

# ENROLLMENT(S)



COUNCIL OF THE DISTRICT OF COLUMBIA

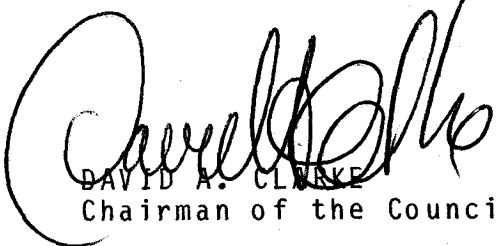
NOTICE

D.C. LAW 8-55

"The Howard University Revenue Bond Act  
of 1989".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 8-299 on first and second readings, July 11, 1989, and September 26, 1989, respectively. Following the signature of the Mayor on October 16, 1989, this legislation was assigned Act No. 8-94, published in the October 27, 1989, edition of the D.C. Register, (Vol. 36 page 7408) and transmitted to Congress on October 26, 1989 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that this legislation became effective on the date that the President of the United States signed P. L. 101-158\* on November 17, 1989, and therefore, cites this enactment as D.C. Law 8-55, effective November 17, 1989.

  
DAVID A. CLARKE  
Chairman of the Council

\* Public Law 101-158 waived the 30-day Congressional Review Period for this Law.

NOV 17 1989

Codification  
District of Columbia Code  
(1990 Supplement)

AN ACT

D.C. ACT 8 - 94

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCT 16 1989

To authorize and provide for the issuance, sale, and delivery of District of Columbia revenue bonds and to authorize and provide for a loan to assist in the financing, refinancing, or reimbursing of The Howard University project.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as "The Howard University Revenue Bond Act of 1989".

Note,  
47-334

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Applicant" means The Howard University, a non-profit organization organized and existing under the laws of the United States of America.

(2) "Authorized delegate" means the City Administrator, the Deputy Mayor for Economic Development, the Deputy Mayor for Financial Management, or any officer or employee of the executive office of the Mayor to whom the Mayor has delegated any of the Mayor's functions under this act pursuant to section 422(6) of the Home Rule Act.

(3) "Bond counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

(4) "Bonds" means District revenue bonds authorized to be issued pursuant to this act.

(5) "Closing documents" means all documents and agreements other than financing documents that may be necessary or appropriate to issue, sell, and deliver the bonds and to make the loan, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

(6) "Code" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. 1 et seq.).

(7) "Council" means the Council of the District of Columbia.

(8) "Development" means the acquisition, purchase, construction, reconstruction, improvement, renovation, rehabilitation, restoration, remodeling, repair, equipping, expansion, extension, or start-up of the project.

(9) "District" means the District of Columbia.

(10) "Financing documents" means the documents and agreements other than closing documents that relate to the financing, refinancing, or reimbursing transactions to be effected through the issuance, sale, and delivery of the bonds and the loan, including any offering documents and any required supplements to those documents.

(11) "Home Rule Act" means the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 774; D.C. Code, sec. 1-201 et seq.).

(12) "Issuance costs" means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the bonds and the loan, including, but not limited to, program fees and administrative fees charged by the District, underwriting, legal, accounting, rating agency, and other financing fees, costs and expenses, fees paid to financial institutions and insurance companies, initial letter of credit fees, compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the financing documents, the closing documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the bonds and the loan.

(13) "Loan" means the District's loan of the proceeds from the sale of the bonds.

(14) "Mayor" means the Mayor of the District of Columbia.

(15) "Project" means the project to finance, refinance or reimburse the costs of development of the land, building, machinery and equipment constituting: the Howard University Plaza Undergraduate Dormitory, a facility consisting of approximately 310,000 square feet including up to two towers, each containing approximately nine bedroom floors to accommodate approximately 1,000 students and a cafeteria to be located on or near Georgia Avenue, N.W., Washington, D.C. lots 811, 1023, 934, 979, 972, and 977, square 2877; the Bethune Addition, a facility consisting of approximately 219,000 square feet including up to seven

bedroom floors to accommodate approximately 610 students to be located at the corner of Fourth and Bryant Streets, N.W., Washington, D.C., lots 27, 28, 29 and 801, square 3068; the School of Law Center, a facility consisting of approximately 160,000 square feet including a new library, classrooms, lecture facility and approximately 10,000 square feet for residence facilities to be located on the West Campus at 2900 Van Ness Street, N.W., Washington, D.C., lots 5 and 810, square 2049; related facilities, including parking spaces related to the Howard University Plaza Undergraduate Dormitory, the Bethune Addition, and the School of Law Center; and other college and university facilities designated by the applicant and approved by the District from time to time prior to the issuance of the bonds and which qualify for District revenue bond financing.

(16) "Secretary" means the Secretary of the District of Columbia.

### Sec. 3. Findings.

The Council finds that:

(1) Section 490 of the Home Rule Act provides that the Council may by act authorize the issuance of District revenue bonds and may effect the financing, refinancing, or reimbursing by loans made directly or indirectly to any individual or legal entity, by the purchase of any mortgage, note, or other security, or by the purchase, lease, or sale of any property.

