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# Bankers Up - Professional Sports Facility Financing and Other Opportunities for Bank Involvement in Lucrative Professional Sports

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# "Bankers Up!" Professional Sports Facility Financing and Other Opportunities for Bank Involvement in Lucrative Professional Sports

## I. INTRODUCTION - GROWTH IN THE PROFESSIONAL SPORTS INDUSTRY

The crack of the bat striking the ball, the roar of the fans, the smell of hot dogs and popcorn, and all the rest of the endearing and memorable sights, smells, and sounds of a baseball game may soon be overwhelmed by a chlorine fragrance and splashing fans in club level swimming pools, as sports teams and financiers develop new professional sports facilities with extravagant amenities. "Sports business is no longer a hobby,"[1] but rather a multi-billion dollar industry.[2] "The big money generated by sports has brought sports finance to another level, introducing a degree of complexity unthinkable six years ago."[3] Sports financing is now considered a stable business, evidenced by investment-grade ratings on expansion team facility financing plans.[4] As more banks and other financial

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1. Paul Sweeney, *Sport Lending Looms as Big Hit*, U.S. BANKER, July 1998, at 37, 37-39 (quoting Patrick F. McAuliffe, Sports Lending Group Director at Fleet Financial Group, Inc.).

2. *See id.* The enormous revenue generated by professional sports decreases financing risks for banks and increases the number of financial competitors in the market. George Cole, managing director of First Union Capital Markets in Charlotte, attributes increased bank participation in financing to the media's pursuit of professional broadcast rights, which in turn, increases the professional teams' value. *See* David Weidner, *Banks Stepping Up 'the Plate to Fund Big-League Stadiums*, AM. BANKER, May 4, 1998, at 1. NBC and Turner Broadcasting agreed to a four-year $2.64 billion television contract with the NBA. *See* Aron Kahn, *Minnesota Basketball Team Owner Worried About Fans, Not Cash*, ST. PAUL PIONEER PRESS, Nov. 6, 1998, *available in* LEXIS, News Library, SPPIPR File. Each of the 29 National Basketball Association (NBA) teams will receive $91 million over the four years. *See id.*

3. Daniel Kaplan, *Slipping by Sport's Financial Crunch*, STREET & SMITH'S SPORTSBUSINESS J., Oct. 19-25, 1998, at 23, 23. In 1992, Phoenix's America West Arena, which houses the NBA's Suns, the Women's National Basketball Association (WNBA)' s Mercury, and the National Hockey League (NHL)'s Coyotes, became one of the first sports facilities to use both public and private financing. *See id.*; *see also infra* notes 38-181 and accompanying text (discussing public and private financing).

4. *See, e.g.*, Weidner, *supra* note 2, at 1 (detailing First Union's $60 million private placement of the NBA's 1996 franchise, the Vancouver Grizzlies). On July 30, 1998, Ascent Arena Company, LLC, owned almost entirely by Ascent Entertainment Group,

institutions pursue new financing and marketing opportunities created in the professional sports industry,[5] they must develop expertise in the details of team relocations and franchise sales.[6] Behind the traditional moneymakers in sports, such as owners, athletes, coaches, agents, and sports merchandisers, stand business professionals ready to manage, plan, and advise deals within this lucrative national industry.[7]

Financiers see increased opportunities to break into the sports industry following the many developments in professional sports facilities.[8] Illustrations include emerging professional sports leagues,[9] new franchises joining existing professional leagues,[10] and established professional franchises moving to new communities.[11] These new and

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announced an issuance of $139.8 million in Arena Revenue Backed Notes to finance the construction of the Pepsi Center in Denver, Colorado with a single-A rating by Fitch IBCA, Inc. *See Ascent Arena Company Successfully Closes Private Placement Financing for Pepsi Center*, PR NEWSWIRE, July 30, 1998, *available in* LEXIS, News Library, ASAPII File [hereinafter *Ascent*]; *see also infra* notes 166-173 and accompanying text (discussing asset-backed security financing of the Pepsi Center). The Pepsi Center will be home to the NBA's Denver Nuggets and the NHL's Colorado Avalanche. *See* Lisa Sanders, *Denver Sports Arena Opens New Doors By Using Asset-Backed Financing*, AM. BANKER-BOND BUYER, May 28, 1998, *available in* LEXIS, News Library, ASAPII File. *See generally Ascent Sells Controlling Interest in Beacon Communications to Management*, PR NEWSWIRE, Jan. 21, 1999, *available in* LEXIS, News Library, ASAPII File (noting the Pepsi Center's upcoming completion).

5. *See* Kaplan, *supra* note 3, at 34 (citing Jerry Colangelo, team owner of the NBA's Phoenix Suns).

6. *See* Sweeney, *supra* note 1, at 37.

7. For example, a consultant from Charlotte, North Carolina, Max Muhleman, is developing the seat-licensing program for the NFL's Steelers' new stadium set to open in August 2001 in Pittsburgh, Pennsylvania. *See* Tom Barnes, *Stadium Panel OKs Seat Licensing; One-Time Fees to Range from $250 to $2,700*, PITT. POST-GAZETTE, Nov. 5, 1998, at B1, *available in* LEXIS, News Library, PSTGAZ File. Muhleman's compensation for approximately eight months of work ending in February is expected to be $398,000. *See id.*

8. *See* Weidner, *supra* note 2, at 1.

9. *See* David Schwartz, *New Leagues*, STREET & SMITH'S SPORTSBUSINESS J., Oct. 19-25, 1998, at 34. For example, in 1996, Major League Soccer added itself of the list of professional leagues. *See id.*; *see also* Rob Evans, *Major League Soccer Exceeds Expectations in Debut Year*, AMUSEMENT BUS., Nov. 4, 1996, *available in* LEXIS, News Library, ASAPII File (discussing Major League Soccer's successful debut). Additionally, the WNBA debuted in June 1997. *See* Earl Gustkey, *What's Next; Now That The WNBA Has Kicked Off Its Inaugural Season, Here Are A Few Things You Should Know About the League*, SPORTING NEWS, June 30, 1997, at 11.

10. *See* Michael Knisley & John Rawlings, *The Sporting News 100 Most Powerful*, SPORTING NEWS, Jan. 3, 1994, at S-4. For example, in 1996, Paul Tagliabue, the NFL Commissioner, upon a NFL team-owner vote, added the Carolina Panthers and the Jacksonville Jaguars to the league. *See id.*

11. *See* JOANNA CAGAN & NEIL DEMAUSE, FIELD OF SCHEMES: HOW THE GREAT STADIUM SWINDLE TURNS PUBLIC MONEY INTO PRIVATE PROFIT 18-19 (1998). Art

relocating teams all need facilities in which to play. "Since 1985, only one NBA team - the New Jersey Nets - hasn't built a new arena, renovated an existing one[,] or planned a new home."[12] Furthermore, throughout the National Football League (NFL), the National Basketball Association (NBA), Major League Baseball (MLB), and the National Hockey League (NHL), franchises relocated sixty-eight times from 1950 until May 1998.[13] Sports team owners demand construction of new facilities, hoping to obtain greater profits because the older, often multi-purpose facilities generate less revenue than newer, often single-use facilities with state-of-the-art amenities.[14] Some team owners, searching for opportunities to increase profits, even request new facilities after only a few years in their custom-built facilities.[15] According to Jim Nash, managing director of NationsBank

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Modell, owner since 1961 of the NFL team formerly known as the Cleveland Browns, moved his team to Baltimore despite the City of Cleveland's vote to use public tax monies to finance renovations on the aging multi-use Municipal Stadium. *See id.* Baltimore offered Modell and the Browns private use of a $200 million stadium with thirty years of free rent, a $50 million relocation bonus, and payment of half of the profits of any non-football use of the stadium to a corporate subsidiary. *See id.* at 20; *see also infra* notes 21, 29 and accompanying text (discussing the Browns' move to Baltimore).

12. Ames Alexander & Dan Chapman, *Teams Seek Ever-Richer NBA Palaces*, CHARLOTTE OBSERVER, Apr. 21, 1996, at 1A. Currently, the Net's owners are lobbying for a state-funded basketball arena to be built in Newark, New Jersey, but state officials hope to persuade the owners to reconsider moving in favor of renovations to the Meadowlands. *See* David Kocieniewski, *Et Tu New Jersey Nets?; Meadowlands Sports Complex Faces Franchise Unrest*, N.Y. TIMES, Nov. 24, 1998, at B1.

13. *See* Khris Bershers, *Root, Root, Root for the Home Team . . . If They Haven't Skipped Town Yet*, NATION'S CITIES WKLY., May 4, 1998, *available in* LEXIS, News Library, ASAPII File (citing U.S. Rep. Earl Blumenauer (D-OR)). Max Muhleman, of Charlotte's Muhleman Marketing Inc., believes that this sports facility boom will continue through the year 2008. *See* Leah Beth Ward, *Leading the Field*, CHARLOTTE OBSERVER, June 8, 1998, at 10D.

14. *See* Mark S. Rosentraub, *Why Baseball Needs New York to Just Say No*, NATION, Aug. 10-17, 1998, at 20, 20. For example, MLB's New York Yankees would like to move the team out of Yankee Stadium in order to realize greater revenues from more luxury suites and club seating in a new ballpark. *See id.* In a new ballpark with approximately 180 more luxury suites, the Yankees could generate $27.2 million more than their current profits from the 19 luxury suites in Yankee Stadium. *See id.* at 22; *see also infra* note 29 and accompanying text (discussing increases to team revenue after a new stadium).

15. *See* Mark F. Bernstein, *Sports Stadium Boondoggle*, PUB. INTEREST, Summer 1998, *available in* 1998 WL 15219374. In Miami, the NBA's Heat threatened to move from their eight-year-old, $53 million arena unless a new arena was built. *See id.* Despite the threats, the Heat decided to finance their new stadium themselves. *See id.* In addition, the NBA's Hornets sent a buzz throughout Charlotte by requesting a new downtown arena and entertainment complex after only eight years in the first one. *See* Dan Chapman, *Charlotte Confronts a $58 Million Question*, CHARLOTTE OBSERVER, Dec.

sports financing group, "[t]he old parks were publicly financed, bare-boned, and cavernous," while the new facilities cater to the demographics of the fans.[16] This desire for specialized facilities increases construction costs.[17] In the 1960s, costs for new stadiums and arenas totaled approximately $500 million.[18] Today, construction costs for twenty-one new stadiums and arenas scheduled for completion between 1999 and the year 2002 were projected to total $5.486 billion.[19]

Construction of single-use stadiums outnumbers multiple-use stadium construction.[20] Increasingly, dual-use stadiums are abandoned as each of the two teams builds their own single-use stadium.[21] For instance, the NFL's Bears want the City of Chicago to approve a new, single-use football stadium in the Elk Grove Village suburb of

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22, 1996, at 1A. *See generally Boston 115, Charlotte 96*, UPI, Dec. 20, 1990, *available in* LEXIS, Nexis Library, UPI File (reporting on the Hornets' first season). The Hornets' desire to move probably arose from the knowledge that other NBA teams are generating greater revenues in their arenas.

