

The Belize Bank Limited Undertaking (Belize Bank Corporation Limited Operations

BELIZE:

BILL

for

AN ACT to provide for the vesting in The Belize Bank Limited of certain business in Belize of Belize Bank Corporation Limited; and to provide for matters connected therewith or incidental thereto.

(Gazetted , 2021)

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

1. This Act may be cited as

THE BELIZE BANK LIMITED UNDERTAKING (BELIZE BANK CORPORATION LIMITED OPERATIONS) VESTING ACT, 2021,

2. In this Act, unless the context otherwise requires:

“Agreement” means the Business Transfer Agreement dated June 1st, 2021 made between The Belize Bank Limited and Belize Bank Corporation Limited setting out the terms for the transfer of the Undertaking of Belize Bank Corporation Limited to The Belize Bank Limited;

“Appointed Day” means the day to be appointed by the Minister by Order published in the *Gazette*;

“customer” includes any person having a banking account, loan, deposit, credit card or other dealing, transaction or management operating within the Undertaking of the Transferor in the normal course of business;

“existing” means in existence or in force (as the case may require) immediately before the close of business on the Appointed Day;

“Minister” means the Minister for the time being responsible for banks and banking;

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“**security**” includes any mortgage or charge (whether legal or equitable), debenture, guarantee, bill of sale, lien, pledge (whether actual or constructive), hypothecation, indemnity, undertaking, or other means of securing payment or discharge of a debt or liability or obligation in Belize (whether present or future, actual or contingent);

“**Transferee**” means The Belize Bank Limited;

“**Transferor**” means Belize Bank Corporation Limited;

“**Undertaking**” or “**Undertaking of the Transferor**” means the assets, liabilities, rights, obligations, property, files and documentation of the banking business of Belize Bank Corporation Limited which has been agreed to be transferred pursuant to the terms of the Agreement, including (but not limited to) the property, rights, liabilities and obligations specified in the Schedule to this Act, but not including those assets and liabilities which are expressly excluded by the terms of the Agreement;

“**will**” includes a codicil and any other testamentary writings.

3. (1) Subject to the Agreement, at the close of business on the Appointed Day, the Undertaking of the Transferor shall by virtue of this Act vest absolutely in the Transferee without any further assurance, and upon such vesting all existing assets, liabilities, rights, obligations and other property which by the Agreement have been agreed to be transferred shall vest in the Transferee, and where any real property and any security has, by virtue of this Act, vested in the Transferee, the Registrar General, the Registrar of Lands, the Registrar of Companies and any other relevant authority shall take due notice thereof and shall, subject to applicable law, make such annotations on the records as may be necessary and issue all such certificates or documents as may be required to perfect the title of the Transferee to such real property or security.

(2) The transfer or vesting of any part of the Undertaking of the Transferor effected by this Act shall not:-
 - (a) operate as a breach of covenant or condition against alienation;
 - (b) give rise to forfeiture; or
 - (c) invalidate or discharge any contract or security.
4. (1) The effect of this Act regards the Undertaking hereby transferred shall be that as and from the close of business on the Appointed Day:-
 - (a) every existing contract and security comprised in the Undertaking to which the Transferor is a party or which was assigned to the Transferor, whether in writing or not, shall be construed and have effect as if:-

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- (i) the Transferee had been a party thereto instead of the Transferor or it had been assigned to the Transferee instead of the Transferor;
 - (ii) for any reference (however worded and whether expressed or implied) to the Transferor there had been substituted, in respect of anything falling to be done after the close of business on the Appointed Day, a reference to the Transferee;
 - (iii) for any reference (however worded and whether expressed or implied) to the directors or to any director, officer, clerk, or servant of the Transferor there had been substituted, in respect of anything falling to be done after the close of business on the Appointed Day, a reference (as the case may require) to the directors of the Transferee or to such director, officer, clerk, or servant of the Transferee as the Transferee may appoint or, in default of appointment, to the director, officer, clerk, or servant of the Transferee corresponding as nearly as may be to the above mentioned director, officer, clerk, or servant;
- (b) any account between the Transferor and a customer shall be construed as and deemed to be an account between the Transferee and that customer;
- (c) any application made by an intended customer to the Transferor shall be construed as and deemed to be an application made by the intended customer to the Transferee;
- (d) any instruction, direction, mandate, power of attorney, guarantee, pledge, assignment, debenture, mortgage, bill of sale, charge, chose in action, insurance policy, security or consent given to the Transferor in relation to the Undertaking shall have effect as if given to the Transferee without notification to the maker or donor thereof;
- (e) any negotiable or non-negotiable instrument or order for payment of money which is expressed to be drawn on, given to, or payable at any of its places of business shall have effect as if it had been drawn to, given to, accepted or endorsed by the Transferee or payable at the place of business of the Transferee;
- (f) any security transferred to the Transferee by virtue of this Act that immediately before the close of business on the Appointed Day was held by the Transferor as security for the payment or discharge of any debt, liability, or obligation, whether present or future, actual or contingent, shall be held by and shall be available to, the Transferee as security for the payment or discharge of such debt, liability, or obligation, and any such security which extends to future advances or liabilities shall, from the close of business on the Appointed Day, be as security for future advances by, and future

