

HOUSE BILL 790

C8, L6, Q8

9lr1630

By: **Delegates Ivey, Braveboy, Davis, Glenn, Pena-Melnyk, and Walker**

Introduced and read first time: February 11, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **County and Municipal Corporation Authority - Business Improvement**
3 **Districts**

4 FOR the purpose of authorizing the governing body of a county or municipal
5 corporation to establish certain business improvement districts; requiring a
6 county or municipal corporation to establish a certain business improvement
7 district steering committee if a certain number of property owners petition the
8 governing body; requiring the governing body of a county or municipal
9 corporation to provide for the creation of a district plan with certain elements;
10 requiring the district plan to include certain elements; requiring the steering
11 committee to hold a certain public hearing to consider certain elements of the
12 district plan; requiring the governing body of a county or municipal corporation
13 to establish a business improvement district if a certain number of property
14 owners in the proposed district approve of the plan; providing that the
15 governing body of a county or municipal corporation may not reduce certain
16 services within the business improvement district; requiring a law establishing
17 a business improvement district to contain certain elements and create a
18 business improvement district association with certain powers; requiring that a
19 business improvement district be reviewed and reauthorized at least every 4
20 years; authorizing a business improvement district management association to
21 issue bonds for certain purposes of the business improvement district; providing
22 that the bonds may not be considered a debt or obligation of a county, the State,
23 or a political subdivision of the State unless approved by referendum; providing
24 for the repayment of the bonds from certain revenues; authorizing a business
25 improvement district management association to approve all terms regarding
26 the issuance of the bonds; providing that the transfer of, interest on, and income
27 derived from the bonds is exempt from State and local taxes; and generally
28 relating to certain authority for a county or municipal corporation to create and
29 establish business improvement districts.

30 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Economic Development
2 Section 12–401 through 12–405 to be under the new subtitle “Subtitle 4.
3 Business Improvement Districts”
4 Annotated Code of Maryland
5 (2008 Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Economic Development**

9 **SUBTITLE 4. BUSINESS IMPROVEMENT DISTRICTS.**

10 **12–401.**

11 (A) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION
12 MAY ESTABLISH, BY RESOLUTION, A BUSINESS IMPROVEMENT DISTRICT
13 STEERING COMMITTEE.

14 (B) (1) IF A DATABASE OF PROPERTY OWNERS IN A PROPOSED
15 BUSINESS DISTRICT AND A MAP OF THE PROPOSED BUSINESS DISTRICT IS
16 CREATED, A BUSINESS IMPROVEMENT DISTRICT STEERING COMMITTEE MAY BE
17 CREATED BY PETITION.

18 (2) IF A PETITION SIGNED BY AT LEAST 65% OF THE OWNERS OF
19 REAL PROPERTY IN THE PROPOSED BUSINESS IMPROVEMENT DISTRICT IS
20 FILED WITH THE GOVERNING BODY OF THE COUNTY OR MUNICIPAL
21 CORPORATION, THE GOVERNING BODY SHALL ESTABLISH A BUSINESS
22 IMPROVEMENT DISTRICT STEERING COMMITTEE.

23 (C) IF A BUSINESS IMPROVEMENT DISTRICT STEERING COMMITTEE IS
24 ESTABLISHED UNDER THIS SECTION, THE GOVERNING BODY OF A COUNTY OR
25 MUNICIPAL CORPORATION SHALL PROVIDE, BY RESOLUTION, FOR THE
26 PREPARATION OF A DISTRICT PLAN.

