

BELIZE:

MUNICIPAL SECURITIES BLL, 2023

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BILL

For

AN ACT to provide for the regulation of municipal securities and to provide for matters connected therewith and incidental thereto.

(Gazetted, 2023)

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:

Short title.

1. This Act may be cited as the

MUNICIPAL SECURITIES ACT, 2023.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires—

Act No. 46 of 2021.

“approved auditor” means an auditor recognized by the Commission under Part X of the Securities Industry Act;

CAP. 263.

“bank” has the meaning specified in the Domestic Banks and Financial Institutions Act;

CAP. 85.

“Belize City Fund” means the fund established under section 21 of the Belize City Council Act;

CAP. 86.

“Belmopan City Fund” means the fund established under section 21 of the Belmopan City Council Act;

“City” means Belize City or the City of Belmopan;

CAP. 85.
CAP. 86.

“City Council” means a city council constituted under the Belize City Council Act or the Belmopan City Council Act or any other City Council established under applicable law;

“Commission” means the Financial Services Commission established pursuant to section 3 of the Financial Services Commission Act.

Act No. 8 of 2023.

“debt” means all liabilities of a Local Authority including but not limited to any monies owed in respect of a loan, overdraft facility, bond, municipal paper, debenture, note or other debt security, any indirect obligation such as a guarantee or surety and any other similar financial arrangement which creates a liability;

“expert” means a financial advisor, lawyer, engineer, accountant, valuator or any other person whose profession or reputation gives authority to a statement made by that person;

“financial institution” has the meaning specified in the Domestic Banks and Financial Institutions Act;

CAP. 263.

“Fiscal Agent” means any financial institution that provides the back-office support for a security issuer including the receipt of proceeds for an Initial Public Offering (IPO) and/or making of disbursements such as interest or principal payment on behalf of the issuer of a security;

“holder” means the holder of a security issued by a Local Authority;

“IFRS” means the International Financial Reporting Standards issued by the International Accounting Standards Board;

“Local Authority” means a City Council or Town Council;

“Minister” means the Minister with responsibility for Finance;

“Municipal Paper” means securities with a maturity period of not more than one year issued by a Local Authority under the authority of section 3;

“Municipal Notes” means securities with a maturity period of more than one year but not more than ten years issued by a Local Authority under the authority of section 3;

“Municipal Bond” means securities with a maturity period of more than ten years issued by a Local Authority under the authority of section 3;

“Municipal Fund” means the Belize City Fund, the Belmopan City Fund or a Town Fund as the context may require;

“Municipal Securities” means and includes Municipal Bonds, Municipal Notes and Municipal Paper;

“Municipal Securities Fund” means a fund established under section 4 of this Act;

“municipality” means a city or town;

“official statement” means a prospectus, offering memorandum, notice, circular, advertisement, or document inviting applications or offers to purchase Municipal Securities or offering any Municipal Securities;

“prescribed” means prescribed by regulations made under this Act;

Act No. 46 of
2021.

“securities business” has the meaning specified in the Securities Industry Act;

“Sinking Fund” means a fund established by a Local Authority for the purpose of setting aside money over a period of time to fund the repayment of one or more issues of Municipal Securities;

“town” means a town mentioned and described in the schedule to the Town Councils Act;

CAP. 87.

“Town Fund” means the fund established in respect of a town under section 21 of the Town Councils Act; and

CAP. 87.

“Town Council” means a town council constituted under the Town Councils Act.

Application.

3. This Act applies to securities created and issued by a Local Authority after the commencement of this Act.

Authority to
issue securities.

4.—(1) Subject to the provisions of this Act, a Local Authority may, with the approval of the Minister, borrow through the issuance of Municipal Securities.

(2) Municipal Securities may, subject to such terms and conditions as may be specified by a Local Authority, be in such form as may be prescribed or in one of the following forms—

- (a) Municipal Paper;
- (b) Municipal Notes; or
- (c) Municipal Bonds.

(3) Nothing in this Act shall be deemed to authorize a Local Authority to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorized to apply its funds.

(4) Nothing in this Act shall be deemed to restrict a Local Authority from borrowing by any other means or method by which it is, under the law for the time being in force, authorised to borrow.

(5) The Minister may grant approval to a Local Authority to borrow through the issuance of Municipal Securities subject to such conditions as he may determine including but not necessarily limited to—

- (a) the appointment of an internal auditor who shall report to the Financial Secretary; and
- (b) the appointment of a financial controller who shall report to the Financial Secretary to oversee the financial affairs of the Local Authority which appointment may include a direction that disbursements from the relevant Municipal Fund, Municipal Securities Fund, Sinking Fund or other fund held by the Local Authority above such amount or otherwise ascertainable as he may prescribe shall be certified or approved as the case may be by such financial controller in order to be duly authorized.

(6) In the event of appointment by the Minister of a financial controller for a Local Authority, in every case where the approval or certification of the financial controller is required, every person who makes or authorises a payment without such certification or approval shall, without prejudice to any civil liability which may be incurred in that behalf, commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

5.—(1) A municipality shall create a Municipal Securities Fund into which shall be credited or deposited all proceeds from the issuance of municipal securities.

Establishment of
Municipal
Securities Fund.

