection in paragraphs A-F;”

1                   “(A) Owners of at least 51% interest in the assessed value of the  
2 taxable real properties and at least 25% in number of individual properties of record in a  
3 geographic area petition the existing BID to join the BID;

4                   “(B) The BID meets the definition set forth in § 2-1215.02(7) in  
5 relation to the existing BID borders;

6                   “(C) Such petition is accepted by a majority vote of the existing  
7 BID Board; and

8                   “(D) The petition is submitted to the Mayor with:

9                                 “(i) The name and address of the BID corporation and a  
10 copy of the resolution adopted by the Board of Directors of the BID corporation  
11 accepting the petition;

12                                “(ii) A description by lot, square, and street address of the  
13 property of each owner in the petition area, to the extent reasonably ascertainable;  
14 provided, that a property subdivided into separate condominium units shall constitute a  
15 single property for purposes of this subparagraph;

16                                “(iii) The most recent assessed value of each taxable real  
17 property located in the petition area to the extent reasonably ascertainable from District  
18 property tax records or a final determination of the Real Property Tax Appeals  
19 Commission for the District of Columbia; provided, that a property subdivided into  
20 separate condominium units shall constitute a single property for purposes of this  
21 subparagraph;

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



1 (A) Inserting the word “BID” after the phrase “individual taxable”  
2 in the first sentence; and

3 (B) Striking the phrase “assessing and levying any BID Charges”  
4 and inserting the phrase “assessing any BID Charges, but levying may be made against  
5 the condominium owners’ association.” in its place.

6 (h) Section 11 (DC Official Code § 2-1215.10) is amended by:

7 (i) Subsection (a) is amended by inserting the phrase “, or be delivered  
8 electronically with receipt.” at the end of the fourth sentence; and

9 (ii) Inserting a new section (c):

10 “(c) Meetings can be held via conference equipment, provided that all  
11 participants can hear or read the proceeding, vote on matters discussed and make  
12 comments at the end of the section.”.

13 (i) Section 14(d) (DC Official Code § 2-1215.13(d)) is amended by striking the  
14 phrase “mail or by personal delivery” and inserting the phrase “mail, personal delivery,  
15 or via email with receipt. Annual reports shall also be posted on BID websites.” in its  
16 place.

17 (j) Section 16 (DC Official Code § 2-1215.15) is amended by:

18 (i) Subsection (d) is amended by inserting the phrase “BID taxes related to  
19 properties affected by a taxable property type expansion of the BID, shall be effective as  
20 of the date such an expansion becomes effective pursuant to § 2-1215.09.” at the end of  
21 the paragraph.

22 (ii) Subsection (e) amended by inserting a new Subparagraph (3):

1                   “(3) Upon approval by a BID’s Board of Directors, any property  
2 subdivided into separate condominium units may constitute a single property for the  
3 purpose of BID tax billing and payment. Where a BID Board elects to bill a  
4 condominium association, one bill will be issued for each condominium;”

5                   “(A) The assessed value of the unit owners’ association shall be  
6 the sum of the assessed value for real estate tax purposes of any real estate owned by the  
7 owners’ association and such assessed value of all units, including their undivided  
8 interests in the common elements and any limited common elements; and

9                   “(B) Any claim entered to secure the payment of an assessment  
10 against a unit owners' association shall be enforceable as a judgment for money against  
11 the unit owners' association within the meaning of and under the provisions of § 42.1902  
12 (relating to other liens affecting the condominium), provided that if an assessment against  
13 a unit owners' association is paid in part and the unit owners’ association specifies in  
14 writing to the Superior Court, the units with respect to which full payment was made, the  
15 claim shall not be enforceable against units with respect to which full payment was made  
16 or against the unit owners' association. The Superior Court shall discharge a lien against a  
17 unit owners' association to the extent that it constitutes a lien on a particular unit upon  
18 proof of payment, either to the unit owners' association or to the Superior Court, by the  
19 owner of the particular unit of his itemized share of the assessment on the unit owners'  
20 association.”.

21                   (k) Section 19(a) (DC Official Code § 2-1215.18 (a)) is amended to read as  
22 follows:



1           “(a) Each BID shall have an initial term which shall end on the last day of the 5th  
2 full fiscal year of the District during which the BID has been registered pursuant to § 2-  
3 1215.06. A BID may be extended for successive five-year terms after completing the  
4 following:

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

7                   “(2) The Board and membership approve a business plan for the next five  
8 years of BID operations, and submit that plan to the Mayor;