27 **12–402.**

28 IN ADDITION TO ANY OTHER ELEMENTS REQUIRED BY THE GOVERNING
29 BODY OF THE COUNTY OR MUNICIPAL CORPORATION, THE BUSINESS
30 IMPROVEMENT DISTRICT STEERING COMMITTEE SHALL PREPARE A DISTRICT
31 PLAN THAT INCLUDES AT A MINIMUM:

32 (1) A DESCRIPTION OF THE BUSINESS IMPROVEMENT DISTRICT,
33 INCLUDING:

- 1 (I) A STATEMENT OF NEED;
- 2 (II) A MAP OF THE PROPOSED DISTRICT;
- 3 (III) THE BOUNDARIES OF THE PROPOSED DISTRICT; AND
- 4 (IV) A DATABASE OF ALL THE PROPERTY OWNERS IN THE
- 5 PROPOSED BUSINESS IMPROVEMENT DISTRICT;
- 6 (2) A DESCRIPTION OF THE SERVICES OR IMPROVEMENTS THE
- 7 PROPOSED BUSINESS IMPROVEMENT DISTRICT WILL PROVIDE, INCLUDING:
- 8 (I) SANITATION AND MAINTENANCE SERVICES;
- 9 (II) SECURITY AND HOSPITALITY SERVICES;
- 10 (III) MARKETING AND PROMOTION SERVICES; OR
- 11 (IV) CAPITAL IMPROVEMENTS;
- 12 (3) THE FIRST YEAR BUDGET FOR THE PROPOSED BUSINESS
- 13 IMPROVEMENT DISTRICT;
- 14 (4) (I) THE ASSESSMENT FORMULA USED TO COMPUTE THE
- 15 AMOUNT OF ANY BUSINESS IMPROVEMENT DISTRICT TAX OR CHARGE; AND
- 16 (II) WHETHER UNDER THE ASSESSMENT FORMULA ANY
- 17 CATEGORY OF REAL PROPERTY EXEMPT FROM TAX IS TO BE SUBJECT TO OR
- 18 EXEMPT FROM THE BUSINESS IMPROVEMENT DISTRICT TAX OR CHARGE;
- 19 (5) THE PROPOSED TIME FOR IMPLEMENTATION AND
- 20 COMPLETION OF THE DISTRICT PLAN;
- 21 (6) THE PROPOSED RULES AND REGULATIONS APPLICABLE TO
- 22 THE PROPOSED BUSINESS IMPROVEMENT DISTRICT;
- 23 (7) A LIST OF THE PROPERTIES IN THE DISTRICT TO BE
- 24 BENEFITED; AND
- 25 (8) A DESCRIPTION OF THE STRUCTURE OF THE DISTRICT
- 26 MANAGEMENT ASSOCIATION FOR THE DISTRICT INCLUDING:
- 27 (I) THE MEMBERSHIP OF THE DISTRICT MANAGEMENT
- 28 ASSOCIATION; AND

1 **(II) THE ELECTION OF FUTURE MEMBERS TO THE DISTRICT**
2 **MANAGEMENT ASSOCIATION.**

3 **12-403.**

4 **(A) (1) AFTER PREPARING THE DISTRICT PLAN, THE BUSINESS**
5 **IMPROVEMENT DISTRICT STEERING COMMITTEE SHALL HOLD AT LEAST ONE**
6 **PUBLIC MEETING ON THE DISTRICT PLAN.**

7 **(2) THE PUBLIC MEETING SHALL CONSIDER THE VIEWS OF**
8 **PROPERTY OWNERS AND TENANTS, RETAIL MERCHANTS, AND OTHER MEMBERS**
9 **OF THE COMMUNITY WITHIN THE DISTRICT.**

10 **(3) THE PUBLIC MEETING SHALL REFLECT A DIVERSE MIX OF**
11 **BUSINESS AND RESIDENTIAL COMMUNITY MEMBERS.**

12 **(B) (1) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL**
13 **CORPORATION SHALL ESTABLISH, BY LAW, A BUSINESS IMPROVEMENT**
14 **DISTRICT IF:**

15 **(I) THE OWNERS OF AT LEAST 65% OF THE ASSESSED**
16 **VALUATION OF THE REAL PROPERTY LOCATED WITHIN THE BUSINESS**
17 **IMPROVEMENT DISTRICT APPROVE THE DISTRICT PLAN; AND**