16. Weidner, *supra* note 2, at 1. As an example of some of the attractive amenities, Bank One Ballpark in Phoenix, Arizona features a swimming pool with underwater benches seating 25 people, 4,400 club seats, 69 luxury suites, picnic tables for 400, several restaurants, and a fruit market. *See* Bill Muller, *BOB Fare: Burros to Dogs*, ARIZ. REPUBLIC, Mar. 23, 1998, at A1, *available in* LEXIS, News Library, AZREP File; Jeff Metcalfe, *Ball Perk: D-Backs Luxury Suites Sell Out*, PHOENIX GAZETTE, Oct. 11, 1995, at D1, *available in* LEXIS, News Library, PHNXGZ File. "Increased capacity, increased accessibility, and specialized sky boxes engineered for the elite are making arenas of the '90s much more profitable for the owners of sports teams." Anthony Faiola, *Pollin Has A Tough Task In Raising $180 Million*, WASH. POST, Dec. 29, 1994, at A9 (quoting Robert Baade, economist and professor, Lake Forest College, Lake Forest, Illinois).

17. *See* Daniel J. Lathrope, *Federal Tax Policy, Tax Subsidies, and the Financing of Professional Sports Facilities*, 38 S. TEX. L. REV. 1147, 1149 (1997) (citing JAMES QUIRK & RODNEY D. FORT, PAY DIRT, THE BUSINESS OF PROFESSIONAL SPORTS 135 tbl. 4.5 (1992)).

18. *See id.*

19. *See Who's Paying?*, STREET & SMITH'S SPORTSBUSINESS J., Oct. 19-25, 1998, at 32 (figure obtained by summation of Total Cost in Millions column using data up to Oct. 12, 1998); *see also* Bernstein, *supra* note 15 (citing Fitch Investor Services estimation of costs in excess of $7 billion for at least forty new professional sports facilities already planned).

20. *See Who's Paying?*, *supra* note 19, at 32. Of 21 professional sports facilities currently under construction throughout the United States and Canada, only five cater to more than one professional team. *See id.*

21. *See* CAGAN & DEMAUSE, *supra* note 11, at 6, 18. In Cleveland, NFL's Browns and MLB's Indians shared Municipal Stadium, but the Indians now play in the new Jacobs Field Park, and the new Cleveland Browns will play in Cleveland Stadium in 1999. *See id.*; Troy Flint, *NFL, Urban League Mark 'Equal Opportunity Day'*, PLAIN DEALER (Cleveland), Nov. 14, 1998, at 1C, *available in* LEXIS, News Library, CLEVPD File.

Chicago; alternately, Chicago mayor Richard Daley proposes renovating Comiskey Park for combined use by the Bears and MLB's Chicago White Sox.[22] Bears Vice President Ted Philips said that the Bears prefer to remain in the city; however, he said, "it has been shown over the years that dual-purpose stadiums cannot meet the present needs of an NFL team."[23] Despite this view, multiple-use stadiums and arenas are still positive options for some team owners.[24] For example, the Staples Center in Los Angeles, California, will house the NBA's Lakers and Clippers and the NHL's Kings thanks to an agreement with Bank of America to underwrite a $305 million credit facility for the owner's contribution to the $350 million arena.[25] A main consideration for stadium construction planning and financing is whether the public will support a single- or a dual-use facility.[26] As more teams require custom-designed, single-use facilities, the sports financing industry demands new entrants, like commercial banks, to create numerous financing plans.[27]

Once built, a new facility provides extra income for teams to fund competitive players' salaries and bonuses,[28] thereby providing a

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22. *See* John Lombardo, *Bears Cool to City's Plan for Comiskey*, STREET & SMITH'S SPORTSBUSINESS J., Oct. 19-25, 1998, at 14.

23. *Id.*

24. *See supra* note 3 (discussing another multiple-use facility, the America West Arena).

25. *See* Jennifer Goldblatt, *B of A Lending $305M to Fund Downtown L.A. Sports Arena*, AM. BANKER, Mar. 27, 1998, at 9. Bank of America won the bidding over four other financiers. *See id.* This dual-use stadium serves as a development tool to revitalize downtown Los Angeles. *See id.*

26. *See* Steve Robblee, *'Canes Offer $16M Arena Solution*, TRIANGLE BUS. J., June 12, 1998, at 5. Another concern attached to professional stadium financing is the unpredictability of construction work. *See id.* For example, the NHL's Carolina Hurricanes faced a $16 million cost overrun in June 1998 due to construction delays. *See id.* According to Centennial Authority, the business group overseeing construction, the construction delays stem from too much rain, an accelerated schedule for an earlier opening date, and hockey team changes after construction began. *See id.* Without the additional funding, the stadium would not be completed by the accelerated opening date of September 1, 1999. *See id.*

27. *See* Omri Ben-Amos, *BankBoston Eyes the Big Leagues of Sports Finance*, AM. BANKER, Dec. 19, 1997, at 9 (citing Patrick F. McAuliffe).

28. *See* Weidner, *supra* note 2, at 1. As evidence of the predicted large returns from a recently constructed stadium, the Arizona Diamondbacks' Bank One Ballpark in 2003 is expected to produce revenues of $134 million with profits at $22.2 million. *See* Daniel Kaplan & Bill King, *D-backs Expect Skyrocketing Results from BOB*, BUS. J.-PHOENIX & THE VALLEY OF THE SUN, July 10, 1998, *available in* LEXIS, News Library, ASAPII File (citing documents obtained by STREET & SMITH'S SPORTSBUSINESS J.).

team with a better chance at a championship season and record-breaking crowds. Professional team owners benefit from new facilities through their teams' increased value.[29] On the other hand, even if a new stadium is not built for the team, the owner's threat of moving the team to another city can be used as leverage to obtain a better lease or renovations on the existing facility.[30] Remodeling current stadiums may also meet the ever-expanding needs of the teams and owners for greater revenue-producing facilities. For example, Giants Stadium, built in 1976 for the NFL's New York Giants, underwent renovations and additions that were completed in the summer of 1998.[31] After the renovations, additional revenues accrued from the 6 super suites, 14 terrace suites, 26 tower suites, and 120 new club seats. Leases on the suites and seats were sold, creating a steady revenue stream.[32]

The construction of expensive new sports facilities and renovation of existing facilities must be financed effectively.[33] Banks and other financial institutions play increasingly important roles in these financing efforts. This article will explore bank involvement in

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29. *See* CAGAN & DEMAUSE, *supra* note 11, at 26. NFL's Baltimore Ravens, in their first year after leaving Cleveland, increased in value by $38 million. *See id.* Similarly, MLB's Cleveland Indians' value rose from $81 million in 1993 to $125 million in 1996 after their new park, Jacobs Field, opened. *See id.*

30. *See id.* at 26-27.

31. *See* Lauren Jaeger, *Giants Stadium Expansion Complete, Ready for Season*, AMUSEMENT BUS., Aug. 31, 1998, at 9, *available in* LEXIS, Market Library, MARS File.

32. *See id.* First Union Corporation's banking group loaned $35 million to the Giants to finance the renovations. *See id.* The new luxury seating revenues backed the loan. *See id.*

33. *See generally* John A. Byrne, *If You Build It - It May Crumble*, BUS. WEEK, Aug. 29, 1994, at 46. Professional sports facilities without forward-looking finance plans may become bankrupt before stadium completion, a scenario that occurred with the New Jersey Cardinals minor league baseball team in 1994. *See id.* Robert Hilliard, President of Skylands Park Management, Inc. admitted to making a wrong decision in financing the Cardinal's ballpark in Sussex County, New Jersey. *See id.* Hilliard chose a bank loan over state bonds and found himself in a loan with "75 different terms attached to it." *Id.* Similarly, the NHL's Pittsburgh Penguins are immersed in Chapter 11 bankruptcy due in part to the owners' misguided funding decisions. *See* Ron Cook, *Villains Abound in Penguins' Mess*, PITT. POST-GAZETTE, Oct. 16, 1998, at C1, *available in* LEXIS, News Library, PSTGAZ File. According to Charlotte attorney Loy McKeithen, the NFL would never allow one of its teams to declare bankruptcy unless the team used bankruptcy to escape an unfavorable lease. *See* Telephone Interview with Loy McKeithen, Senior Partner, Smith, Helms, Mulliss & Moore in Charlotte, N.C. (Nov. 6, 1998) [hereinafter McKeithen].

financing professional sports facilities, as well as discuss bank marketing opportunities attached to professional sports events. Part II will discuss public financing components in professional sports facility financing deals and opposition to public financing efforts; this section will also discuss the involvement of commercial banks in public financing plans.[34] Part III will discuss private financing components of professional sports facilities and provide examples of bank financing plans.[35] Part IV will explain several other opportunities for the banking industry in professional sports, including marketing and grassroots sponsorship in the sports industry.[36] Part V will conclude that bank involvement in professional sports facilities is innovative, extensive, and will flourish into the next millenium, as the sports industry and the number of sports facilities continue to grow.[37] Therefore, knowledge of and entry into facets of the sports industry is suggested for individual bank growth, diversification, and recognition.

