

**ANTIGUA AND BARBUDA**



**THE LOAN (BORROWING FROM THE ANTIGUA COMMERCIAL BANK) ACT, 2020**

**No. 35 of 2020**

*[Published in the Official Gazette Vol. XL No. 95  
dated 31st December, 2020. ]*

Printed at the Government Printing Office, Antigua and Barbuda,  
by Noel F. Abraham, Government Printer  
— By Authority, 2021.



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[L.S.]



I Assent,

**Rodney Williams,**  
*Governor-General.*

31st December, 2020.

## **ANTIGUA AND BARBUDA**

### **THE LOAN (BORROWING FROM THE ANTIGUA COMMERCIAL BANK) ACT, 2020**

#### **NO. 35 OF 2020**

**AN ACT** to facilitate the borrowing from the Antigua Commercial Bank of the sum of One Hundred and Twenty-Seven Million Eastern Caribbean Dollars and for connected purposes.

**ENACTED** by the Parliament of Antigua and Barbuda as follows —

#### **1. Short Title**

This Act may be cited as the Loan (Borrowing from the Antigua Commercial Bank) Act 2020.

#### **2. Interpretation**

“Antigua Commercial Bank” or “ACB” or “Bank” means the Antigua Commercial Bank which is a commercial Banking Institution incorporated in Antigua and Barbuda and registered with the Eastern Caribbean Central Bank to carry on the business of a commercial bank;

“Minister” means the Minister with responsibility for Finance, or someone authorised to act on his behalf;

#### **3. Minister authorised to borrow \$127 Million from ACB**

Notwithstanding the provisions of any other Act, the Minister of Finance is hereby authorised under the authority of this Act to borrow the sum of One Hundred and Twenty-seven Million

Eastern Caribbean Dollars from the Antigua Commercial Bank on the terms and conditions as agreed to by the Government of Antigua and Barbuda and the Antigua Commercial Bank and set out in the schedule hereto.

#### **4. Application of the money borrowed**

The loan raised under the authority of this Act shall be used for the purposes outlined in the schedule to this Act.

#### **5. Repayment of principal sum and interest charged on the Consolidated Fund**

The repayment of the principal sum and interest borrowed under the authority of this Act is charged upon and payable out of the Consolidated Fund and assets of Antigua and Barbuda in the manner prescribed in the agreement.

### **SCHEDULE**

The Terms and conditions agreed to between the Government of Antigua and Barbuda and the Antigua Commercial Bank for the loan to the Government of Antigua and Barbuda of the sum of One Hundred and Twenty-seven Million Dollars Eastern Caribbean Currency.

#### **Credit A: Operating Line**

Borrower:	Government of Antigua and Barbuda
Credit limit:	East Caribbean \$5,000,000.00
Description and Rate:	A revolving demand credit for Government expenditure, to be extended as Loans and Overdrafts at an interest rate up to 11% per annum.

#### **Credit B: Term Loan**

Loan Amount:	East Caribbean \$127,000,000.00
Purpose:	Consolidation of loan# 100003538 with a current balance of \$46,521,405 and loan # 100003653 with a current balance of \$9,068,827 in the name of the Government of Antigua and Barbuda plus daily accrued interest; liquidation of temporary overdraft facility of \$10M for Government of Antigua and Barbuda; loan in the name of Antigua and Barbuda Maritime Board Inc. with a current balance of \$27,016,819.00 plus daily accrued interest, overdrawn balance of \$164, 000 plus monthly charge DDA account in the name of Antigua and Barbuda Maritime Board Inc.; amount of \$10.7 Million for LIAT (1974) Ltd.; loan of \$6M regarding the purchase of Deluxe cinema; valuation costs estimated at \$15K for securing properties on Factory Road (Block# 64-1792B; Parcel #24) and High Street (Block# 65-1792C; Parcel #107); debt service reserve of approximately \$10.2M and capitalisation of interest for six month moratorium on government facilities.

Interest Rate: 6.25% per annum  
Scheduled payments: Unless the Bank makes a demand, the Government of Antigua and Barbuda agrees to pay to the Bank 240 regular blended monthly payments of \$928,278.82. The first monthly payment is due one month after initial disbursement of the facility. The last payment, plus any outstanding principal and interest together with any other amount due under this agreement is due 240 months after the date of initial disbursement.

**Security**

The following security is required:

Guarantee of \$27.2M signed by Antigua and Barbuda Maritime Board Inc. supported by:  
Registered Charge over commercial property at Factory road. Registration Section: Sutherlands;  
Block # 64-1792B, Parcel #24 stamped to \$25,700,000.

Fire and other perils insurance over the property for its full insurable value with loss, if any,  
payable to Antigua Commercial Bank.

Registered Debenture over the fixed and floating assets of Antigua and Barbuda Maritime Board  
Inc. stamped to \$1,700,000.

Fire & perils insurance over the fixed and floating assets of Antigua and Barbuda Maritime Board  
Inc. for its full insurable value with loss, if any, payable to AntiguaCommercial Bank.

Registered Charge over commercial property on High Street (Deluxe Cinema). Registration  
Section: St. John’s Central. Block# 65-1792C; Parcel Numbers 124 & 125 stamped to \$6M.

Fire and other perils insurance over the property for its full insurable value with loss, if any,  
payable to Antigua Commercial Bank.