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liabilities to, the Transferee in the same manner and in all respects as future advances by, or liabilities to, the Transferor were secured thereby immediately before the close of business on the Appointed Day;

- (g) any judgement or award obtained by or against the Transferor arising exclusively out of or connected to the business carried on within the Undertaking of the Transferor and not fully satisfied before the close of business on the Appointed Day shall be enforceable by or against the Transferee;
 - (h) subject to the Agreement, any past, current or other pending contracts, orders, engagements, obligations, duties, rights or agreements by or with the Transferor relating or connected to the business carried on within the Undertaking shall be enforceable by or against the Transferee only; and
 - (i) a reference to the Transferor in the register required by section 95 of the Companies Act to be kept by the Registrar of Companies in relation to any security transferred to the Transferee by virtue of this Act, and in the registers required to be kept by the Registrar General, the Registrar of Lands and the Registrar of International Business Companies, shall, subject to applicable law, be deemed to be a reference to the Transferee.
- (2) Paragraph (a) (ii) and (iii) of subsection (1) apply to
- (a) any statutory provision;
 - (b) any provision of any contract or security to which the Transferor was not a party; and
 - (c) any provision of any other document (including a will);
- as they apply in relation to a contract to which paragraph (a) of subsection (1) applies.
- (3) Any property or rights transferred to and vested in the Transferee which immediately before the close of business on the Appointed Day were held by or vested in the Transferor within the Undertaking, whether severally or jointly with any other person-
- (a) as trustee or custodian trustee of any trust, deed or settlement, covenant, agreement or will, and whether originally so appointed or not, and whether appointed under hand or seal or by any order of the court;
 - (b) as executor of the will of a deceased person;
 - (c) as administrator of the estate of a deceased person;

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(d) in any other fiduciary capacity whatsoever;

shall, on and from the close of business on the Appointed Day, be held by the Transferee, whether severally or jointly with any other person, in the same capacity upon the trusts, and with and subject to the powers, provisions, liabilities and obligations applicable thereto respectively.

5. Any notice which may be required under the Laws of Belize to be given by the Transferor or the Transferee to any third party or to be published, and any authorization, permission or consent required to be obtained for the perfecting of any transfer or assignment, the effective exercise of any right, the enjoyment of any benefit or the assumption of any liability or obligation by the Transferee by virtue of the vesting in the Transferee of the Undertaking, shall be deemed to have been duly given, published, and obtained by the passing of this Act.
6. This Act shall apply to and have effect only on the Undertaking of the Transferor.
7. This Act shall come into force on the Appointed Day.

SCHEDULE

PART I – Property and Rights Transferred

ALL assets of the banking business carried on by the Undertaking of the Transferor which at the close of business on the Appointed Day are recorded in the books and files of the Undertaking of the Transferor or have been so allocated to the said banking business and otherwise which have been agreed to be transferred from the Transferor to the Transferee under and in pursuance of the Agreement (but not including those assets which are expressly excluded by the terms of the Agreement) which assets include all the estate, right, title and interest and responsibilities of the Transferor in and to all property of the Transferor recorded in the books and files of the said Undertaking or the so allocated of every kind and description, both real and personal, movable and immovable, corporeal and incorporeal as at the close of business on the Appointed Day.

PART II – Liabilities and Obligations Assumed

ALL debts, liabilities, contractual engagements and obligations whatsoever (actual, contingent or otherwise) of the Transferor as at the close of business on the Appointed Day recorded on the books and files of the Undertaking of the Transferor or have been allocated to the said Undertaking and otherwise which have been agreed to be assumed by the Transferee from the Transferor under and in pursuance of the Agreement and comprising debts, liabilities, contractual engagements, and obligations to customers and others incurred by the Transferor in carrying on the Undertaking but excluding those liabilities which are expressly excluded by the terms of the Agreement.