ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER L85

LOANS (CARIBBEAN DEVELOPMENT BANK) ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

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LOANS (CARIBBEAN DEVELOPMENT BANK) ACT

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LOANS (CARIBBEAN DEVELOPMENT BANK) ACT

Interpretation

1. In this Act—

"Bank" means the Caribbean Development Bank;

"company" means a company incorporated, continued or registered under the provisions of the Companies Act* and carrying on business in Anguilla, or any company wherever incorporated which establishes a place of business in and carries on business in Anguilla or in a Territory which is a member of the Caribbean Community and which the Minister certifies to be a company for the purposes of this Act;

"Minister" means the Minister for the time being charged with responsibility for finance;

"statutory authority" means a statutory authority established under the laws of Anguilla.

Power of the Government to borrow from Bank

2. (1) Subject to the provisions of this Act, to the prior approval of a Secretary of State and to the prior approval by Resolution of the House of Assembly, the Minister may, from time to time, on behalf of the Government, in accordance with the provisions of a loan agreement or agreements made between the Government and the Bank, borrow from the Bank such sums of money as the Government may require.

* Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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(2) An agreement made in pursuance of subsection (1) may provide for the issue and delivery of promissory notes or other securities by or on behalf of the Government in respect of any liability of the Government under such an agreement.

(3) Any agreement between the Government and the Bank in respect of sums borrowed under the powers conferred by subsection (1) shall be made in the name of the Government and may be signed on behalf of the Government by the Minister or any person authorised thereof in writing by the Minister.

(4) As soon as practicable after any agreement has been concluded with the Bank under the authority of this section, the Minister shall lay a copy thereof before the House of Assembly.

Expenditure of loan money

3. The proceeds of any loan raised under the authority of this Act shall be applied for the purpose for which the loan was raised as specified in the agreement relating thereto, but any part of such proceeds which cannot be applied for the purpose specified in such agreement may be applied only for such other purpose as may be approved by the Minister and the Bank and by a Secretary of State with the concurrence of the Treasury of the United Kingdom.

Loans to be charged on Consolidated Fund

4. The repayment of any amounts borrowed by the Government under this Act is hereby charged upon and shall be paid out of the Consolidated Fund in accordance with the provisions of the agreement made between the Government and the Bank relating thereto, and the Consolidated Fund is, to the necessary extent, hereby appropriated accordingly.

Interest, etc., to be charged on Consolidated Fund

5. Interest and the expenses of borrowing, commitment fees and other charges payable on amounts borrowed by the Government under this Act or payable by the Government under a promissory note or other security issued under an agreement made in pursuance of this Act are hereby charged upon and shall be paid out of the Consolidated Fund which is, to the necessary extent, hereby appropriated accordingly.

Exemption from taxes

6. Where an agreement made in pursuance of section 2 or under section 7, to which the Minister on behalf of the Government is a party, provides that—

(a) the agreement or any matter or thing relating to the agreement;

(b) a promissory note or other security under the agreement or for the purposes of the agreement; or

(c) a payment made under the agreement or under such a promissory note or other security;

is to be exempt or free from taxes, duties, fees, restrictions, charges or other matters, that agreement, matter, thing, note, security or payment shall be so exempt and free notwithstanding anything contained in any other law in force in Anguilla.

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Borrowing powers of statutory authorities

7. (1) A statutory authority or company may, with the approval of the Governor and of the Minister and with the prior approval by Resolution of the House of Assembly, borrow from the Bank such sums of money as the statutory authority or company may require.

(2) The power to borrow conferred by this section on a statutory authority or company shall be in addition to any power to borrow conferred on such statutory authority or company under any other law.

(3) Any loan made by the Bank in pursuance of this section shall be repaid to the Bank at such times and by such methods, and interest on the loan shall be paid to the Bank at such rates and at such times, as may be expressed in a loan agreement between the Bank and the statutory authority or company.

