

CAYMAN ISLANDS



LOANS (CARIBBEAN DEVELOPMENT BANK) LAW

(1999 Revision)

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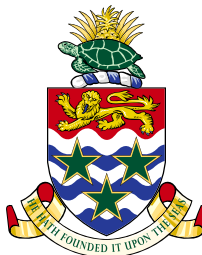
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LOANS (CARIBBEAN DEVELOPMENT BANK) LAW

(1999 Revision)

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CAYMAN ISLANDS



**LOANS (CARIBBEAN DEVELOPMENT BANK)
LAW**
(1999 Revision)

ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Law may be cited as the *Loans (Caribbean Development Bank) Law (1999 Revision)*.

Definitions

2. In this Law —

“**Bank**” means the Caribbean Development Bank;

“**Government**” means the Government of the Islands;

“**Governor**” means the Governor in Council;

“**Member**” means the Member of Executive Council responsible for Finance; and

“**statutory authority**” means an authority established by statute exercising powers vested in it for a public purpose.

Power of the Governor to borrow from the Caribbean Development Bank

3. (1) Subject to this Law, the Governor may, in such manner, on such terms and subject to such conditions as may be agreed between the Governor and the Bank, borrow from the Bank, from time to time, such sums as may be required by the Government not exceeding two hundred and fifty thousand dollars or, with the consent of the Legislative Assembly, amounts in excess of that sum.
- (2) Sums borrowed by the Governor under subsection (1) shall be applied and are appropriated to the purposes for which they were borrowed as specified in any agreement concluded with the Bank in respect of such sums:
- Provided that where any part of such sum cannot be applied to such purposes, such part may be applied to such other purposes as may be approved by the Governor and the Bank.
- (3) Agreements between the Governor and the Bank in respect of sums borrowed under subsection (1) shall be made in the name of the Government and may be signed by the Member or by a person authorised by the Governor in writing.
- (4) As soon as possible after an agreement has been concluded with the Bank in respect of any sum borrowed under subsection (1), the Member shall cause a copy thereof to be laid before the Legislative Assembly.
- (5) Nothing in this section affects or derogates from any other power of the Governor to borrow money.

Loans, etc., to be charged on general revenue and assets of the Islands

4. There are hereby charged on and payable out of the general revenues and assets of the Islands all amounts —
- (a) required for the repayment of any sums borrowed under section 3, and all interest and other charges on such sums;
 - (b) required for repayment to the Treasury of the United Kingdom, with interest at such rate as the said Treasury may fix, of any sum issued in pursuance of the *Colonial Loans Act, 1949* [U.K. Act] (as amended) of the United Kingdom on account of any guarantee under that Act of any sums borrowed under section 3; or
 - (c) payable pursuant to any guarantee or undertaking given under section 8.

Power to issue instruments including bonds

5. (1) The Governor may issue such bonds, promissory notes or other instruments on such terms and conditions as may be necessary for giving effect to the terms of any agreement which may be entered into by him with the Bank in respect of any borrowing authorised by section 3(1).



- (2) Such bonds, promissory notes or other instruments may be signed on behalf of the Governor by the Member or by any other person authorised by the Governor in writing.

Borrowing from the Bank by statutory authorities

6. (1) Subject to this Law, a statutory authority may, in such manner and subject to such terms and conditions as may be agreed between the statutory authority and the Bank and with the approval in writing first obtained of the Governor, borrow from the Bank, from time to time, such sums as may be required by the statutory authority not exceeding two hundred and fifty thousand dollars or, with the consent of the Legislative Assembly, amounts in excess of that sum.
- (2) Notwithstanding anything to the contrary, any agreement between the statutory authority and the Bank is valid and binding on the authority if signed on behalf of the authority by a person approved by the Governor and authorised thereto in writing under the seal of the statutory authority.
- (3) The power to borrow conferred by this section on a statutory authority is in addition to any power to borrow conferred on such authority under any other law.
- (4) Notwithstanding anything to the contrary, a statutory authority may charge or mortgage all or any of its property (movable or immovable), undertaking or revenue to secure any sum owing to the Bank in respect of sums borrowed by it under subsection (1).
- (5) Notwithstanding anything to the contrary, a statutory authority may issue such bonds, promissory notes and other instruments on such terms and conditions as may be necessary for giving effect to any agreement which may be entered into by it with the Bank in respect of any borrowing authorised by subsection (1).

Application of loan moneys by statutory authorities

7. Sums borrowed by a statutory authority under section 6(1) shall be applied by the authority to the purposes for which the sums were borrowed as specified in any agreement concluded with the Bank in respect of such sums:

Provided that where any part of such sum cannot be applied to such purposes such part may be applied by the statutory authority to any other purposes approved by the Governor and the Bank.