## II. PROFESSIONAL SPORTS FACILITY FINANCING WITH PUBLIC FUNDS: BENEFITS AND OPPOSITION

The proliferation of new or revitalized sports facilities requires extensive financing packages. Sports teams and owners benefit significantly from taxpayer subsidies; public financing often saves a professional team tens of millions of dollars, thereby increasing the final profits for the team, the owner(s), and the players.[38] Since the 1960s, the majority of sports facility financing plans generated the necessary funding through tax-free bonds or direct community taxes, such as cigarette, hotel, and property taxes.[39] In fact, governments and taxpayers provided 90% of the construction costs for professional sports facilities in the 1970s, whereas in the 1990s, public monies represented less than 60% of the cost.[40] Some cities negotiate better

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34. *See infra* notes 38-112 and accompanying text.
35. *See infra* notes 113-181 and accompanying text.
36. *See infra* notes 182-199 and accompanying text.
37. *See infra* notes 200-202 and accompanying text.
38. *See* Raymond J. Keating, *We Wuz Robbed! The Subsidized Stadium Scam*, POL'Y REV., Mar.-Apr. 1997, at 54, 57 (discussing a *Financial World* report that the year a team opens in a new stadium, revenues increase 40% from the previous year).
39. *See id.* at 55-56. Before the 1960s, private ownership of sports facilities was the norm. *See id.* In 1950, the government owned only one. *See id.* at 56.
40. *See* Mark S. Rosentraub, *Why Subsidize Sports Millionaires?*, CONSUMER'S RES.

deals than do others, as no financing plan is identical,[41] but public funding remains a popular and lucrative financing component for professional sports teams.

### A. Tax-Exempt Bonds

Since the implementation of the 1913 tax code, state and local governments have used tax-exempt bonds to generate revenue for public project funding by issuing bonds to public purchasers without requiring tax payments on the bonds' interest.[42] The tax advantage of these "tax-free" bonds entices investors, despite taxable corporate bonds offering higher interest rates.[43] The majority of bonds issued for private activities do not receive this tax-exempt offering under the Internal Revenue Code, and private bondholders must pay tax on the interest as it increases their gross income.[44] However, an exception to the private activity taxable-interest bonds exists, and professional team owners may acquire tax-exempt bond deals for sports facility funding from state and local governments through this exception in the Internal Revenue Code.[45] Professional sports facilities may receive financing from a tax-free bond issuance, so long as the bonds do not qualify as private activity bonds under the two tests in section 141 of the Internal Revenue Code.[46] First, the private business use test allows the tax-exemption if less than 10% of the specific activity's revenues fund a private use.[47] However, most sports facilities fail this private use test because the portion of the revenues from the stadium activities accruing to the private teams and owners is above the threshold

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MAG., Nov. 1997, at 10, 11. A recent study reports that the public subsidy could total $11 billion through the 1990s. *See* CAGAN & DEMAUSE, *supra* note 11, at ix.

41. *See* McKeithen, *supra* note 33.

42. *See* David Burke, *The Stop Tax-Exempt Arena Debt Issuance Act*, 23 J. LEGIS. 149, 150 (1997). *See also* Kevin M. Yamamoto, *A Proposal for the Elimination of the Exclusion for State Bond Interest*, 50 FLA. L. REV. 145, 148 (1998) (discussing the use and attractiveness of state-issued bonds). Section 103 of the Internal Revenue Code allows the interest exclusion on most state and local bonds. *See* I.R.C. § 103(a), (b) (1994).

43. *See* Yamamoto, *supra* note 42, at 148.

44. *See* Lathrope, *supra* note 17, at 1156 (citing I.R.C. § 103(b)(1)).

45. *See* Burke, *supra* note 42, at 150.

46. *See* I.R.C. § 141(b).

47. *See* I.R.C. §141(b)(1).

level.[48] Second, team owners may establish tax-exempt bond status through the private security test by securing less than 10% of the bonds with payments or property from a private business use.[49] In other words, if the bond is *not* secured by private-use property then the private activity may qualify for tax-exempt interest.[50] Therefore, sports team owners seek municipality-backed bonds, instead of backing the facility with the facility's own revenues, in order to classify the facility as public, not private, use property.[51]

Challenging this practice, William F. Poe, Sr., a former Mayor of the City of Tampa, filed suit seeking an injunction against the NFL's Tampa Bay Buccaneers and the City of Tampa "from unconstitutionally incurring debts, pledging tax monies and credit[,] and expending public funds for the construction and operation of the new Tampa stadium project."[52] The major issue behind the stadium financing was whether the stadium constituted a "paramount public purpose" with only incidental benefits distributed to private parties, such that public revenue bonds could legally fund the construction.[53] The Florida Supreme Court reversed the trial court's decision and removed the injunction on the bonds, holding that the Buccaneers' stadium is intended to "increase trade by attracting tourists and to provide recreation for the citizens of the District,"[54] thereby constituting a paramount public purpose.[55]

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48. *See* Adam Safir, Note, *If You Build It, They Will Come: The Politics of Financing Sports Stadium Construction*, 13 J. L. & POL'Y 937, 941 (1997).

49. *See* I.R.C. § 141(b)(2).

50. *See* Safir, *supra* note 48, at 941 (citing I.R.C. § 141(b)(2)(a) and DENNIS ZIMMERMAN, CONGRESSIONAL RES. SERVICE, TAX-EXEMPT BONDS AND THE ECONOMICS OF PROFESSIONAL SPORTS STADIUMS 6 (1996)).

51. *See* Burke, *supra* note 42, at 150. In order to pay off the bonds with non-stadium related revenue, team owners look to public monies from state lotteries, sales taxes, car-rental fees, and alcohol and tobacco taxes. *See id.*

52. Poe v. Hillsborough County, 695 So. 2d 672, 674-75 (Fla. 1997). The stadium deal included $318 million to be paid from a 30 year, half-a-cent sales tax and allowed the Buccaneers to collect the first $2 million from non-Buccaneer events. *See id.* at 674. The Buccaneers would split the revenues above $2 million with the Tampa Sports Authority. *See id.* at 674.

53. *Id.* at 675 (citing FLA. CONST. art. VII, § 10(c)).

54. *Id.* at 676, 679.

55. *See id.* Poe noted that the allocation of funds so far has been unequal between the stadium and the public projects. *See* David R. Corder, *Political Plays Scored a New Stadium*, TAMPA BAY BUS. J., Sept. 4, 1998, *available in* LEXIS, News Library, ASAPII File (citing William Poe). "The only way [the city] could do [the stadium deal] was to get the front-end money, and [tax proponents] didn't tell that story." *Id.* (quoting William

Ultimately, tax-free bonds reallocate money from the public, decreasing federal tax revenues for public programs, giving it to bond buyers who do not pay interest on their bond return and to team owners, who profit from larger stadium revenues without having to pay construction costs.[56] This redistribution from the public to higher income taxpayers causes some legislators and public interest groups to campaign against the use of public monies for sports facilities.[57] In 1996, Senator Daniel Patrick Moynihan first proposed the Stop Tax-Exempt Arena Debt Issuance Act (STADIA) to amend the Tax Reform Act of 1986.[58] To be considered in the current 106th Congress, the bill must be reintroduced to the Senate.[59] Forbidding public funding of stadiums for professional teams' private benefit, Senator Moynihan's bill proposed to change section 141 of the Internal Revenue Code to define a 'private-activity bond' as "any bond issued where the proceeds of the issue, directly or indirectly, provide professional sports facilities with the lesser of (a) 5% of the proceeds, or (b) $5,000,000."[60] If a reintroduced version of STADIA were to pass, sports franchises could no longer use tax-free bonds to fund

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Poe).

56. *See* Todd Senkiewicz, Comment, *Stadium and Arena Financing: Who Should Pay?*, 8 SETON HALL J. SPORT L. 575, 583 (1998). Tax revenues must be made up from other sources, thus further costing taxpayers. *See id.*

57. *See* CAGAN & DEMAUSE, *supra* note 11, at 3, 8. The campaigns include claims that the professional sports teams steal from public education, urban development, and other social programs. *See also infra* notes 89-91 and accompanying text (discussing anti-stadium campaigns).

58. *See* S. BILL TRACKING REP. NO. 104-1880 (1996), *available in* LEXIS, Genfed Library, BLT104 File. STADIA moved to the Committee on Finance for hearings in June 1996. *See id.* Interestingly, Senator Moynihan, a Democrat from New York, advocates the elimination of tax-free exemptions while MLB's New York Yankees, the most financially and athletically successful MLB team, are pressing New York mayor Rudolph Giuliani for public funding of a new stadium. *See* STOP TAX-EXEMPT AREA DEBT ISSUANCE ACT, S. 1880, 104th Cong. § 2 (1996) (Senator Moynihan's proposal); Rosentraub, *supra* note 14, at 20-21 (discussing the Yankees desire for a new stadium).

59. Following inaction on the bill in 1996, Senator Moynihan reintroduced the bill to the Senate in 1997. *See* Craig T. Ferris, *TAX LEGISLATOR: Moynihan Plans to Retire, Sources Say*, AM. BANKER-BOND BUYER, Nov. 9, 1998, at 5, *available in* LEXIS, News Library, ASAPII File.

60. *See* S. 1880. Originally, Senator Moynihan's proposal sought to forbid the tax-exempt status to all financing plans on which construction had not begun. *See* Burke, *supra* note 42, at 151. Once the proposal was announced, several communities in the final stages of arena financing and construction plans raised concerns. *See id.* at 154. Senator Moynihan changed his proposal to apply only to future stadium construction. *See id.* at 154-55.

stadiums.[61] If STADIA does not pass, teams may still procure public monies for financial support through public referendums on direct community taxes.

### B. Direct Community Taxes to Fund Stadiums

Owners of professional sports teams often rely directly on public monies from lotteries or taxes to pay for the state-of-the-art facilities to increase team revenues. Public taxes and the monies from lotteries disproportionately come out of the pockets of lower-income citizens, the result being richer citizens of the community attending the games at the expense of lower-income citizens who actually finance the sporting event venues.[62] For instance, in Denver, Colorado, the public voted to continue a 0.1% sales tax to repay $260 million of government issued revenue bonds for the construction of the NFL's Denver Broncos' new stadium.[63] The tax, which is already in effect, is currently used to pay the debt incurred from the construction of MLB's Colorado Rockies' Coors Field and will be used for this purpose until the year 2000.[64] As another example of a public tax

61. *See* S. 1880. Senator Moynihan seeks this change for four reasons: (1) due to the increase in the number of tax-exempt bonds, interest costs rose, raising the cost of government improvements; (2) federal revenues decreased; (3) inefficiency of capital investments grew as many investors chose tax advantages over sound investments; and (4) tax shelters grew rapidly. *See* Burke, *supra* note 42, at 151. At least one attorney, Loy McKeithen of Smith, Helms, Mulliss & Moore, doubts that STADIA will pass, and said even if it did, despite the loss of a money-saving financing mechanism, the sports teams will just look to other methods to fund the stadiums. *See* McKeithen, *supra* note 33. Additionally, when Senator Moynihan's Senate term expires in the year 2000, he is expected to retire. *See* Ferris, *supra* note 59, at 5. Considering the lack of importance placed on STADIA in previous years in the Senate, STADIA may retire with Senator Moynihan.