18 **(II) AT LEAST 65% OF THE OWNERS OF THE REAL PROPERTY**
19 **LOCATED WITHIN THE BUSINESS IMPROVEMENT DISTRICT APPROVE THE**
20 **DISTRICT PLAN.**

21 **(2) UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

22 **(I) MULTIPLE OWNERS OF A SINGLE PARCEL ARE TREATED**
23 **AS A SINGLE OWNER; AND**

24 **(II) A SINGLE OWNER OF MULTIPLE PARCELS IS TREATED AS**
25 **ONE OWNER.**

26 **(C) (1) THE BUSINESS IMPROVEMENT DISTRICT STEERING**
27 **COMMITTEE MAY ESTABLISH A BUSINESS IMPROVEMENT DISTRICT BY**
28 **REFERENDUM OR SPECIAL ELECTION.**

29 **(2) THE BUSINESS IMPROVEMENT DISTRICT STEERING**
30 **COMMITTEE SHALL DO THOSE THINGS NECESSARY AND PROPER TO PROVIDE**
31 **FOR AND HOLD THE REFERENDUM REQUIRED BY THIS SUBSECTION.**

1 **(3) THE BUSINESS IMPROVEMENT DISTRICT STEERING**
2 **COMMITTEE MAY ESTABLISH THE BUSINESS IMPROVEMENT DISTRICT IF:**

3 **(I) THE OWNERS OF AT LEAST 65% OF THE ASSESSED**
4 **VALUATION OF THE REAL PROPERTY LOCATED WITHIN THE BUSINESS**
5 **IMPROVEMENT DISTRICT APPROVE THE DISTRICT PLAN; AND**

6 **(II) AT LEAST 65% OF THE OWNERS OF THE REAL PROPERTY**
7 **LOCATED WITHIN THE BUSINESS IMPROVEMENT DISTRICT APPROVE THE**
8 **DISTRICT PLAN.**

9 **(4) UNDER PARAGRAPH (3) OF THIS SUBSECTION:**

10 **(I) MULTIPLE OWNERS OF A SINGLE PARCEL ARE TREATED**
11 **AS A SINGLE OWNER; AND**

12 **(II) A SINGLE OWNER OF MULTIPLE PARCELS IS TREATED AS**
13 **ONE OWNER.**

14 **(D) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION**
15 **ESTABLISHING A BUSINESS IMPROVEMENT DISTRICT UNDER SUBSECTION (B)**
16 **OF THIS SECTION MAY NOT REDUCE THE SERVICES PROVIDED BY THE COUNTY**
17 **OR MUNICIPAL CORPORATION WITHIN THE BUSINESS IMPROVEMENT DISTRICT.**

18 **12-404.**

19 **(A) A LOCAL LAW ESTABLISHING A BUSINESS IMPROVEMENT DISTRICT**
20 **SHALL INCORPORATE THE BUSINESS IMPROVEMENT DISTRICT PLAN AND**
21 **PROVIDE:**

22 **(1) FOR THE BUSINESS IMPROVEMENT DISTRICT TAX OR CHARGE**
23 **ON ALL REAL AND PERSONAL PROPERTY WITHIN THE BUSINESS IMPROVEMENT**
24 **DISTRICT;**

25 **(2) FOR THE EXPANSION AND TERMINATION OF THE BUSINESS**
26 **IMPROVEMENT DISTRICT; AND**

27 **(3) FOR BORROWING MONEY AND INCURRING DEBT.**

28 **(B) IN ADDITION TO THE REQUIREMENTS UNDER SUBSECTION (A) OF**
29 **THIS SECTION, A LAW ESTABLISHING A BUSINESS IMPROVEMENT DISTRICT**
30 **SHALL ESTABLISH AN AUTONOMOUS BUSINESS IMPROVEMENT DISTRICT**
31 **MANAGEMENT ASSOCIATION WITH THE EXCLUSIVE POWER TO:**