Power of Governor to guarantee loans by Bank to statutory authorities

8. (1) The Governor may, in such manner, on such terms and subject to such conditions as may be agreed between him and the Bank and with the consent of the Legislative Assembly when the sum involved exceeds two hundred and fifty thousand dollars —



- (a) guarantee the discharge by a statutory authority of its obligations under any agreement entered into by the statutory authority and the Bank in respect of any borrowing authorised by section 6(1) or under any bond, promissory note or other instrument issued under such agreement; and
 - (b) undertake such other obligations as may be agreed between the Governor and the Bank in relation to or pursuant to any such agreement, bond, promissory note or instrument.
- (2) Guarantees and undertakings given under subsection (1) shall be given in writing in the name of the Government, and any endorsement of any bond, promissory note or other instrument of any guarantee given under subsection (1) may be signed on behalf of the Government by the Member or by any person authorised in writing by the Governor.
- (3) As soon as possible after a guarantee or undertaking is given under this section, the Governor shall cause to be laid before the Legislative Assembly a statement of such guarantee or undertaking.

Restriction on borrowing powers of statutory authorities so far as guarantee outstanding

9. So long as the Government continues liable under any guarantee or other undertaking given under section 8(1) in respect of any borrowing by a statutory authority, the statutory authority shall not, except with the consent of the Governor, exercise any other of its powers to borrow.

Powers exercisable by the Governor in the event or prospect of default by a statutory authority

10. (1) Where it appears to the Governor that there is reasonable cause to believe —
- (a) that a statutory authority is likely to fail to discharge any of its obligations under any agreement concluded by it with the Bank or under any bond, promissory note or other instrument issued pursuant to any such agreement; and
 - (b) that the Government is or may become liable under any guarantee or other undertaking given under section 8(1) in respect of such obligation,
- the Governor may, by order, give or authorise any other person to give such directions to the statutory authority as he or such other person may, from time to time, think necessary or desirable to ensure that satisfactory arrangements are made by the authority to enable it duly to discharge its obligations under such agreement, bond, promissory note or instrument or under this Law.
- (2) The statutory authority shall, notwithstanding any provision contained in any other law, comply with directions given by or under any such order.
- (3) Nothing in this section affects or derogates from any other power of the Governor or other public officer in respect of the statutory authority.



- (4) Where any sum becomes payable by the Government pursuant to a guarantee or undertaking given in exercise of section 8, that sum shall be charged on the general revenue and assets of the Islands and the Governor shall direct payment to issue thereout.

Statutory authorities to repay to general revenue sums paid under guarantee

11. (1) If any sum is paid out of the general revenue in respect of any liability incurred by the Governor under a guarantee or other undertaking given under section 8(1) in respect of any borrowing by a statutory authority, the statutory authority shall repay such sum (together with interest thereon at such rate as the Governor may, from time to time, specify) to the general revenue in such manner and at such time or by such instalments as the Governor may direct.
- (2) Sums so paid out of the general revenue shall, as soon as possible after the end of each financial year beginning with that in which the sum was paid and ending with that in which all liability in respect thereof and any interest payable thereon is finally discharged by the statutory authority concerned, be laid by the Governor before the Legislative Assembly in a statement relating thereto.

Arbitration

12. Disputes between the Bank on the one part and the Governor or a statutory authority or both on the other part arising under agreements concluded or guarantees or undertakings given by this Law or under any bond, promissory note or other instrument issued pursuant to any such agreement shall be determined by arbitration in the manner agreed by the parties.

Implementation of agreements

13. (1) Notwithstanding anything to the contrary, agreements concluded with the Bank in respect of borrowing authorised by section 3(1) or 6(1) and bonds, promissory notes or other instruments issued pursuant to any such agreement and guarantees or undertakings given in respect of any such agreements, bonds, promissory notes or instruments by the Governor or a statutory authority are valid and enforceable in the Islands.
- (2) Neither the Government nor any agency thereof nor any statutory authority shall, except as shall be otherwise agreed between the Governor and the Bank, create any lien on any of its assets as security for any external debt unless it is expressly provided that the lien will *ipso facto* equally and rateably secure the payment of the principal of and interest and other charges on any loan made by or any bonds, promissory notes or instruments issued pursuant to any loan made by the Bank to the Islands or to a statutory authority.

(3) In subsection (2) —

“**external debt**” means a debt payable in any medium other than currency which at the time in question is legal tender in the Islands whether such debt is payable absolutely or at the option of the creditor in such other medium; and

“**lien**” ‘includes mortgages, pledges, charges, privileges and priorities of every kind.

**Publication in revised form authorised by the Governor in Council this 8th day of
June, 1999.**

Carmena H. Parsons
Clerk of Executive Council