62. *See* CAGAN & DEMAUSE, *supra* note 11, at 25-26. Camden Yards, the new NFL facility in Baltimore, Maryland, received more than $400 million from the Maryland State treasury. *See id.* at 23. The money came from sales of lottery tickets, most of which were purchased by poorer members of the community. *See id.* at 25-26.

63. *See* Andrea Figler and Lisa Sanders, *Stadium Bond Deals Benefit From Their Teams' Successes*, AM. BANKER-BOND BUYER, Nov. 5, 1998, at 7, *available in* LEXIS, News Library, ASAPII File.

64. *See id.* Prior to the election, groups favoring the new stadium emphasized civic pride, hoping that alone would carry the vote. *See Let the Handshaking Begin* (Sept. 7, 1998), <http://cnnsi.com/football/nfl/news/1998/09/07broncos_stadium/>. The Citizens for a New Stadium used the slogan "We All Win" to influence public support of stadium construction. *See id.* The fact that the Broncos won Super Bowl XXXII in 1998 and boasted an 8-0 record in the AFC West Division at the time of the November 3, 1998, referendum probably helped to carry the vote for the tax. Conversely, the NFL's

funding professional facilities, MLB's San Diego Padres received public approval to build a $411 million ballpark with $225 million raised through bonds backed by hotel taxes.[65] The Padres' successful platform included a commitment to the fans called Save Affordable Family Entertainment (SAVE) which would set aside approximately 10,000 seats at $10 or less, provide many concession options, and create easy transportation to and from the stadium.[66]

In contrast, a less favorable public tax vote occurred in 1990 when fans of MLB's Cleveland Indians in Cuyahoga County, Ohio narrowly agreed to an alcohol and tobacco tax to fund Jacobs Field ballpark.[67] Supporters of this tax for the new sports facility launched a campaign touting the benefits of increased economic activity from the ballpark, which would in turn, generate funds for public schools, hospitals, and elderly programs, as well as increase the number of available county jobs.[68] Despite the promises of increased revenues in exchange for public funding, the Stadium Finance and Development Authority did not even begin to pay property taxes owed to the community until 1996; Jacobs Field opened to ticket buyers in 1994.[69] The promised economic benefits to the City of Cleveland in reality consisted of a lay-off of 160 Cleveland schoolteachers, the termination of the interscholastic athletic program, and "the worst financial shape of any school district in the country."[70]

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Cincinnati Bengals with a 1998 record of 3-10, also won a public vote, and their new $404 million Paul Brown Stadium, scheduled to open for the NFL's Cincinnati Bengals in 2000, will be funded by a half-a-cent sales tax. *See Who's Paying?*, *supra* note 19, at 32.

65. *See* Figler & Sanders, *supra* note 63, at 7. A half-a-cent tourist tax and all taxes collected at new hotels in the ballpark vicinity will back San Diego's investment. *See Yes on Prop. C, Common Questions and Answers*, (visited Nov. 7, 1998) <http://www.yesonpropc.org/qanda.html>.

66. *See Yes on Prop. C, Press Releases* (last modified Sept. 25, 1998) <http://www.yesonpropc.org/press092598.html>.

67. *See* CAGAN & DEMAUSE, *supra* note 11, at 17. The tax proposal passed with a 51.7% majority vote. *See id.*

68. *See id.* at 16. The campaign slogan "We All Do," touted expected county benefits from the new stadium. *See id.* The tax later extended to finance improvements in the NFL's Cleveland Browns' Municipal Stadium; however, improvements would not placate Brown's owner, Art Modell, who, three days after the tax-extension, negotiated moving the Browns to Baltimore, Maryland. *See id.* at 19.

69. *See id.* at 17-18.

70. *See id.* at 23 (quoting Richard A. Boyd, Cleveland School Superintendent).

### C. *Sale-Leaseback Plans*

An alternative public financing possibility, which has not been used often, is the sale-leaseback plan. This financing idea originated in Minneapolis, Minnesota as a backup for the public funding plan then before the Legislature for the construction on the Target Center, home to a Racquet and Swim Club and the NBA's Minnesota Timberwolves' arena.[71] In Minneapolis, the City Council ultimately voted to purchase the arena for $84.6 million in order to bail out the owners of the Timberwolves.[72] A sale-leaseback plan would begin with the city purchasing the arena portion and would follow with the city leasing the arena to a management entity.[73] The management entity would provide a long-term arena lease to the team and allow the sports team to refinance at a lower rate, avoiding property tax on the stadium property.[74] A bank letter of credit might be needed to back up the city's interest in the financing should the arena's revenues fall short.[75] If revenues decrease, the bank may have to pay the difference between the lease and the amount the team can pay.[76] This financing option is not viable in most transactions.[77] Sale-leasebacks are risky because the city owns the stadium and the bank holds the mortgage. If the team defaults on the lease, it would be almost impossible to sell the lease or the property to another interested party.[78] The sports financing industry differs in this respect from other industries in that it involves a single use facility with one tenant and the financiers must tie the team firmly into the lease, due to the difficulty in locating new tenants.[79]

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71. *See* Jennifer Waters, *City Floats Backup Buyout Plan—Quietly*, MINNEAPOLIS-ST. PAUL CITYBUSINESS, Mar. 25, 1994, *available in* 1994 WL 3032576.

72. *See* Paula Moore, *Will Pepsi Center Go Flat?*, DENVER BUS. J., Mar. 24, 1995, *available in* 1995 WL 7908078.

73. *See* Waters, *supra* note 71.

74. *See id.* Publicly owned stadiums and arenas provide teams with discounted rental rates compared to the rates charged by private owners. *See id.*

75. *See id.*

76. *See id.*

77. *See* McKeithen, *supra* note 33.

78. *See id.*

79. *See* Telephone Interview with George Cole, Managing Director, First Union Capital Markets in Charlotte, N.C. (Nov. 12, 1998).

### D. *Bank Considerations in the Face of Opposition to Public Financing*

Community demand for a professional sports team is greater than the supply, which gives team owners an "overwhelming leverage over the city."[80] "No city without an NFL franchise has ever rejected a team's offer to locate there."[81] In competition with other communities for a professional team, a city must be willing to offer an attractive deal to team owners, usually including one of the previously discussed elements of public financing to the sports team.[82] If the public financing deal does not materialize, the team may relocate elsewhere in another community, seeking greater financial benefits and stadium amenities.[83] "Losing a professional sports franchise . . . is a psychological blow that few fans or politicians are willing to suffer."[84]

Despite the demand for professional sports teams, public financing plans have not met unanimous approval. In fact, angry citizens have lashed out against their representatives for negotiating professional sports facility financing deals with sports teams at the public's expense.[85] "We may be seeing the beginning of cities saying, [']Perhaps[,] the price of being big league is too much.'"[86] Anti-

80. *See* Alexander & Chapman, *supra* note 12, at 1A (citing Roger Noll, an economics professor at Stanford University).

81. *See* Kevin Sack, *Stadium Fight in Nashville*, CHARLOTTE OBSERVER, May 4, 1996, at 1A.

82. *See supra* notes 42-79 and accompanying text.

83. *See supra* note 11 and accompanying text (discussing Art Modell's move of the NFL's Browns).

84. *See* Alexander & Chapman, *supra* note 12, at 1A. Attorney Loy McKeithen believes many communities would do anything to bring a professional sports team to their area and would even agree to an unfavorable public payment plan. *See* McKeithen, *supra* note 33. In Baltimore, hurt and stunned fans described their NFL Colts abandonment for Indianapolis as "tear[ing] a whole city down." CAGAN & DEMAUSE, *supra* note 11, at 2 (quoting a Baltimore Colts fans' lamentation over owner Robert Irsay's decision to move the team due to a $25 million incentive package of stadium improvements funded by the city).

85. *See* Keating, *supra* note 38, at 55. For example, in 1995, Wisconsin voters rejected a sports lottery to support a new ballpark for MLB's Milwaukee Brewers. *See id.* The following fall, however, legislators agreed to allocate $160 million from a sales tax increase to the construction of the ballpark. *See id.* Voters responded by voting against the deciding vote-maker in the Senate, George Petak, giving the Democrats control of the Senate. *See id.*

86. Alexander & Chapman, *supra* note 12, at 1A (quoting James Gray, the assistant director of the National Sports Law Institute at Marquette University). Even after paying for the team through taxes or government subsidies, the public must also pay increased

stadium activists launch campaigns to raise public outrage for expenditures on sports facilities.[87] Many campaigns have succeeded in keeping professional teams from entering communities.[88]

Lobbyists for new sports facilities rely on public campaigns to counteract the anti-stadium movement.[89] In San Diego, California, materials released by the Citizens for Revitalized Neighborhoods & A Ballpark for San Diego attempted to convince voters of the public benefit, stating that the ballpark would be "[t]he final jewel in the crown of downtown redevelopment."[90] In Tampa, Florida, a heavy media campaign emphasized that revenues from the half-a-cent sales tax would not only fund the new NFL stadium, but would also help fund education, public safety, and infrastructure construction for thirty years.[91] Successful referendums in communities may be attributed to the resources, power, and influence of some stadium support groups.[92]

Influenced by the extensive campaigns of sports teams, the

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ticket prices to attend the games.

87. *See* Janet Ward, *Cities Hope to Hit Home Runs with Ballpark Deals*, AM. CITY & COUNTY, June 1998, at 4. Citizens of one community believed the public servants were actually "corporate servants." CAGAN & DEMAUSE, *supra* note 11, at ix.