- 1 **(1) ACQUIRE, HOLD, AND USE PROPERTY;**
2 **(2) MAKE CONTRACTS;**
3 **(3) SUE AND BE SUED;**
4 **(4) BORROW MONEY AND ACCEPT GRANTS;**
5 **(5) EMPLOY AND DISCHARGE PERSONNEL; AND**
6 **(6) DO ALL THINGS NECESSARY AND CONVENIENT TO CARRY OUT**
7 **ITS POWERS.**

8 **(C) A BUSINESS IMPROVEMENT DISTRICT ESTABLISHED UNDER THIS**
9 **SECTION SHALL BE REVIEWED AT LEAST EVERY 4 YEARS FOR EFFECTIVENESS**
10 **AND DESIRABILITY AND MUST BE REAUTHORIZED BY THE GOVERNING BODY OF**
11 **THE COUNTY OR MUNICIPAL CORPORATION.**

12 **12-405.**

13 **(A) IN ORDER TO FINANCE OR REFINANCE, IN WHOLE OR IN PART, THE**
14 **COST OF THE ACQUISITION, DEVELOPMENT, OR REDEVELOPMENT, INCLUDING**
15 **THE COMPREHENSIVE RENOVATION OR REHABILITATION, OF LAND OR**
16 **PROPERTY FOR RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL PURPOSES AND**
17 **RELATED ACTIVITIES IN ACCORDANCE WITH THIS SUBTITLE, THE BUSINESS**
18 **IMPROVEMENT DISTRICT MANAGEMENT ASSOCIATION MAY ISSUE BONDS.**

19 **(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,**
20 **THE BONDS SHALL BE APPROVED BY THE GOVERNING BODY OF A COUNTY OR**
21 **MUNICIPAL CORPORATION AND MAY NOT:**

22 **(I) CONSTITUTE A DEBT OF THE COUNTY OR MUNICIPAL**
23 **CORPORATION OR A PLEDGE OF THE FAITH AND CREDIT OF THE COUNTY OR**
24 **MUNICIPAL CORPORATION, OF THE STATE, OR OF ANY POLITICAL SUBDIVISION**
25 **OF THE STATE; OR**

26 **(II) BE CONSIDERED OBLIGATIONS OF THE COUNTY OR**
27 **MUNICIPAL CORPORATION FOR PURPOSES OF ANY DEBT LIMITATION IMPOSED**
28 **ON THE COUNTY OR MUNICIPAL CORPORATION UNDER ANY CONSTITUTIONAL,**
29 **STATUTORY, OR CHARTER PROVISION.**

1 (2) THE BONDS, THE BORROWING THAT THEY REPRESENT, AND
2 THE UNDERTAKING THAT IS BEING FINANCED OR REFINANCED ARE NOT
3 SUBJECT TO ANY REFERENDUM REQUIREMENTS.

4 (C) (1) BONDS MAY BE MADE PAYABLE AS TO PRINCIPAL, INTEREST,
5 AND REDEMPTION PREMIUM AS DETERMINED IN ACCORDANCE WITH LOCAL
6 LAW, INCLUDING FROM INCOME, RECEIPTS, PROCEEDS, REVENUES, AND FUNDS
7 OF THE BUSINESS IMPROVEMENT DISTRICT MANAGEMENT ASSOCIATION
8 DERIVED FROM OR AVAILABLE, OR TO BE AVAILABLE, IN CONNECTION WITH
9 ANY UNDERTAKING FOR THE ACCOMPLISHMENT OF THE PURPOSES AND
10 OBJECTIVES MENTIONED IN OR CONTEMPLATED BY THIS SUBTITLE, INCLUDING:

