

BELIZE:

BELMOPAN CITY COUNCIL (AMENDMENT) ACT, 2017

ARRANGEMENT OF SECTIONS

1. Short title and construction.
2. Amendment of section 2.
3. Insertion of new Part IVA.
4. Insertion of Schedules 1 and 2.



No. 12 of 2017

I assent,

(SIR COLVILLE N. YOUNG)
Governor-General

2nd February, 2017.

AN ACT to amend the Belmopan City Council Act, Chapter 86 of the Substantive Laws of Belize, Revised Edition 2011; to provide for the use management and repayment of monies raised by the Belmopan City Council from an issue of bonds; for the related establishment of a Belmopan City Infrastructure Fund and a Belmopan City Municipal Sinking Fund; and to provide for matters connected therewith and incidental thereto.

(Gazetted 11th February, 2017.)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

1. This Act may be cited as the

**BELMOPAN CITY COUNCIL (AMENDMENT)
ACT, 2017,**

**Short title
and
construction.**

CAP. 86. and shall be read and construed as on with the Belmopan City Council Act, which, as amended, is hereinafter referred to as the principal Act.

Amendment of section 2.

2. The principal Act is amended in section 2 by inserting the following definitions in the appropriate alphabetical sequence –

Schedule 1.

“bond” means a bond issued by the Belmopan City Council with the approval of the Minister responsible for finance and specified in Schedule 1;

“bond proceeds” means any monies raised by the issue of a bond;

“bondholder” means a person in whose name a bond is registered pursuant to regulations made under this Act and to whom a certificate of registration has been issued for a bond;

Act No. 11 of 2012.

“financial institution” means any financial institution licensed and regulated under the Domestic Banks and Financial Institutions Act, 2012;

“Infrastructure Fund” means the Belmopan City Infrastructure Fund established by section 23B;

“rollover” means renewal of a bond by mutual agreement of the Council and bondholders;

“Sinking Fund” means the Belmopan City Municipal Bond Sinking Fund established by section 23D; and

CAP. 83.

“treasury security” means a Treasury Bill or Treasury Note as defined in section 2 of the Treasury Bills Act.

Insertion of new Part IVA.

3. The principal Act is amended by inserting next after section 23 the following as Part IVA –

“PART IVA

Municipal Bond

23B. There is hereby established, in addition to the Belmopan City Fund, and notwithstanding section 21, a fund to be known as the “Belmopan City Infrastructure Fund” into which shall be deposited or credited bond proceeds.

Establishment of Belmopan City Infrastructure Fund.

23C. The Infrastructure Fund shall be used for the purposes specified in Schedule 2.

Restriction on the use of Infrastructure Fund. Schedule 2.

23D.-(1) There is hereby established, in addition to the Belmopan City Fund, and notwithstanding section 21, a fund to be known as the “Belmopan City Municipal Sinking Fund” –

Establishment of Belmopan City Sinking Fund.

- (a) into which shall be deposited, from a date to be declared by the Minister by Notice in the Gazette, until the repayment of all principal and interest due in respect of a bond, any other monies from the Belmopan City Fund that the Council considers necessary to ensure that the Sinking Fund is adequate to satisfy the repayment of principal and interest; and
- (b) which shall be used for the purpose of repaying principal and interest payable to bondholders in respect of a bond.

(2) Notwithstanding subsection (1), the Minister may, where there are good and compelling reasons, appear to him to be direct in writing that the deposit of monies referred to in subsection 1(a) into the Sinking Fund be interrupted or discontinued.

Management of Sinking Fund & Fiscal Agent.

23E.-(1) The Council may appoint a financial institution in good standing or an established registered company in good standing, with the capacity to be a fiscal agent, to act as the Fiscal Agent and manage the Sinking Fund generally, and, in particular, the Fiscal Agent shall –

- (a) pay interest and principal repayments payable to bondholders and such other payments as required in accordance with the terms of the bond from the Sinking Fund; and
- (b) hold monies deposited into the Sinking Fund which are not required immediately for payments under paragraph (a) in treasury securities.

(2) The Fiscal Agent shall not be liable to any bondholder for any act or omission by itself or its employees in the discharge of any duty or function imposed by this Act, except in the case of fraud or gross neglect.