88. *See* Caulton Tudor, *Welfare Reform for Baseball*, NEWS & OBSERVER (Raleigh), May 8, 1998, at C1. For example, North Carolina voters in Forsyth and Guilford counties opposed public expenditures for the construction of a MLB stadium. *See id.*

89. *See* Rusty Cawley, *Taxpayer 'Revolt' More Illusory Than Real*, STREET & SMITH'S SPORTSBUSINESS J., OCT. 19-25, 1998, at 30 (discussing Denver Broncos' ads, which built upon civic pride for community support of a stadium). A recent approval of public financing for the Pittsburgh Steelers was led by Allegheny County Commissioner Bob Cranmer who said that "[t]his isn't just about building stadiums . . . it's about creating a dynamic energy and showing the rest of the country that we are taking charge of our destiny." Jim Dudek, *Plan B: Democracy on the Line*, PITT. BUS. TIMES, May 15-21, 1998, at D5; *available in* LEXIS, News Library, ASAPII File. In Colorado, Eugene Dilbeck, the president of the Denver Metro Convention and Visitors Bureau, believed the stadium would enhance Denver's image. *See* Roger Fillion, *Vote May Soften SlowDown Construction Projects to Create Jobs*, DENVER POST, Nov. 5, 1998, at 1C. The improved image may in turn entice new businesses and workers to enter the state. *See id.*

90. *Yes on Prop C, Common Questions and Answers*, *supra* note 65. Furthermore, it stated that the generation of tax dollars from the ballpark would benefit all taxpayers and residents, creating more city services and parks. *See id.*

91. *See* Corder, *supra* note 55. The strategy to include funding for civic activities was also attempted in Birmingham, Alabama. *See* Cawley, *supra* note 89, at 30. Voters were not persuaded, however, to fund the 70,000 seat stadium without first obtaining a franchise, even though the money would fund public schools, a zoo, landmarks, a science museum, and renovations on the civic center. *See id.*

92. *See generally* Cawley, *supra* note 89, at 30. Support groups and lobbyists consist of individuals and organizations that may see increased name recognition and profits for supporting the construction due to the public interest in professional sports stadiums (e.g., politicians, businesses, banks, and law firms). *See generally id.*

public may not be aware of the actual costs to the community.[93] While professional sports teams can provide a city or a community with a symbol, a source of pride, and identity,[94] little evidence exists to prove a professional sports team enhances that city or community.[95] For example, in 1994, a national study reported that over a thirty-year period, twenty-seven out of thirty cities produced no economic impact from new stadiums, and the remaining three cities were negatively impacted.[96] A positive impact from local construction's increased demand for labor is also debated. According to economist Ronald Utt, the Ravens' new football stadium in Baltimore will create only 890 mostly low income jobs, costing taxpayers $200,000 per job.[97] Nevertheless, the Baltimore Daily Record reported that "[e]conomists anticipate that the Ravens will produce $184 million annually for the economy as well as generating 2,730 jobs."[98] This discrepancy

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93. *See Let the Handshaking Begin*, *supra* note 64.

94. *See* CAGAN & DEMAUSE, *supra* note 11, at 2-6 (describing the devastation to fans of the NFL's Colts following the move from Baltimore to Indianapolis). In communities without a Super Bowl caliber-team, the sports team may find it more difficult to build upon the intangible benefit of the community's pride in the team.

95. *See* Lathrope, *supra* note 17, at 1153. Community members disagree on whether economic improvement results or goodwill develops because a professional sports team resides in a city. *See id.* at 1151. The economic impact from a professional sports team is reported to be about the same as that of a new department store; moreover, spending on professional games is thought to be a diversion away from other tourism and recreational expenditures, rather than an additional income generator. *See id.* at 1153-54 (citing *Professional Sports: The Challenges Facing the Future of the Industry: Hearings Before the Senate Comm. on the Judiciary*, 104th Cong. 56 (1996) (statement of Andrew Zimbalist) and *Antitrust Issues in Relocation of Professional Sports Franchises: Hearing on S. 500 Before the Subcomm. on Antitrust, Business Rights, & Competition of the Senate Comm. on the Judiciary*, 103rd Cong. 118 (1995) (statement of Robert A. Baade)). Therefore, some now believe that sports facilities do not add to a community's income and may even decrease it. *See id.*

96. *See* Keating, *supra* note 38, at 56 (referring to a study conducted by Robert Baade at the Heartland Institute). The study determined the negative impact based on the opportunity cost foregone by the investment in the professional sports facility as compared to the realized financial benefits of the facility. *See id.* 56-57. For example, Baltimore, Maryland eliminated 1,000 manufacturing jobs from a total of 26 companies previously located on the stadium site and will no longer realize property-tax revenues from those businesses. *See* CAGAN & DEMAUSE, *supra* note 11, at 24. Nevertheless, Rick Horrow, the NFL's Stadium Development Consultant, touts that "[p]ublic stadium financing brings a direct tax benefit to a community. That benefit can range from $10 million to around $20 million each year." Ted Curtis, *Is This Game Worth Playing?*, MERIDIAN, Sept. 1998, at 40, 41.

97. *See* Cawley, *supra* note 89, at 30.

98. *New Stadium A Boon to Fans and the Region*, DAILY REC. (Baltimore), Sept. 3, 1998, at 1C, *available in* LEXIS, DC Library, DLYREC File. Attempting to sway public support in favor of financing a new professional sports stadium, teams suggest that

indicates the uncertainty of a real economic benefit from professional sports facilities. An additional consideration in analyzing any expected benefit may be the number of scheduled home games, which draw fans into the city from the surrounding areas.[99] For example, a larger number of games would produce a greater economic surge, if any, as compared to fewer home games, due to the heavy traffic at gas stations, hotels, and restaurants.

Despite disagreement over benefits to local communities, public financing remains the primary means of financing professional sports facilities.[100] The November 3, 1998, passage of several referendums around the country to allow public dollars to fund local professional sports stadiums suggests that public financing of professional sports facilities will continue to be a portion of many financing plans through the next millennium.[101] Realistically, team owners cannot continue to rely solely on public funding for professional sports stadiums.[102] Even if the local government places a sports facility finance plan on the ballot, the public may always vote down the proposal, as seen through a few recent community referendums.[103]

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dramatic economic surges will result from the new facility. *See supra* notes 64 & 68 and accompanying text (discussing campaign strategies of team owners).

99. *See* Cawley, *supra* note 89, at 30. An NFL stadium, which hosts approximately eight home games, may be perceived as bringing a smaller benefit to the community compared to an NHL or NBA arena, which host approximately 40 home games, or a MLB field, which hosts at least 81 home games. *See id.*

100. *See* Weidner, *supra* note 2, at 1. Specifically, municipal bonds are the primary source of public financing. *See id.* In 1988, only four financing plans involving municipal bonds existed, totaling $88 million; by contrast, 39 municipal bond deals produced $1.85 billion in 1997. *See id.* (referring to information collected by Securities Data).

101. *See* Figler & Sanders, *supra* note 63, at 7 (discussing MLB's San Diego Padres and NFL's Denver Broncos' successful campaigns to allocate public money to the construction of new stadiums); *see also infra* notes 64 & 68 and accompanying text (discussing similar professional sports campaigns).

102. *See* Cawley, *supra* note 89, at 30 (discussing Birmingham, Alabama's rejection of an NFL stadium in August 1998 and North Carolina's rejection of public taxes to fund a MLB stadium for the Minnesota Twins in May 1998).

103. *See id.* North Carolina voters rejected a 1% tax on prepared food and beverages, as well as a fifty-cent tax on tickets for stadium financing. *See id.* Voters focused on the lack of a definite team to fill the ballpark. *See* Tudor, *supra* note 88, at C1. One activist against stadium construction in Tampa Bay, relying on a Florida TaxWatch audit, would not support the stadium until he was convinced that the government would "spend[] money wisely." Corder, *supra* note 55. Florida TaxWatch is a governmental department checking for more efficient uses of money allocation. *See id.*

If a public financing arrangement is approved, banks counsel and advise city financing organizers regarding public financing plans.[104] In New Jersey, First Union Capital Markets Group completed a $40 million financing deal for the sale of the NBA's New Jersey Nets ownership group.[105] Furthermore, banks and bank officers often determine the economic effects a professional sports facility may have on the community.[106] Banks, as a part of financing plans involving public monies, must cater to the public.[107] "It's absolutely preposterous to reject what is the will of the people," according to Joe Chillura, a Commissioner in Hillsborough County, Florida.[108] With the rising sentiment against uses of public monies, banks must be careful to create financing plans that will be appealing to the public.[109] The sports lending business is growing because sports are popular and visible; banks enjoy associations with professional sports teams and benefit from name recognition and publicity.[110] A professional facility

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104. For example, Joseph A. Cavato, a senior vice president in the St. Louis office of NationsBank, will head a new sports authority to investigate needs of professional sports in the city. *See* Virginia Young, *Banker is Named to Study City's Sporting Needs*, ST. LOUIS POST-DISPATCH, Sept. 25, 1998, at C9, *available in* LEXIS, News Library, SLPD File.

105. *See First Union Completes $40 Million Credit Facility for New Jersey Nets Ownership Group*, PR NEWSWIRE, Dec. 8, 1998, *available in* LEXIS, News Library, WIRES File. This new ownership group hopes to obtain public funding in support of a new basketball arena. *See* Kocieniewski, *supra* note 12, at B1.

106. *See generally* Ward, *supra* note 87, at 4. Mellon Bank commissioned a report to discover the metropolitan areas best attracting new business and expanding existing business between 1990 and 1995. *See id.* The five worst metropolitan areas had both professional baseball and football teams, while eight of the top nine metropolitan areas had neither. *See id.* Charlotte, North Carolina exists as the exception with the privately financed Ericsson Stadium for the NFL's Carolina Panthers. *See id.*

107. *See* Corder, *supra* note 55.

108. *Id.*

109. *See* McKeithen, *supra* note 33. As an example of an unfavorable public financing plan, McKeithen suggested St. Louis, Missouri. *See id.* St. Louis taxpayers initially agreed to fund construction for the $300 million Trans World Dome, hoping to lure a NFL team to the city. *See* William C. Lhotka, *Rams' Costs Will Haunt St. Louis for Years; Trial Revealed Details of a Terrible Sports Deal; Visitors Panel Plans to Appeal*, ST. LOUIS POST-DISPATCH, Nov. 12, 1997, at A1, *available in* LEXIS, News Library, SLPD File. To bring the NFL's Rams from Anaheim, California to St. Louis, Missouri, city officials designated a local nonprofit group to raise preferred seat license revenues. *See id.* These revenues paid the Rams' asking price: lease payments on the Rams' California stadium, funding to the NFL "poor teams," a shared revenue fee, additional stadium improvements, moving expenses, legal fees, a training facility, and a beer distributor buyout. *See id.*

110. *See* McKeithen, *supra* note 33.

is "a big-profile project, [which will] be a showpiece for years to come."[111] Affiliation with a project of this size is desirable to many investors and organizations.[112] Therefore, many investors and organizations desire affiliation with such a project.