(2) The applicant has requested the District to issue, sell, and deliver revenue bonds in an aggregate principal amount not to exceed \$82,850,000, and to make the loan for the purpose of financing, refinancing, or reimbursing costs of the development of the project, as more fully described in the loan agreement.

(3) The development of the project will promote the general welfare of the residents of the District and contribute to community betterment.

(4) The project is an undertaking in the area of college and university facilities within the meaning of section 490 of the Home Rule Act.

(5) The authorization, issuance, sale, and delivery of the bonds and the loan to the applicant are desirable, are in the public interest, will promote the purpose and intent of section 490 of the Home Rule Act, and will assist in the development of the project.

### Sec. 4. Bond authorization.

(a) The District is authorized to assist in financing, refinancing or reimbursing costs of the project by (1) the issuance, sale, and delivery of bonds in an aggregate principal amount not to exceed \$82,850,000, and (2) the

making of the loan, pursuant to the Home Rule Act and this act.

(b) The District is authorized to make the loan to the applicant for the purposes of financing, refinancing, or reimbursing costs of the project, pay issuance costs with respect to the bonds, and establish any fund with respect to the bonds as required by the financing documents.

Sec. 5. Bond details.

(a) The Mayor is authorized to take any action necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in book entry form;

(2) The principal amount of the bonds to be issued and the denominations of the bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;

(4) The date or dates of issuance, sale, and delivery of and payment of interest on the bonds and the maturity date or dates of the bonds;

(5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their stated maturities.

(6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

(8) The time or times and place or places of payment of the bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that they are properly applied to the project and used to accomplish the purposes of the Home Rule Act and this act;

(10) Actions necessary to qualify the bonds under blue-sky laws of any jurisdiction where the bonds are marketed; and

(11) The terms and type of credit enhancement under which the bonds may be secured.

(b) The bonds shall contain a legend, which shall provide that the bonds shall be special obligations of the District, and are not a pledge of and do not involve the faith and credit or the taxing power of the District, do not constitute a debt of the District, and do not constitute a

lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor. The Mayor's execution and delivery of the bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the bonds.

(d) The official seal of the District or a facsimile of it shall be impressed, printed, or otherwise reproduced on the bonds.

(e) The bonds shall be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee to be selected by the applicant subject to the approval of the Mayor.

(f) The bonds may be issued at any time or from time to time in 1 or more issues and in 1 or more series.

#### Sec. 6. Sale of the bonds.

(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interest of the District.

(b) The Mayor or an authorized delegate may execute, in relation to each sale of the bonds, offering documents on behalf of the District and may authorize the distribution of the documents in relation to the bonds being sold.

(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

(d) The bonds shall not be issued until the Mayor receives an approving opinion from bond counsel as to the validity of the bonds and the treatment of the interest on the bonds for purposes of federal and District income taxation.

#### Sec. 7. Payment and security.

(a) The principal of, premium, if any, and interest on the bonds shall be payable solely from the proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, receipts and revenues realized by the District from the loan, income realized from the temporary investment of those receipts and revenues prior to payment to the bond owners, other moneys that, as provided in the financing documents, may be made available to the District for the payment of the bonds, and other sources, other than the District, of payment provided for in the financing documents.

(b) Payment of the bonds shall be secured as provided in the financing documents and by an assignment by the District for the benefit of the bond owners of certain of its rights under the financing documents and closing documents, including a security interest in certain collateral, to the trustee for the bonds pursuant to the financing documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds as provided in the financing documents.

Sec. 8. Financing and closing documents.

(a) The Council approves the financing documents to which the District is a party in substantially the form in which these documents are filed with the Secretary to the Council by the Council's Committee on Finance and Revenue and authorizes the Mayor to make modifications to these documents that are within the limitations of the Home Rule Act, that are not inconsistent with this act, and that the Mayor considers appropriate to carry out the purposes of this act.

(b) The Mayor is authorized to prescribe the final form and content of all financing documents and all closing documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds and to make the loan to the applicant. Each of the financing documents and each of the closing documents to which the District is not a party shall be approved, as to form and content, by the Mayor.

(c) The Mayor is authorized to execute in the name of the District and on its behalf any financing documents and any closing documents to which the District is a party by the Mayor's manual or facsimile signature.

(d) The official seal of the District or a facsimile of it shall be impressed, printed, or otherwise reproduced on the financing documents and the closing documents to which the District is a party.

(e) The Mayor's execution and delivery of the financing documents and the closing documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed financing documents and the executed closing documents.

(f) The Mayor is authorized to deliver the executed and sealed financing documents and closing documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered financing documents and closing documents.



Sec. 9. Authorized delegation of authority.

To the extent permitted by District and federal laws, the Mayor may delegate to any authorized delegate the performance of any act authorized to be performed by the Mayor under this act.

Sec. 10. Limited liability.

(a) The bonds shall be special obligations of the District. The bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute a lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(b) The bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the bonds.

