

*Legal Supplement Part A to the "Trinidad and Tobago Gazette", Vol. 46,
No. 23, 7th February, 2007*

Fifth Session Eighth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 1 of 2007

[L.S.]

AN ACT to amend the Home Mortgage Bank Act,
Chap. 79:08

[Assented to 6th February, 2007]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

1. This Act may be cited as the Home Mortgage Bank Short title
(Amendment) Act, 2007.

Interpretation

2. In this Act—

Chap. 79:08

“the Act” means the Home Mortgage Bank Act;
and
“the Bank” means the Home Mortgage Bank.

Schedule amended

3. The Schedule to the Act is amended by deleting the word “Schedule” and substituting the words “Schedule 1”.

Schedule 2 inserted

4. The Act is amended by inserting after Schedule 1 the following Schedule:

“Schedule 2

Classes of financial activities of the Home Mortgage Bank which the Central Bank may supervise include the following:

<i>Class</i>	<i>Activities</i>
1. Merchant Bank	Floating and underwriting stocks, shares and bonds— Loans syndication Providing consultancy and investment management services and corporate advisory services Acceptance credit Project Development Lease financing Inter-bank financing
2. Mortgage Institution	Mortgage lending
3. Trust Company	Managing Trust Funds Performing duties of trustees, executor or administrator and attorney Administration of Pension Funds Mortgage lending

4. Collective Investment Funds Providing facilities for the participation by persons as beneficiaries under a trust or other scheme, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatever.”.

5. Section 5 of the Act is amended by deleting paragraph (a) and substituting the following:

- (a) may borrow and advance money and mortgage or charge its undertaking or property or any part thereof and issue bonds, debentures, debenture stock and other securities whether as security for any debt, liability or obligation of the bank or of any third party or otherwise;

6. The Act is amended by inserting after section 5 the following new sections: Section 5A and 5B inserted

“Central Bank responsible for supervision of financial activities Schedule 2 5A. (1) The Central Bank of Trinidad and Tobago shall be responsible for the supervision of the financial activities of the Bank as set out in Schedule 2.

(2) The Central Bank may exercise any of its powers and duties under this Act through any of its officers authorized in that behalf.

Power to request information 5B. (1) The Central Bank shall have the power to request information from the Bank for the purpose of ensuring that the Bank is conducting its business lawfully and in compliance with the Act.

(2) The Bank shall provide the Central Bank with information at such time and in such form as the Central Bank may require.”.

Section 11 amended

7. Section 11 of the Act is amended—

- (a) in subsection (1), by inserting before the word “eleven” the words “a maximum of”;
- (b) in paragraph (b), by inserting after the words “two executive officers” the words “who may be appointed by the Board”; and
- (c) in paragraph (c), by deleting the word “nine” and substituting the word “seven”.

Section 18A inserted

8. The Act is amended by inserting after section 18 the following new section:

“Immunity
from
liability

18A. Directors of the Bank shall be exempt from liability for acts done in relation to the exercise of their functions as directors, except such acts as are done by their own wilful acts or default.”.

Sections 29A to 29F and 30 inserted

9. The Act is amended by inserting after section 28 the following heading and new sections:**“PART IIA****OFFENCES**

Offence to
suppress
information

29A. A person who—

- (a) without reasonable excuse alters, suppresses, conceals, destroys or refuses to produce any document which he has been required to produce in accordance with this Act or any regulations thereunder, or which he is liable to be so required to produce;
- (b) wilfully neglects or fails to furnish any information; or

(c) knowingly furnishes false information,

is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for two years.

Offence where no penalty specified

29B. A person who fails to comply with any provision of this Act or regulations for which no penalty is specified is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for two years.

Defence

29C. In any proceedings for an offence under this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised due diligence to avoid the commission of the offence by himself or by any person under his control.

Deceit, fraud or profit

29D. In any proceedings for an offence under this Act or regulations where it is proved that the person charged intended to deceive, defraud or profit significantly from the offence, the penalty shall be a fine ten times the amount stipulated in section 29B or imprisonment for ten years and this penalty shall be in addition to any other penalty under this Act.

Monetary benefits

29E. Where a person has been convicted of an offence under this Act, the court may, where it is satisfied that as a result of the commission of the offence—

(a) the convicted person acquired any monetary benefits; or

- (b) that monetary benefits accrued to the convicted person or to the spouse or other dependents of the convicted person,

order the convicted person, notwithstanding the maximum amount of any fine that may be imposed under this Act, to pay an additional fine in an amount equal in the estimation of the court to the amount of the monetary benefit.

Liability of director, officer or agent of Bank

30. Where a person has committed an offence under this Act, any director, officer or agent of the Bank, who directed, authorized, consented to, acquiesced in or participated in the commission of the offence, is a party to and commits an offence and is liable—

- (a) on summary conviction to a fine of one hundred thousand dollars and to imprisonment for two years;
- (b) on conviction on indictment, to a fine of two hundred thousand dollars and to imprisonment for five years,

whether or not the Bank or other body corporate has been prosecuted or convicted.”.

Section 31A of Act No. 17 of 2005 renumbered

10. Section 31A of the Home Mortgage Bank (Amendment) Act, 2005 is renumbered as section 31B.

Section 33 amended

11. Section 33 of the Act is amended by deleting subsection (1) and substituting the following subsection:

“Non-application of Act No. 18 of 1993 and Chap. 84:04

33. (1) The Financial Institutions Act, 1993 and the Moneylenders’ Act shall not apply to the Bank.”.

12. The Act is amended by inserting after section 34A Section 34B and 34C inserted the following new sections:

“Amendment of schedules 34B. The Minister may, after receiving the recommendations of the Central Bank, from time to time amend the First and Second Schedules by Order subject to negative resolution of Parliament.

Transactions valid, rights preserved 34C. No transaction shall be invalid and the rights of any party to the transaction shall not be affected by reason only of a contravention of the provisions of this Act or the commission of an offence.”.

13. The Act is amended by inserting after section 34C Section 35 Inserted the following new section:

“Regulations 35. The Minister of Finance shall, on the recommendation of the Central Bank, make regulations subject to negative resolution of Parliament, in respect of the operations of the Home Mortgage Bank and notwithstanding the generality of the foregoing may make regulations for—

- (a) treatment of assets and investments;
- (b) treatment of interest;
- (c) risk management;
- (d) reserve fund requirements;
- (e) new financial instruments;
- (f) cease and desist Orders issued by the Central Bank;
- (g) the criteria for determining the fit and proper requirements for directors, managers and shareholders; and

(h) matters relating to inspection and examination of the Home Mortgage Bank.”.

Commencement

14. Sections 1 to 8 and 10 to 13 are deemed to have come into effect from the 29th day of July, 2005.

Passed in the House of Representatives this 24th day of November, 2006.

J. SAMPSON
Clerk of the House

Passed in the Senate this 7th day of January, 2007.

N. JAGGASSAR
Clerk of the Senate

Senate amendments agreed to by the House of Representatives this 17th day of January, 2007.

J. SAMPSON
Clerk of the House