## III. PROFESSIONAL SPORTS FACILITY PRIVATE FINANCING OPTIONS

Because of the public's dislike of taxes and the possible legislation prohibiting the use of tax-free bonds, professional sports facility financing increasingly presents a lucrative business opportunity to banks.[113] Between 1988 and 1998, fifteen new or renovated facilities were financed solely with private funds with government monies paying only for road and infrastructure improvements.[114] Many banks are just reaching their full potential regarding full service to sports teams.[115] As new financing options arise for sports teams, the financial backers of the sports industry must develop specialized expertise because "[t]here are a lot of details around such things as player contracts, tax implications, [and] league rules."[116] To break into the sports industry, banks may decide to develop a specialized group like NationsBank's creation of their sports lending group.[117] On

111. Goldblatt, *supra* note 25, at 9 (quoting Daniel Beckerman, chief financial officer of the NHL's Kings and the L.A. Arena Co.).

112. *See id.*

113. *See* Sweeney, *supra* note 1, at 37 (citing Patrick F. McAuliffe).

114. *See* Grant Gulibon, *Put Pro Sports Blackmailers Out of Business*, AM. ENTERPRISE, Jan.-Feb. 1998, at 76, 77.

115. *See* Ben-Amos, *supra* note 27, at 9.

116. *Id.* (quoting Paul Hogan, Vice Chairman for BankBoston's corporate banking); *see also supra* notes 5-6 and accompanying text (discussing necessary background knowledge for financiers in the sports industry).

117. Some banks, however, rely on their already strong ties with sports teams, owners, and leagues in order to break into the financing practice. For example, in Washington, D.C. city planners felt comfortable with NationsBank and accepted its proposal for financing infrastructure improvements to the MCI Center. *See* Thomas C. Hall, *City Seeks New Deal on Arena's*, WASH. BUS. J, June 30, 1995, *available in* LEXIS, Market Library, PROMT File. Another concern is what impacts the recent merger of NationsBank and BankAmerica will have upon the sports finance industry. *See* Erik Spanberg, *NationsBank to Bring BA Sports Finance into Big Leagues*, BUS. J. (Charlotte), May 18, 1998, at 10. The exposure created in the sports financing and sponsorship industry by both banks should carry the merged corporation into the future, according to Tony Davis a banking analyst at SBC Warburg Dillon Reed. *See id.* Prior to the merger, NationsBank participated in numerous facility financing arrangements and sports sponsorships. For example, NationsBank funded the Carolina Panthers' franchise fee and Ericsson Stadium. *See id.* "NationsBank is probably the leading bank in the country when

the other hand, some banks may join with an agency with developed networks and contacts in the sports industry.[118]

*A. Bank Loans*

Regardless of the favorable tax treatments of stadiums through tax-free bonds and direct taxes, most stadiums and arenas adopt a component of private financing.[119] As discussed above, without an acceptable financing plan teams may relocate elsewhere.[120] Therefore, local bankers play an increasingly essential role in aiding teams and communities, developing financing plans for facilities and other economic developments for the professional sports industry.[121] Additionally, sports lending divisions in commercial banks often restructure and finance deals in many locations across the nation.[122]

During the planning stages of the MCI Center in Washington, D.C., which houses the NBA's Wizards, the NHL's Capitals, and the WNBA's Mystics, several banks competed for the opportunity to finance the city's portion of the arena costs, which totaled $56 million

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it comes to the sports industry. When I think of talking to a team or a bank, NationsBank comes to mind first." *Id.* (quoting Steven Stern the senior Vice President at William R. Hough & Co). BankAmerica loaned money for the 1960's construction of Dodger stadium, underwrote renovations to Qualcomm Stadium in 1996, and recently lent money to Los Angeles' Staples Center and to Bank One Ballpark in Arizona. *See id.* Although the sports segments of the two banks remains in flux due to the merger, the commitment to the sports industry of the merged bank should continue well into the future. *See id.* (referring to a statement made by BankAmerica spokesman, Harvey Radin). Furthermore, the merger will eliminate the competition of one large player from the sports finance and sponsorship industry.

118. *See* Ben-Amos, *supra* note 27, at 9. For example, Game Plan, a sports investment-banking boutique, joined with BankBoston in 1997 to meet the financing needs of its sports teams, leagues, and facilities. *See id.* The growth for BankBoston into sports is expected to develop fee-based investments. *See id.* BankBoston's main concern was mastering the interpretation of sports contracts. *See id.*

119. *See* McKeithen, *supra* note 33. Overall, the percentage of public money used to finance arenas has decreased. *See* Alexander & Chapman, *supra* note 12, at 1A. Between 1980 and 1995, taxpayers funded 60% of construction costs for professional sports facilities, down from bearing 90% of the costs in the 1970s. *See id.* This study, conducted at Wright State University in Dayton, Ohio, does not account for the revenues from the operation of the arena that the sports teams receive. *See id.* (citing economist Robert A. Baade).

120. *See supra* note 11 and accompanying text (discussing NFL's Browns relocation to Baltimore).

121. *See* Sweeney, *supra* note 1, at 39.

122. *See id.*

for infrastructure improvements and site expansion.[123] The D.C. Agency Redevelopment Agency searched for competitive financing offers after discussing a proposal from NationsBank and Crestar, which would have required the city to pay $1.2 million to the banks to set a ceiling on the loan's interest rate.[124] City leaders considered this initial offer outrageous.[125] Upon later negotiations, NationsBank and Crestar provided a short-term "bridge-loan" to the city and agreed to allow the city a three-month waiver of the ceiling requirement to take competitive offers from other banks for the remainder of the loan.[126] The full loan of $56 million was secured through the repayment of a downtown-business tax.[127] Robert L. Moore, negotiator for the city, looked for other competitive offers from banking institutions, but Moore worried about using a financier with which he was unfamiliar.[128] According to Moore, "[t]he concern for dealing with someone new is always: Can they deliver, and can they deliver on time?"[129] This NationsBank deal is an example of the degree of bank influence and involvement in sports facility financing plans.[130] While

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123. *See* Maryann Haggerty, *New Arena Loan Deal May Save Millions*, WASH. POST, July 27, 1995, at C3; Maryann Haggerty, *3 Financing Bids Could Cut City's Arena Costs*, WASH. POST, July 7, 1995, at B1. Abe Pollin, owner of both teams, funded the stadium construction and design himself. *See Financing Bids, supra*, at B1. The MCI Center contains 98 luxury suites, 12 Founders Suites, and 3,000 club seats. *See* Mark Leibovich, *Luxury, Yes, But Also a Pandora's Box*, WASH. POST, Dec. 5, 1997, at G1.

124. *See* Haggerty, *New Arena Loan, supra* note 123, at C3.

125. *See* Peter Perl, *Full Court Press*, WASH. POST, Apr. 21, 1996, at W10. Michelle Bernard, then Chairwoman of the D.C. Redevelopment Land Agency, called the original terms "preposterous." *Id.*

126. *See* Haggerty, *New Arena Loan, supra* note 123, at C3.

127. *See id.*

128. *See* Hall, *supra* note 117. Morgan Stanley & Co. was considered in the selection of a financial backer. *See id.* Morgan Stanley & Co. financed Baltimore's Oriole Park at Camden Yards by underwriting two bond issues of $200 million. *See id.* Morgan Stanley offered $16.5 million in interest over seven years, compared with $21.8 million over nine years for a bank loan. *See* Haggerty, *New Arena Loan*, supra note 123, at C3.

129. Hall, *supra* note 117 (quoting Robert L. Moore of the D.C. Redevelopment Land Agency).

130. Along with the public financing component, a consortium of banks led by NationsBank and Sumitomo Bank lent $155 million to Abe Pollin to fund construction costs on the MCI Center. *See* Maryann Haggerty, *Private Financing for Stadium a Rarefied Banking Arena*, WASH. POST, Sept. 15, 1997, at F33. The MCI Center ultimately cost Pollin over $200 million; $4 million of which paid for the relocation of a White House telephone line. *See* Thomas Heath & David Montgomery, *Once More, The Ball Is in Pollin's Court*, WASH. POST, Nov. 30, 1997, at A1. Pollin decided to fund the construction, stating that Washington D.C. has "'been good to me all my life. . . . Not everything is dollars and cents.'" *Id.*

the District of Columbia wanted to find the most favorable bid for financing the MCI Center, knowledge of the bidder combined with time constraints for stadium construction kept the city from waiting longer for a better deal.[131]

*B. Syndicated Loans*

Syndicated loans occur when two or more lenders make a loan to a borrower under a common loan agreement.[132] In syndication, each lender receives a promissory note from the borrower for the individual loan amount, thus maintaining direct relationships between all the lenders and the one borrower.[133] Syndicated loans are becoming a popular option for stadium finance.[134] In 1997, syndicated loans accounted for $3.9 billion in 39 deals.[135] According to some lenders, a reason for the increased number of syndicated loans for sports financing is the greater investment stability seen in major league sports deals.[136] In 1997, Fleet Financial Group combined a $90 million syndicated loan with a $95 million private note placement in order to provide working capital and create long term capital for the NFL's Baltimore Ravens.[137] This arrangement developed through attempts to avoid the NFL's credit ceiling; the NFL offered a maximum $55 million line of credit to refinance debt or cover operating expenses for any NFL team in need of funds.[138] Fleet issued

131. *See* Heath & Montgomery, *supra* note 130, at A1.

132. *See* Megan Jones, Note, *Bankers Beware: The Risks of Syndicated Credits*, 3 N.C. BANKING INST. 169 (1999).

133. *See id.*

134. *See* Weidner, *supra* note 2, at 1.

135. *See id.* (citing information from Securities Data Co.).

136. *See id.*; *see also supra* note 4 and accompanying text (discussing investment ratings on sports facilities). Syndication is especially attractive because the lenders pool their loans together but remain a syndicate member with a direct relationship to the borrower. *See* Jones, *supra* note 132, at 172.

137. *See Fleet Financial Group Arranges $185 Million in Financing For Baltimore Ravens in Connection with Recapitalization*, BUS. WIRE, Sept. 16, 1997 [hereinafter *Fleet*], *available in* LEXIS, Market Library, PROMT File. First Union Capital Markets became the first financier to arrange private placement for the NFL through a $25 million deal with the New York Giants. *See* Jennifer Goldblatt, *Fleet Goes Deep: $185M Facility for NFL's Ravens*, AM. BANKER, Sept. 23, 1997, at 15.