11 (I) THE PROCEEDS OF LOANS, GRANTS, OR CONTRIBUTIONS
12 FROM THE UNITED STATES OF AMERICA OR THE STATE, OR ANY DEPARTMENT
13 OR AGENCY THEREOF, FROM ANY FUNDS OF THE COUNTY OR MUNICIPAL
14 CORPORATION THAT MAY BE LAWFULLY AVAILABLE THEREFOR, OR FROM ANY
15 OTHER SOURCE, AND COMPENSATION PAID FROM APPROPRIATED FUNDS BY
16 THE COUNTY OR MUNICIPAL CORPORATION FOR LAND OR PROPERTY RETAINED
17 BY IT; OR

18 (II) ANY CONTRACT OR AGREEMENT OR RIGHTS
19 THEREUNDER BETWEEN THE UNITED STATES OF AMERICA OR THE STATE, OR
20 ANY DEPARTMENT OR AGENCY THEREOF, OR ANY OTHER PUBLIC OR PRIVATE
21 ENTITY OR INDIVIDUAL, AND THE BUSINESS IMPROVEMENT DISTRICT
22 MANAGEMENT ASSOCIATION WITH RESPECT TO ANY UNDERTAKINGS FOR THE
23 ACCOMPLISHMENT OF THE PURPOSES AND OBJECTIVES MENTIONED IN OR
24 CONTEMPLATED BY THE PROVISIONS OF THIS SUBTITLE.

25 (2) PAYMENT OF THE BONDS, AS TO PRINCIPAL, INTEREST, AND
26 REDEMPTION PREMIUM, MAY BE FURTHER SECURED BY A MORTGAGE OF ALL
27 OR ANY PART OF LAND, PROPERTY, OR DEVELOPMENT OR REDEVELOPMENT
28 PROJECTS, TITLE TO WHICH IS IN THE BUSINESS IMPROVEMENT DISTRICT
29 MANAGEMENT ASSOCIATION OR ANY OTHER PUBLIC OR PRIVATE ENTITY OR
30 INDIVIDUAL, AS DETERMINED IN ACCORDANCE WITH LOCAL LAW.

31 (D) BY RESOLUTION, THE BUSINESS IMPROVEMENT DISTRICT
32 MANAGEMENT ASSOCIATION MAY DETERMINE ALL MATTERS WITH RESPECT TO
33 THE ISSUANCE, SALE, DELIVERY, AND PAYMENT OF AND FOR THE BONDS,
34 INCLUDING, WITHOUT LIMITATION, THE ISSUE DATE OR DATES, MATURITY OR
35 MATURITIES, INTEREST RATE OR RATES OR MANNER OF DETERMINING THE
36 SAME, TERMS, FORM OR FORMS, DENOMINATION OR DENOMINATIONS, MANNER
37 OF EXECUTION, PLACE OR PLACES OF PAYMENT, SOURCE OR SOURCES OF
38 PAYMENT, REDEMPTION, REFUNDING, SALE PRICE, MANNER OF SALE,
39 SECURITY, AND THE FORMS OF ANY NECESSARY OR APPROPRIATE DOCUMENTS,

1 INCLUDING, WITHOUT LIMITATION, TRUST INDENTURES, ESCROW AGREEMENTS,
2 AND MORTGAGES.

3 (E) (1) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (B) OF
4 THIS SECTION, AND TO THE EXTENT NOT INCONSISTENT WITH ANY
5 CONSTITUTIONAL OR CHARTER PROVISION OR PUBLIC GENERAL LAW, ANY
6 ISSUE OF BONDS MAY BE GUARANTEED, IN WHOLE OR IN PART, AS TO PAYMENT
7 OF PRINCIPAL, INTEREST, OR REDEMPTION PREMIUM, BY AND ON THE FULL
8 FAITH AND CREDIT OF THE COUNTY OR MUNICIPAL CORPORATION.