Registered Charge over commercial property on High Street. Registration Section: St. John’s  
Central. Block #65-1792C, Parcel 107 (stamped value to be determined upon receipt of updated  
valuation report)

Fire and other perils insurance over the property for its full insurable value with loss, if any,  
payable to Antigua Commercial Bank.

Lien over Certificate of Deposit #100040618 for \$3,000,000 in the name of Government Treasury  
Fund.

**Reporting Requirements**

A copy of the annual Budget Estimates is to be provided within 15 days after presentation to  
Parliament each year.

**Conditions Precedent to Disbursement**

The following shall be provided, in form and substance satisfactory to ACB, prior to disbursement.

1. Execution and delivery of all relevant loan and security documentation.
2. Updated Valuation report (prepared by one of the Bank's designated valuers) for the ADOMS building (Block #64-1792B, Parcel#24).
3. Updated Valuation report (prepared by one of the Banks's designated valuers) for the former CIBC building on High Street (Block #65-1792C, Parcel #107).

**Continuing Conditions**

1. The Bank may set off any amounts due and [payable under these Facilities against any right that the Government of Antigua and Barbuda has to receive money from the Bank. Right to receive money means –

- (a) Any deposit account the Government has with the Bank, and
- (b) Any money owed to the Government on any item presented to the Bank or in the possession for collection, exchange or sale.

2. The Overdraft limit is to be strictly observed at all times.

3. The bank, having now exceeded its current concentration limit as stipulated in our Regulatory Guidelines (\$114 million or 25% of our total credit portfolio) in lending to the Government of Antigua & Barbuda, will not be in position to facilitate any further credits to you until your aggregate credit is reduced to within the stated limit.

4. Subject to terms hereof after the Moratorium the Borrower shall repay the principal sum and interest and interest by equal consecutive monthly payments commencing on the first payment date following the moratorium in accordance with the Amortization Schedule provided always and it is hereby expressly declared and agreed that the principal sum, interest at the agreed interest rate, maturity date, repayment date and or repayment frequency date shall not be varied, modified, changed or altered nor shall any variation, modification or change be implemented without the mutual consent of the parties hereto or as otherwise permitted by this agreement.

**Material Adverse Condition**

ACB reserves the right to demand prepayment of the ACB Facilities where there is a Material Adverse Condition, as evidenced by one or more of the following:

- (i) Non-compliance with the terms and conditions of the ACB Facilities;
- (ii) Material reductions in security margins or values; or

- (iii) Significant deterioration in, or development of factors that are likely to substantially impair the viability of the Borrower's principal sources of income.

**Events of Default**

The ACB Facilities and all interest thereon may, in the Bank's sole discretion become immediately due and payable in full, in the event of default to include, but not be limited to, the following:

- (i) Non-payment of principal and interest within 90 days of their due date;
- (ii) Default by the Borrower under any of its credit agreements or debt obligations;
- (iii) The breach of conditions as set out in this Agreement Letter; or
- (iv) The occurrence of a Material Adverse Condition.

**Fees**

Loan Negotiation:

A non-refundable fee of East Caribbean Dollar \$106,863 representing 0.75% of new funds advanced, is payable on acceptance of this Credit Agreement.

Amendment:

If you require a material amendment to this agreement during the life of the Credit Facilities, there will be a fee amounting to \$1,000. A material amendment is anything requiring the approval of ACB's internal credit approval authorities. Examples of this include, but are not limited to, requests for a principal moratorium, for a restructuring of the Facilities, for a change in repayment terms, or for a change in collateral security.

Late Reporting:

A minimum fee of \$250 per month will be levied for late receipt of Budgetary Estimates or other information as stated in this Agreement.

Credit Management:

A fee of 0.25% of the outstanding balance will be payable on facilities not operating in accordance with this Agreement.

Late payment:

A minimum of \$100.00 or 2% of the monthly payment (whichever is greater) will be levied on payments received in excess if ten days of the due date.

**Other Provisions:**

Change in Payment:

For any instalment Loan, which is paid in blended payments, such payments may be reviewed at least annually. In the event of changes in the rate being charged, a change in payment



amount might be necessary to ensure that the original scheduled end date is maintained.

Default Interest Rate:

The current default interest rate is 6% per annum for Credit A and 12% per annum for Credit B. The default interest rate is effective from the date of default i.e. ninety (90) days delinquency. The default rate charged on all unpaid and overdue amounts of principal, interest and fees shall be five percentage points above the agreed rate.

Professional Fees:

All legal and professional fees and expenses will be for the account of the Borrower and shall be paid in full without any deduction or withholding.

**Next Scheduled**

**Review Date:**

**MAY 31, 2021**

**Warranty**

The Borrower represents, warrants, and undertakes to ACB that on the date of your acceptance of this letter and on each date that the Facility is made available or outstanding as follows:

- a) All factual information supplied to us in contemplation of the Facility was true as at its date and did not omit anything material to be known by any proposed lender to you.
- b) No change has occurred since the date of the information already supplied which renders it untrue or misleading.
- c) All projections and statements of belief and opinion given by you to us were made in good faith after due and careful enquiry.

Passed the House of Representatives on  
the 15th day of December, 2020.

Passed the Senate on the 23rd day of  
December, 2020.

**Gerald Watt, Q.C.,**  
*Speaker.*

**Alicia Williams-Grant,**  
*President.*

**A. Peters**  
*Clerk to the House of Representatives. (Ag.)*

**A. Peters,**  
*Clerk to the Senate. (Ag.)*