(3) The Council shall indemnify the Fiscal Agent and its employees against liability incurred in the performance of a function or duty imposed by this Act, and, with necessary modifications, the provisions of section 55 (*immunity from personal liability*) shall apply in relation to a Fiscal Agent and its employees as they apply to officers and employees of the Council.

Protection of Funds.

23F. The Infrastructure Fund and the Sinking Fund shall be immune from enforcement of any judgment or proceedings including any proceedings for the attachment of debt or seizure of assets by any creditor or other person.

Debt ceiling for duration of Bond.

23G.-(1) The Council shall maintain for the duration of a bond a debt ceiling, such that –

- (a) interest and principal payable in any year in respect of its debts shall not exceed fifty per cent of the Council's recurrent revenue from the previous year; and
- (b) its total debt shall not exceed twenty five million dollars.

(2) For the purpose of subsection (1), the debt of the Council includes any monies owed or accruing in respect of a loan or any other extension of credit including an overdraft facility, an indirect obligation such as a guarantee, surety, underwriting or security issued and any other similar financial arrangement which creates a liability.

(3) Notwithstanding subsection (1), the Minister may, after consultation with the Bond Trustee, permit the Council to borrow in excess of the debt ceiling in cases of emergency.

23H.- (1) The Council shall maintain complete and accurate records and accounts of all monies received and disbursed from bond proceeds and transactions involving and related to the use of bond proceeds.

Maintenance of records and accounts.

(2) The Infrastructure Fund shall be audited by an independent auditor appointed by the Council annually until all principal and interest due in respect of a bond has been repaid to bondholders.

(3) The Council shall submit to the Minister, within three months after the end of each fiscal or financial year in which –

- (a) monies from the Infrastructure Fund is used; and
- (b) principal or interest is due and payable to bondholders in respect of the bond, a

report of the audit conducted under subsection (2) and a report on all the projects and activities undertaken wholly or partly with bond proceeds.

(4) The Minister shall lay a copy of the reports referred to in subsection (3) before both Houses of the National Assembly as soon as possible after he receives them.

(5) The Council shall cause a copy of the reports referred to in subsection (3) to be made available to members of the public on the Council's website or otherwise, while simultaneously being laid before both Houses of the National Assembly.

Bond related regulations.

23I. The Council may, with the approval of the Minister, make regulations for –

- (a) the registration and certification of bonds issued;
- (b) the management of projects and activities undertaken wholly or partly with bond proceeds;
- (c) the procurement process for goods and services to be paid for with bond proceeds;
- (d) the requirement for certificates of completion before bond proceeds may be disbursed to contractors;
- (e) public consultations in respect of bonds issued or proposed to be issued;
- (f) financial audits in respect of bond proceeds; and

- (g) rollover of maturing bonds at prevailing market interest rates.”

4. The principal Act is amended by inserting the following as Schedules 1 and 2,

Insertion of new Schedules 1 and 2.

“SCHEDULE 1

(Section 2)

Approved Bond Issue

The Belmopan City Municipal Bond (Issue No. 1), 2016 authorized by the Council by Resolution dated 5th April 2016.

SCHEDULE 2

(Section 23C)

Specified purposes for Belmopan Infrastructure Fund

The Council may use moneys to the credit of the Infrastructure Fund for any of the following purposes:

- (a) to retire any existing overdraft facility, debt or liability of the Council (which usage, at any time, is not to exceed \$1.5 million in aggregate);
- (b) to pay for infrastructure works, including the construction or upgrade, excavation, painting or repair of streets and drains and the installation of street lights, sidewalks or any similar types of infrastructure and the carrying out of works and the purchasing of related heavy equipment;

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- (c) to pay for any consultancy services, contractor services or the services of any professional, including any attorney-at-law, auditor, accountant, financial advisor or Bond Trustee used as part of the municipal bond programme (not to exceed six percent of the bond proceeds in aggregate or \$400,000.00, whichever is the lower);
 - (d) to pay for anything that is made a requirement by this Act, including any publications to be done; and
 - (e) to pay for any building, construction, renovation, beautification, park or playground or other similar project or activity within the City of Belmopan that benefits residents of the City of Belmopan and which the Minister may give prior approval for in writing.”