(c) Nothing contained in the bonds, in the financing documents, or in the closing documents shall create any obligation on the part of the District to make payments with respect to the bonds from sources other than those listed for that purpose in section 7(a).

(d) The District shall have no liability for the payment of any issuance costs or for any transaction or event to be effected by the financing documents.

(e) All covenants, obligations, and agreements of the District contained in this act, the bonds, and the executed, sealed, and delivered financing and closing documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District.

(f) No person, including the applicant and any bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this act, the bonds, the financing documents, or the closing documents, nor as a result of the incorrectness of any representation in or omission from the financing documents or the closing documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

Sec. 11. District officials.

(a) The elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any

personal liability by reason of the issuance of the bonds, representations, warranties, covenants, obligations, or agreements of the District contained in this act, the bonds, the financing documents, or the closing documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the financing documents, or the closing documents shall be valid and sufficient for all purposes, notwithstanding the fact that the official ceases to be that official before delivery of the bonds, the financing documents, or the closing documents.

Sec. 12. Maintenance of documents.

Copies of the specimen bonds and of the final financing documents and closing documents shall be filed in the Office of the Secretary.

Sec. 13. Information reporting.

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of any series of bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

Sec. 14. Compliance with public approval requirement.

The enactment of this act meets the requirements of section 147(f) of the Code for approval of the proposed issuance by the Council after a public hearing following reasonable public notice.

Sec. 15. Disclaimer.

(a) The issuance of bonds is in the discretion of the District. Nothing contained in this act, the bonds, or the financing or closing documents shall be construed as obligating the District to issue any bonds for the benefit of the applicant or to participate in or assist the applicant in any way with financing, refinancing, or reimbursing costs of the project. The applicant shall have no claims for damages or for any other legal or equitable relief against the District, its elected or appointed officials, officers, employees, or agents as a consequence of any failure to issue any bonds for the benefit of the applicant.


(b) The District reserves the right to issue its bonds in the order of priority it determines in its sole and absolute discretion. The District gives no assurance and makes no representation that any portion of any limited amount of bonds, the interest on which is excludable from gross income for federal income tax purposes, will be reserved or will be available at the time of the proposed issuance of the bonds authorized by this act.

(c) The District, by enacting this act or by taking any other action in connection with financing, refinancing, or reimbursing costs of the project, does not provide any assurance that the project is viable or sound, that the applicant is financially sound, or that amounts owing on the bonds or under the loan will be paid. Neither the applicant, any purchaser of the bonds, nor any other person shall rely upon the District with respect to these matters.

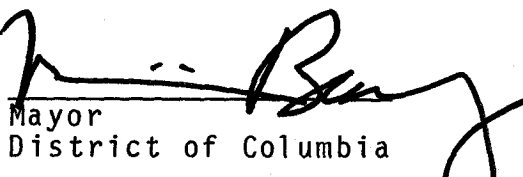
Sec. 16. Expiration.

If the bonds are not issued, sold, and delivered to the original purchaser within 3 years from the effective date of this act, the authorization provided in this act with respect to the issuance, sale, and delivery of the bonds shall expire.

Sec. 17. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED: October 16, 1989



COUNCIL OF THE DISTRICT OF COLUMBIA  
Council Period Eight

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 8-299

☐ Item on Consent Calendar

☒ ACTION & DATE: Adopted First Reading, 7-11-89

☒ VOICE VOTE: Approved, Member Ray voted present

Recorded vote on request

Absent: Crawford and Thomas

☐ ROLL CALL VOTE: — RESULT \_\_\_\_\_ ( \_\_\_\_ / \_\_\_\_ / \_\_\_\_ )

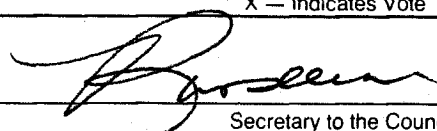
COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote

A.B. — Absent

N.V. — Present, not voting

CERTIFICATION RECORD

  
Secretary to the Council

9-28-89

Date

☒ Item on Consent Calendar

☒ ACTION & DATE: Adopted Final Reading, 9-26-89

☒ VOICE VOTE: Approved

Recorded vote on request

Absent: all present

☐ ROLL CALL VOTE: — RESULT \_\_\_\_\_ ( \_\_\_\_ / \_\_\_\_ / \_\_\_\_ )

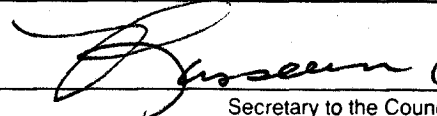
COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote

A.B. — Absent

N.V. — Present, not voting

CERTIFICATION RECORD

  
Secretary to the Council

9-28-89

Date

☐ Item on Consent Calendar

☐ ACTION & DATE: \_\_\_\_\_

☐ VOICE VOTE: \_\_\_\_\_

Recorded vote on request

Absent: \_\_\_\_\_

☐ ROLL CALL VOTE: — RESULT \_\_\_\_\_ ( \_\_\_\_ / \_\_\_\_ / \_\_\_\_ )

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote

A.B. — Absent

N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date