9                   “(3) The Mayor holds a public hearing and subsequently issues a notice of  
10 BID re-registration. The Mayor may designate the Deputy Mayor for Planning and  
11 Economic Development to perform the functions described by this section. Notice to the  
12 public shall be made no less than 21 days prior to the hearing. The Mayor shall advertise  
13 the notice of the public hearing along with the notice of preliminary finding in the  
14 District of Columbia Register, and ensure that such notices are advertised at least two  
15 sources of local general interest print or electronic media. The Mayor shall hold such  
16 public hearing no earlier than 120 days prior to the end of such fiscal year, and no later  
17 than 30 days prior to the end of such fiscal year;

18                   “(4) If the BID rate or geographic area will be changed, the City Council  
19 must vote to accept this change as an amendment to the BID law, §2-1215 *et seq.*; and

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

23           (I) A new Section \_\_ is inserted:

1           “§ 2-1215. \_\_: Expanding Taxable Real Property within a BID

2           “(a) An established BID may only expand categories of taxable real property  
3 where:

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

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

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

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

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

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

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

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

6                               “(ii) The applicable BID taxes.

7                   “(E) A list of the current members of the Board of Directors of the  
8 BID; and

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

11                   “(4) Such petition is approved by the Mayor in accordance with the  
12 procedures set forth in § 2-1215.05 and § 2-1215.06; provided, that wherever the word  
13 “application” or phrase “BID application” appears in § 2-1215.05 or § 2-1215.06, the  
14 word or phrase shall be considered to refer to the expansion petition, and wherever  
15 reference is made to the registration of the BID and the nonprofit corporation in § 2-  
16 1215.06, the reference shall be considered to refer to registration of the expanded BID.  
17 The Mayor may designate the Deputy Mayor for Planning and Economic Development,  
18 or a successor thereto, to perform the review functions described by this section;

19                   “(5) The Mayor shall approve a petition if the Mayor determines that the  
20 petition was properly filed and adoption of the petition is consistent with the purposes of  
21 this subchapter and the definition of BID activity in § 2-1215.02(6)(b). An expansion of a  
22 BID's taxable real property pursuant to this section shall become effective on the  
23 effective date of an act of Council which approves such BID's taxable real property

1 expansion. Initial BID taxes for such area shall be collected at the next practicable  
2 regularly scheduled billing pursuant to § 2-1215.15;

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

14 Sec. 3. The District of Columbia Public Space Rental Act, approved October 17,  
15 1968 (82 Stat. 1156; DC Official Code § 10-1101.01, *et seq.*) is amended as follows:

16 (a) Section 303 (DC Official Code § 10-1103.02) is amended by adding the  
17 following at the end of the section: “Notwithstanding section 104 of the Condominium  
18 Act of 1976 (D.C. Official Code §42-1901.04) or any other provision to the contrary, a  
19 vault rent shall be assessed against the condominium unit owners’ association if such  
20 vault rent was an obligation of the condominium as a whole before there was a unit  
21 owner other than the declarant; in such an instance the condominium unit owners’  
22 association shall be billed the vault rent as a separate and distinct taxable entity and shall  
23 purposes of this subchapter be deemed to be the owner of the property abutting public

1 space in which any vault is located. The assessed value of the land derived for purposes  
2 of billing the vault rent shall not be appealed except as provided under §10-1103.04(a) by  
3 submitting a claim for refund. The vault lessee or assignee shall be entitled to perpetual  
4 use of the vault space without interruption for any purpose permitted by applicable  
5 District law so long as the vault rent is paid and the vault space is not required for use by  
6 the District for some public purpose.”.

7 (b) Section 308 (DC Official Code § 10-1103.07) is amended by adding a new  
8 subsection (c):

9 “(c) Where a condominium unit owners’ association is billed for vault rent and  
10 the rent is not timely paid, the rent shall constitute a delinquent tax to be collected against  
11 the condominium association in accordance with Chapter 44 of Title 47 of the DC Code,  
12 and any lien resulting therefrom shall also encumber the condominium as a whole and  
13 any common elements related thereto, notwithstanding section 104 of the Condominium  
14 Act of 1976 (DC Official Code § 42-1901.04) or any other provision to the contrary.”.

15 Sec. 4. Applicability.

16 (a) Section 2(j) of this act shall apply to the second half of the fiscal year 2014 tax  
17 year.

18 (b) Section 3 of this act shall apply to vault rent periods beginning after June 30,  
19 2013.

20 Sec. 5. Fiscal impact statement

21 The Council adopts the fiscal impact statement in the committee report as the  
22 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home

1 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-  
2 206.02(c)(3)).

3 Sec. 6. Effective date.

4 This act shall take effect following approval by the Mayor (or in the event of veto  
5 by the Mayor, action by the Council to override the veto), a 30-day period of  
6 Congressional review as provided in section 602(c)(1) of the District of Columbia Home  
7 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-  
8 206.02(c)(1)), and publication in the District of Columbia Register.