9 (2) THE GUARANTEE OF THE COUNTY BY AND ON THE FULL FAITH
10 AND CREDIT OF THE COUNTY OR MUNICIPAL CORPORATION CONCERNING THE
11 PAYMENT OF THE PRINCIPAL OF, OR INTEREST OR REDEMPTION PREMIUM ON,
12 ANY BONDS IS SUBJECT TO ANY APPLICABLE REFERENDUM REQUIREMENTS.

13 (F) THE BONDS, THE TRANSFER OF BONDS, THE INTEREST PAYABLE ON
14 THE BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING ANY
15 PROFIT REALIZED IN THE SALE OR EXCHANGE OF THE BONDS, SHALL BE
16 EXEMPT AT ALL TIMES FROM TAXATION BY THE STATE OR BY ANY OF ITS
17 COUNTIES, MUNICIPAL CORPORATIONS, OR PUBLIC AGENCIES OF ANY KIND.

18 (G) THE BONDS ARE EXEMPT FROM THE PROVISIONS OF ARTICLE 31, §§
19 9 THROUGH 11 OF THE CODE.

20 (H) (1) A PLEDGE BY THE BUSINESS IMPROVEMENT DISTRICT
21 MANAGEMENT ASSOCIATION OF REVENUES AS SECURITY FOR AN ISSUE OF
22 BONDS SHALL BE VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE.

23 (2) REVENUES PLEDGED BY THE BUSINESS IMPROVEMENT
24 DISTRICT MANAGEMENT ASSOCIATION ARE SUBJECT IMMEDIATELY TO THE
25 LIEN OF THE PLEDGE WITHOUT ANY PHYSICAL DELIVERY OR FURTHER ACT.

26 (3) THE LIEN OF ANY PLEDGE IS VALID AND BINDING AGAINST
27 ANY PERSON HAVING ANY CLAIM OF ANY KIND IN TORT, CONTRACT, OR
28 OTHERWISE AGAINST THE BUSINESS IMPROVEMENT DISTRICT MANAGEMENT
29 ASSOCIATION, WHETHER OR NOT THE PERSON HAS NOTICE OF THE LIEN.

30 (4) NOTWITHSTANDING ANY PROVISION OF PUBLIC GENERAL OR
31 PUBLIC LOCAL LAW, PERFECTION AGAINST THIRD PARTIES OF A LIEN OF A
32 PLEDGE BY THE BUSINESS IMPROVEMENT DISTRICT MANAGEMENT
33 ASSOCIATION OF ITS REVENUES DOES NOT REQUIRE THE FILING OR RECORDING
34 OF A RESOLUTION, TRUST AGREEMENT, FINANCING STATEMENT,
35 CONTINUATION, OR OTHER STATEMENT OR INSTRUMENT ADOPTED OR
36 ENTERED INTO BY THE BUSINESS IMPROVEMENT DISTRICT MANAGEMENT

1 ASSOCIATION IN ANY PUBLIC RECORD OTHER THAN THE RECORDS OF THE
2 BUSINESS IMPROVEMENT DISTRICT MANAGEMENT ASSOCIATION.

3 (I) UNLESS THE BONDS ARE GUARANTEED BY AND ON THE FULL FAITH
4 AND CREDIT OF THE COUNTY OR MUNICIPAL CORPORATION AND ARE APPROVED
5 IN A REFERENDUM BY THE VOTERS OF THE COUNTY IN ACCORDANCE WITH
6 SUBSECTION (E) OF THIS SECTION, THE BUSINESS IMPROVEMENT DISTRICT
7 MANAGEMENT ASSOCIATION MAY NOT ISSUE BONDS UNDER THIS SECTION
8 UNTIL AFTER THE BUSINESS IMPROVEMENT DISTRICT MANAGEMENT
9 ASSOCIATION HAS HELD A PUBLIC HEARING IN THE COUNTY OR MUNICIPAL
10 CORPORATION ON THE PROPOSED BONDS.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2009.