Guarantee of loans made to statutory authorities and companies by Bank

8. (1) For the purpose of enabling a statutory authority or a company to enter into or carry out the terms of a loan agreement made, or to be made, between such statutory authority or company and the Bank, the Minister may, from time to time, on behalf of the Government, at the request of such statutory authority or company, and subject to the conditions required by this Act, either as sole guarantor or jointly with or jointly and severally with other guarantors, guarantee the repayment by such statutory authority or company of—

(a) the whole of or any part of the principal of;

(b) the whole of or any part of the interest on;

(c) the whole of or any part of the charges on;

any loan made to such statutory authority or company by the Bank, and undertake such other obligations as may be agreed between the Government and the Bank in relation to or pursuant to any such loan agreement.

(2) For the purposes of this section, a loan agreement includes a bond, promissory note or other instrument.

(3) As soon as practicable after any guarantee is given under this section, the Minister shall lay a statement of the guarantee before the House of Assembly, and where any sum is issued for fulfilling the guarantee so given, the Minister shall, as soon as possible after the end of each financial year, beginning with that in which the sum is issued and ending with that in which all liability in respect of that sum and in respect of the interest thereon is finally discharged, lay before the House of Assembly a statement relating to that sum.

(4) In consideration of a guarantee given to a company under this section, the Minister shall, in addition to any other condition he may require to be fulfilled under section 9, require the company to pay to the Accountant General a sum of money as a commission not exceeding 5% of the sum borrowed as the Minister may determine.

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Conditions of guarantee

9. (1) The Minister shall not give a guarantee under section 8 without first obtaining the prior approval of a Secretary of State and the approval of the House of Assembly and unless he is satisfied that the money is borrowed upon reasonable terms and conditions and that the purpose of the loan is likely to promote the economic development of Anguilla or to improve the standards of living of the people of Anguilla.

(2) The Minister may also require—

(a) that proper security is, or is to be, given to the Government over any property to which the loan relates;

(b) that any assets over which security is to be taken in accordance with paragraph (a)—

(i) will be insured and kept insured against all risks against which it is customary to insure, and to the full insurable value,

(ii) will not be sold without the sanction of the Minister,

(iii) will not be made the subject of a mortgage or charge having priority over the security to the Government in respect of the guarantee except in favour of the Bank, and

(iv) will not be taken out of Anguilla without the sanction of the Minister in writing and with or without security as the Minister may require;

(c) that for so long as the loan or any interest on the loan remains unpaid, officers of the Government will have full access at all reasonable times to the financial accounts of the statutory authority or company when authorised by the Minister for that purpose; and in respect of a loan to a company, that such company will do all in its power to ensure that the officers so authorised shall have similar access to the financial accounts of any company or firm in which that company at any time, directly or indirectly, has a controlling interest; and

(d) that any money borrowed shall be applied for the purpose for which the loan was raised and specified in the loan agreement relating thereto, and that, if any part of the loan cannot be applied for the purpose specified as aforesaid, that part will be applied only for such other purposes as may be approved by the Minister and by the Bank.

(3) The Minister may, as a further condition for the giving of a guarantee, give to a statutory authority or company directions as to any matter relating to the establishment or management of reserves or the carrying of sums to the credit of any reserves or the application of any reserves for the purpose of facilitating the repayment of any loan or part of a loan in respect of which the Minister has given a guarantee under this section.

Default in repayment of principal or interest guaranteed

10. Where the Minister is satisfied that there has been default on the part of a statutory authority or company in the repayment of any principal sum or payment of interest guaranteed or of any charge on any loan under the provisions of section 8, he shall direct the payment out of the Consolidated Fund

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of the amount of such default and such payment shall be a charge on the Consolidated Fund, and appropriation from the Fund for such purpose is hereby made accordingly.

Repayment of money paid to fulfill guarantee

11. (1) A statutory authority or company shall make to the Accountant General at such times and in such manner as the Minister may direct payment of such amounts as may be directed in or towards repayment of any sums paid by the Government in fulfilment of any guarantee given under section 8 and payment of interest on what is outstanding in respect of any sums so paid at such rate as the Minister may direct, and different rates of interest may be directed in relation to different sums or in relation to different periods.

(2) Any sums received by the Accountant General under subsection (1) shall be paid into the Consolidated Fund.

Citation

12. This Act may be cited as the Loans (Caribbean Development Bank) Act, Revised Statutes of Anguilla, Chapter L85.

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