138. *See* Goldblatt, *supra* note 137, at 15. The majority of the 31 NFL teams have not participated. *See* McKeithen, *supra* note 33. As of September, 23, 1997, the NFL reported that only nine clubs participated in the line of credit. *See* Goldblatt, *supra* note

debt secured by the team and by the proceeds from the Ravens stadium games, thereby avoiding the NFL limit on team collateral.[139] Fleet Financial Group served as the administrative agent for the $90 million in senior credit facilities that were used to buy out minority interests in the Baltimore Ravens, refinance existing debt, and meet working capital requirements.[140] These credit facilities consisted of a $50 million, seven-year revolving credit facility and a $40 million, seven-year term loan.[141] Also, Fleet Financial Group served as the placement agent issuing the 15-year-maturity senior notes to institutional investors.[142] This financial package suffered a critical attack after the Baltimore Ravens' poor on field performance in 1998.[143] Although the Ravens generated $128 million this year, some speculate that the payments to lenders hurt the team by dropping it to second to last in the NFL for dollar allocation to player salaries.[144] Estimates on the Ravens debt payments range between $18 and $20 million.[145]

### C. *Preferred Seat Licenses (PSLs) and Stadium Builder Licenses (SBLs)*

Preferred Seat Licenses (PSLs) provide the purchaser the right to purchase season tickets associated with a particular seat; tickets for the actual events must then also be purchased. The purchaser pays a one-time fee and may sell the PSL at any time.[146] PSLs first appeared

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137, at 15. Since 1992, NationsBank and Citibank have served as the co-administrative agents. *See id.* Since Fleet began financing, the credit limit has been raised to $100 million. *See* Jon Morgan, *Is Debt Keeping Ravens Grounded?*, BALTIMORE SUN, Nov. 5, 1998, at 1E.

139. *See* Goldblatt, *supra* note 137, at 15.

140. *See Fleet*, *supra* note 137. With the proceeds of the credit facility, Art Modell was able to consolidate ownership of his NFL team. *See id.*

141. *See id.*

142. *See id.*

143. *See* Morgan, *supra* note 138, at 1E. The Ravens finished their season with a 6-10 record. *See* Ken Denlinger, *Marchibroda Is Dismissed By Ravens*, WASH. POST, Dec. 29, 1998, at D1.

144. *See* Morgan, *supra* note 138, at 1E (citing Marc Ganis, a sports financial consultant and president of SportsCorp of Chicago).

145. *See id.* (citing Martin Klepper, partner in the Washington law firm of Skadden, Arps, Slate, Meagher & Flom, which arranged private financing for the NFL's Redskins, NHL's Capitals, and the NBA's Wizards).

146. *See* Lawrence Walsh & Tom Barnes, *Steelers Score, Sell All Seat Licenses*, PITT.

during financing for the construction of Charlotte's Ericsson Stadium thanks to the ingenuity of Max Muhleman.[147] Muhleman, of Muhleman Marketing Inc., a Charlotte-based sports marketing firm, developed this financing concept after issuing charter memberships with the NBA's Charlotte Hornet's owner, George Shinn, to ticket holders, allowing for future purchase of season tickets.[148] After the seat license idea developed, PSLs sold to the public for the NFL expansion team, Carolina Panthers, totaled $100 million.[149] PSLs have also succeeded in other communities.[150] Between 1993 and 1998, Muhleman ran five PSL campaigns; within the first month of every campaign, at least half of the PSL revenue goal was raised, and the fundraising met the goals within the next three to six months.[151]

Selling Stadium Builder Licenses (SBLs), another name for PSLs, the NFL's Pittsburgh Steelers hope to generate $37 million towards their new stadium, while maintaining affordable ticket prices for the fans.[152] As voted on November 4, 1998, Allegheny County will support a 1% sales tax, but the Steelers must raise $76.5 million toward the $211 million stadium.[153] In order to generate the funds, season ticket holders were offered first right to purchase SBLs in a comparable location to their former seat locations at Three Rivers Stadium; season ticket holders were also offered a discount within a set time period.[154] If the current season ticket holders declined the

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POST-GAZETTE, Dec. 15, 1998, at C1, *available in* LEXIS, News Library, PSTGAZ File.

147. *See* Ward, *supra* note 13, at 10D.

148. *See id.* Muhleman realized that the members sold their rights at a generous profit. *See id.*

149. *See id.* Three days prior to the Panthers first exhibition game in 1996, 4,000 PSLs remained unpurchased. *See* John Hechinger, *Unsold Seat Rights Could Be Trouble for Panthers, Fans*, CHARLOTTE OBSERVER, July 26, 1996, at 1A. Talk arose about accepting the 1993 offer by NationsBank and Wachovia to buy any unsold PSLs, which played a role in ensuring Charlotte would get its franchise. *See id.* Faced with 4,000 unsold PSLs, the banks took the position that the pledge expired once the franchise was secure. *See id.* The PSLs eventually did sell, keeping the banks off the hook. *See id.* Charlotte remains the most successful PSL campaign to date. *See* Ward, *supra* note 13, at 10D.

150. *See* Walsh & Barnes, *supra* note 146, at C1.

151. *See* Ward, *supra* note 13, at 10D.

152. *See* Walsh & Barnes, *supra* note 146, at C1. Pittsburgh's stadium should open to the fans in August 2001. *See id.*

153. *See id.* "[A] yet-to-be-approved" state contribution will fund the remainder of the stadium's $211 million cost. *Id.*

154. *See id.*; Barnes, *supra* note 7, at B1. Season ticket holders received a 20% discount if they purchased the SBLs by December 5, 1998, and paid one-third of the

offer of SBLs, then fans on the waiting list were offered the seats and ticket rights for purchase.[155] For all of the ticket holders involved, a payment plan provided low-interest bank loans if the season ticket holders could not pay the initial investment.[156] As an additional incentive to buy the SBLs, the Steelers offer a three-year period in which to pay the full price.[157] The price of the SBLs varies from $2,700 down to $250.[158]

PSLs work well funding construction costs for a professional sports facility, but generally, do not accommodate team owners who want PSLs to provide a profit.[159] The NFL supports PSL campaigns because it offers an investment opportunity to the fans.[160] On the other hand, fans may be resistant to pay thousands for a PSL in addition to paying an increased ticket price. Therefore, a successful marketing plan is critical to the PSL plan.[161] Without money to market the PSLs, the former Los Angeles Raiders financing plan did not meet expectations in Oakland, California.[162] The PSLs did not reach the market they were designed to reach, leaving tens of thousands of empty seats ranging from $250 to $16,000 for the licenses.[163] As of November 1998, only 29,000 PSLs of the 63,000-seat Oakland Coliseum had been purchased.[164] This illustrates the downside to a PSLs campaign: revenue sources linked to seat licenses may not succeed due to team performance, which usually changes every

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purchase price within 30 days. *See* Barnes, *supra* note 7, at B1.

155. *See* Barnes, *supra* note 7, at B1.

156. *See id.*

157. *See id.*

158. *See id.* A few SBLs remain unsold, and 20,000 of the 65,000 tickets to the games will not require purchase of a SBL. *See* Walsh & Barnes, *supra* note 146, at C1.

159. *See* Ward, supra note 13, at 10D.

160. *See id.* (citing Roger Goodell, senior vice president of the NFL).

161. *See* Kristen Baird, *Stadium Group Asking Banks to Help Market Club Seating*, CRAIN'S CLEVELAND BUS., Oct. 7, 1996, *available in* LEXIS, News Library, CLVBUS File. For example, Cleveland's Facilities Marketing Group, Ltd. and International Management Group hoped to merge with a bank in order to create a "consumer-friendly" approach to marketing and financing PSLs. *See id.* Area banks hoped to reap marketing benefits from the partnership. *See id.*

162. *See* Samuel Chi, *Wins Don't Mean Sales; Raiders Continue to Struggle with PSLs; No Sellout for Seattle Sunday*, S.F. EXAMINER, Nov. 12, 1998, at B1.

163. *See* Eldon L. Ham, *Call this NFL Team the Oakland Litigators*, CHI. DAILY L. BULL., OCT. 17, 1997, at 5.

164. *See* Chi, *supra* note 162, at B1.

year.[165]

### D. Asset-Backed Securities/Stadium Investment Bonds

Ascent Entertainment Group, which owns the NBA's Denver Nuggets and the NHL's Colorado Avalanche, started with a bank loan and moved to privatization and then to securitization to finance $165 million of the Pepsi Center in Denver.[166] Securitization occurs when cash-producing assets are pooled into a single-purpose entity, which then issues securities backed by the assets.[167] Based on a financing plan developed by New York attorney Linda Grant Williams, Ascent Arena Company, LLC, owner of the Pepsi Center, sold revenue contracts to a trust.[168] The trust sold notes based on the secure return of "the future revenues and the right to renewals of the contracts generating revenues for the life of the debt."[169] Asset-backed securities may be a better way to finance stadiums than high-yield bonds where all revenues go directly to pay back first-lien debt.[170] Securitization of these revenues lowers interest rates because less risk is undertaken when steady income streams, such as naming rights, suite licensing, and sponsorships sold to the trust, are secured.[171] Asset-backed securities also usually produce higher credit ratings than other loans or high-yield bonds, evidenced through the single-A

165. *See* Jennifer Karchmer, *Sector Spotlight: Managers Look to More Reliably Backed Stadium Bonds*, AM. BANKER-BOND BUYER, Jan. 7, 1999, *available in* LEXIS, News Library, ASAPII File.

166. *See* Sanders, *supra* note 4 (quoting John Gillespie, managing director of Bear, Stearns, & Co. Inc.). Ascent's "offering represents the first time that asset-backed securities have been used to finance a sports facility and the first unenhanced single-A rated, private sports facility financing." *Ascent*, *supra* note 4 (quoting Bear, Stearns & Co. Inc., the investment bank that sold the notes). The City of Denver only needed to pay $4.5 million for infrastructure improvements. *See* Sanders, *supra* note 4.

167. *See generally* Evan Gilreath, Note, *The Entrance of Banks Into Subprime Lending: First Union and The Money Store*, 3 N.C. BANKING INST. 149 (1999).

168. *See* Sanders, *supra* note 4. Linda Grant Williams practices at Cadwalader, Wickersham & Taft in New York City, New York. *See id.* Ascent Entertainment Group owns 94% of Ascent Arena Company, LLC. *See Ascent*, *supra* note 4.

169. *Ascent*, *supra* note 4. The trust operates on future revenues and is therefore considered bankruptcy-remote. *See* Sanders, *supra* note 4.

170. *See* Sanders, *supra* note 4.

171. *See Ascent*, *supra* note 4. Preferred seat licenses may be included as an asset-backed security. *See supra* notes 146-65 and accompanying text (discussing preferred seat licenses).

investment-grade rating given to the notes issued by Ascent's business trust.[172] Furthermore, these securities are generally offered through private placement and are thus not subject to registration under the Securities Act of 1933 or other state securities laws, which eliminates time and expenses related to registration.[173]

### E. *Additional Bank Financing Involvement*

An additional opportunity for bank and financial institution involvement in the sports industry is to establish funding for professional sports teams under league-wide facilities.[174] Fleet Financial Group, Inc. of Boston, Massachusetts recently granted a $405 million line of credit to MLB teams.[175] Any baseball team may use this line of credit to refinance debt or cover operating expenses;[176] the credit may also be applied to facility financing if no other method of financing is used.[177]

As remote as it sounds, the possibility always exists that a wealthy investor will privately fund a professional sports stadium, as the late Jack Kent Cooke financed the NFL's Washington Redskins new stadium.[178] NationsBank Corp. and Sumitomo Bank of Japan together with other banks began negotiations on a loan to Cooke in 1993.[179] The banks agreed to lend Cooke $155 million in March 1997 towards the new Redskins stadium.[180] James Weinstein, a vice president of Sumitomo Bank, stated that Sumitomo would be willing to finance similar privately financed deals elsewhere due to "good quality cash flow" from the stadium revenues.[181]

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172. *See Ascent*, *supra* note 4. Another feature of asset-backed investing is a tax-break for the purchaser due to depreciation of assets over time. *See* I.R.C. § 168 (1994 & Supp. II 1996).
173. *See Ascent*, *supra* note 4.
174. *See* McKeithen, *supra* note 33.
175. *See* Weidner, *supra* note 2, at 1.
176. *See id.*
177. *See* McKeithen, *supra* note 33.
178. *See* Haggerty, *supra* note 130, at F33.
179. *See id.*
180. *See id.*
181. *Id.*

## IV. BANK INVOLVEMENT IN PROFESSIONAL SPORTS MARKETING: THE NAME GAME

Bank One Ballpark, Pepsi Center, Target Center, MCI Center, United Center, and Ericsson Stadium all illustrate one of the most influential marketing strategies for organizations and a relatively effortless financing method for professional sports teams: sports facility naming rights. In May 1998, the Memphis Business Journal reported that the naming rights for a new professional football and baseball stadium sold on average for $50 million for twenty-five years.[182] Despite the large price tags for naming rights, banks strongly participate in this promotion. The frequency of the naming deals has increased from three in 1988 to forty-two named professional sports stadiums in 1998.[183] According to Anne Nelson, the executive vice president of marketing at Marine Midland Bank, "[i]t's getting harder and harder to break through all of the advertising messages out there. [Banks] really want to be in front of consumers - in their face . . . and visible."[184] Through the purchase of naming rights, banks and other corporations "build name recognition and good will" throughout the public.[185] Marine Midland Bank estimates that their name was "mentioned or shown 'hundreds of millions of times'" in the first three months after the opening of Marine Midland Arena, home of the NHL's Buffalo Sabres.[186] As another example of the impact of

182. *See* James Overstreet, *Downtown Stadium Construction Halts as Financing Talks Drag*, MEMPHIS BUS. J., May 21, 1998, *available in* LEXIS, Market Library, PROMT File. The length of the rights may possibly outlive the stadium, however: newer stadiums may replace older stadiums in shorter than 25 year periods. *See supra* note 15 and accompanying text (illustrating short-lived stadiums).

183. *See* Eileen Estok, Publics, Partnerships and Professional Athletics: The Selling of Modern Sports Facilities 8 (1998) (unpublished thesis, University of North Carolina (Chapel Hill)) (on file with the University of North Carolina Library) citing David Harrison, *Right to Name Ravens' Cheerleaders For Sale*, SPORTS BUS. J., 1998, at 5).

184. Tom Hartley, *Banks Cashing in on Pro Sports*, BUS. FIRST-BUFF., June 9, 1997, *available in* 1997 WL 7468686 (quoting Anne Nelson, executive vice president of marketing at Marine Midland Bank). Marine Midland Bank paid $15 million for the 20-year naming rights to the Marine Midland Arena. *See id.*

185. *Id.*

186. *Id.* (quoting Anne Nelson). In 1996, Marine Midland Bank paid $15 million for the naming rights to the arena. *See id.* Marine Midland Bank happily realized even more publicity when the arena's Jumbotron scoreboard crashed to the ice. *See id.* The Marine Midland logo appears near both goals and at center ice for the fans watching the game on television. *See id.*

advertising through naming rights, Corel Corporation estimates that the Corel name "will be written, spoken[,] or viewed an estimated 80 million times each year."[187] Jim Andrews, the vice president of the IEG Sponsorship Report, suggested that in the future, banks and other corporations might even sell naming rights to specific games between professional sports teams to further saturate the public with promotions; for example, "Marine Midland presents the Bills vs. the Steelers."[188]

Naming sports facilities is not the only method that banks and other organizations use to build clientele through association. Prominently displaying bank names through links with professional sports leagues, players, and tournaments also increases national public awareness of banks. Banks and other corporations seek to capitalize on the goodwill of a popular athlete or league by name affiliation programs, such as sponsorships. National and international sporting event sponsorship makes up a large part of NationsBank's branding plan.[189] Sponsorships appeal to fan sentiments and create an attractive choice for a new bank account. Bank accounts featuring professional sports teams make up 25% of the new checking accounts in Chicago's St. Paul Bankcorp featuring the Chicago Bulls, Bears, and Cubs.[190] In another sponsorship program, MBNA Corporation, the holding company for MBNA America Bank, established a credit card program linked to elite professional athletes like Nolan Ryan and Mario Lemieux to build name associations among sport fans.[191] Further enticing customers to choose their bank, some banks offer free seats to private and corporate banking clients by relying on marketing and

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187. *Corel Centre and the Corel Corporation* (visited Oct. 11, 1998) <http://www.corelcentre.com/info/corel.html>. Corel Corporation, the self-determined largest software company in the world, purchased the naming rights to the sports and entertainment complex for $25 million to be paid over 20 years. *See id.* The Corel Centre is home to the NHL's Ottawa Senators. *See id.*

188. *See* Hartley, *supra* note 184.

189. *See* Jennifer Gore, *Branding Trend Boosts Sports Marketing's Role; NationsBank*, BANK MARKETING, Feb. 1998, *available in* 1998 WL 15501016.

190. *See* Ann Kessler, *Should Your Bank Consider Sports Marketing?*, BANK MARKETING, Feb. 1998, *available in* 1998 WL 15501015.

191. *See MBNA Introduces Nolan Ryan Credit Card Program*, PR NEWSWIRE, August 14, 1998, at 1, *available in* LEXIS, News Library, WIRES File. Visa, MasterCard, and American Express also are affiliated with sports leagues to increase brand recognition. *See generally* Kessler, *supra* note 190 (citing *Here's a Knockout Brand Naming Idea*, AM. BANKER, Dec. 2, 1996).

financing connections with the sports facilities and teams.[192] Another interesting spin on the branding concept, adopted by NationsBank, includes funding a community outreach program to give a food donation that depends upon the points the Carolina Panthers football team scores each season.[193]

An innovative way to break into the sports industry at the ground level is to develop a financial plan for a new sports league.[194] Enormous revenues are possible if an investor begins with the league.[195] Likely targets for the creation of a new league include existing sports groups, soon to be leagues, or ones in early stages of development.[196] In deciding the feasibility of sponsoring a league, banks need to determine the focus of the league and how that focus will fit with current trends.[197] The Collegiate Professional Basketball League, which includes college-age players, begins in November 1999 and was financed through a New York-based investment firm, Josephberg, Groxa & Co.[198] Lycos, the media company and internet search engine, became the first sponsor of one of the thirteen teams with Boston-based "Team Lycos."[199] Considering the degree of public attention and involvement in the sports industry, banks may receive substantial benefits due to name recognition in targeting professional sports teams, events, and facilities.

## V. CONCLUSION

Into the next millennium, banks should expect to see a trend toward innovative private financing deals for professional sports. Communities all over the country are becoming more aware of the public's expense from the use of municipal bonds for professional sports facility financing and the resulting profits of teams and

192. *See* Kessler, *supra* note 190.
193. *See* Gore, *supra* note 189.
194. *See* Schwartz, *supra* note 9, at 34.
195. *See id.*
196. *See id.*
197. *See id.*
198. *See id.*
199. *See Lycos to Back Team in New Hoop League*, BOSTON GLOBE, Dec. 8, 1998, at C11.

owners.[200] Banks should develop sports finance divisions or consider outsourcing this division, as the sports financing industry continues to grow and may even expand into other entertainment areas, such as theaters, clubs, or even restaurants. Adding to the scope of sports financing, mid-sized banks may become involved in the financing of minor-league stadiums or find themselves as one player in a mix of financiers for a major league facility financing. The lucrative sports industry needs financiers to implement financing plans, and as shown through the examples above, many banks are already capitalizing on this trend. Additionally, banks may greatly benefit from marketing links with the sports industry. This past season, every time Mark McGwire hit a home run in St. Louis, MLB's Cardinals' fans across the world saw the NationsBank logo behind home plate.[201] Considering McGwire's performance this season, this advertising was priceless.[202]

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200. *See* Harvey Berkman, *Skadden's Team Pitches Private Stadium Financing*, NAT'L. L.J., Aug. 26, 1996, at B1.

201. *See* Christopher Carey, *Advertisers Hope McGwire Will Draw 3 Million*, ST. LOUIS POST-DISPATCH, Mar. 29, 1998, at A4, *available in* LEXIS, News Library, SLPD File. In addition, Office Depot, Office Max, Konica, and Sharp benefit from name recognition of worldwide fans because of their stadium signs. *See id.*

202. Mark McGwire finished his season with record-breaking 70 home runs. *See* Berkman, *supra* note 200, at B1.