(2) The Municipal Securities Fund shall be used for the following purposes—

- (a) to retire any existing debt or liability;
- (b) for infrastructure development including roads, streets and drainage works;
- (c) for the acquisition of land, for planning relative to public facilities, for the construction, reconstruction, alteration, and enlargement or purchase of public buildings, for other public works or improvements of a permanent nature, for the purchase of equipment of a lasting character, for the payment of judgments, for purposes of economic development and generally for any purpose for which, under the law for the time being in force, it is authorized to apply its funds;

- (d) for the purpose of defraying the cost of preliminary or final plans and specifications or other preliminary expenses incidental to, or connected with, any proposed public work or improvement of a permanent nature consisting of the construction, reconstruction, alteration, enlargement, or improvement of public buildings or facilities;
- (e) to pay fees and expenses for any professional or other services, including but not limited to services of any financial or other advisor, attorney, approved auditor, accountant, bank, underwriter, fiscal agent, or trustee engaged in connection with the structuring, issue, marketing, sale and delivery of the Municipal Securities;
- (f) in order to pay all or part of any issue of securities called or to be called for redemption, including any redemption premium thereon, and all or part of the interest coming due on or prior to the date on which the outstanding securities are redeemed;
- (g) to pay current maintenance and operation expenses;
- (h) for emergency borrowing to support local or national emergency or natural disaster;
- (i) for expenses of or incidental to the management of a Sinking Fund; and
- (j) such other purposes as may be authorized from time to time by the Minister.

Charge upon
Municipal
Securities and
Sinking Funds

6.—(1) Any securities issued pursuant to this Act shall be charged upon the Municipal Securities Fund and any Sinking Fund established by the Local Authority that issued the securities.

(2) In the event that a Sinking Fund established in respect of an issue of securities is insufficient for the payment of all the principal moneys borrowed under the authority of this Act at the time the same becomes due, the relevant Local Authority shall make good the deficiency out of its Municipal Securities Fund.

Sinking Funds
and
administration.
Act No. 46 of
2021.

7.—(1) Any Sinking Fund established in respect of an issue of Municipal Securities shall be administered by an independent fiscal agent registered under the Securities Industry Act to be appointed by the Local Authority which issued the securities.

(2) Notwithstanding any other provision herein, a Sinking Fund shall be established in connection with the issuance by a municipality of Municipal Securities with a maturity period more than five years.

8. A Local Authority may appoint one or more banks, financial institutions or securities business duly licensed under any applicable law to act as bond trustee, fiscal agent, registrar and/or transfer agent to represent the interests of holders in respect of an issue of securities.

Appointment of Trustee.

9.—(1) The issue of securities by a Local Authority shall be authorized by a resolution of the Local Authority, passed by at least two-thirds (2/3) of all the members of the Local Authority.

Procedure for authorising securities.

(2) All such securities shall be signed by the mayor and countersigned by the city or town administrator of the relevant Local Authority and shall have the seal of the municipality affixed thereto.

(3) The discretion of fixing the date, maturities, denominations, place of payment, interest rate, discount rate, the form, and other details of said securities and of providing for the sale thereof, may be delegated to an independent financial advisor.

10.—(1) A Local Authority may not borrow additional money for any purpose if the interest required to service the total borrowings in any year should exceed twenty percent (20.0%) of the Local Authority's average recurrent revenue during the previous 3 fiscal years.

Debt limit.

(2) A Local Authority shall not incur total indebtedness at any one time that shall exceed in aggregate the sum of four times (4x) its average recurrent revenue during the previous 3 fiscal years.

11.—(1) Every Local Authority shall keep a register which shall state the denomination, number and date of every security issued by the Local Authority, the name and address of the holder, the time when and the place where the principal thereof and interest, if any, thereon are payable and such other information as may be prescribed.

Register.

(2) The register of the Local Authority may be kept by a fiscal agent, registrar, transfer agent or other financial intermediary appointed by the Local Authority for such purpose.

(3) The approved auditors of a Local Authority shall inspect the register provided for herein whenever they shall make any audit of the accounts of a Local Authority.

Official statement, prospectus or offering document.

12.—(1) A Local Authority shall not issue securities, whether to the public or on private placement, unless an official statement/Prospectus/Offering Document has been filed in the prescribed form with the Commission.

(2) An official statement shall provide full and accurate disclosure of all material information about the securities offering that investors would reasonably require and expect to find for the purpose of making an informed investment decision.

Financial statements, records and disclosure.

13.—(1) A Local Authority who wishes to issue Municipal Securities or which has outstanding Municipal Securities shall maintain financial statements consistent with IFRS and shall appoint an approved auditor approved by the Commission to conduct annual audits of its financial statements.

(2) A Local Authority shall maintain complete and accurate records and accounts of all monies received and disbursed from the proceeds of any issue of Municipal Securities and of any transaction related to the use of such proceeds.

(3) A Local Authority who wishes to issue Municipal Securities or which has outstanding Municipal Securities shall appoint a person of suitable qualifications as internal auditor to determine, among other matters, whether—

- (a) the expenditures made are in compliance with applicable laws, regulations, and whether expenditures were made according to the established front-end criteria and processes;
- (b) securities-funded projects are adequately monitored to ensure they stay within scope and cost; and
- (c) securities-funded projects achieved the intended outcomes.

(4) The Municipal Securities Fund of a Local Authority shall be audited annually by the approved auditor appointed by the Local Authority until all principal and interest due in respect of any Municipal Securities issue has been repaid to the holders thereof.

(5) A Local Authority shall submit to the Commission and concurrently to the Minister and the Minister responsible for Local Government, within three months after the end of each financial year during which any Municipal Securities issued by such Local Authority remained outstanding, the reports of its internal auditor, the approved auditor's report and also a status report on the projects and activities undertaken wholly or partly with the proceeds of the issues of the Municipal Securities which remained outstanding.

(6) The Commission shall provide to the Minister and the Minister responsible for Local Government its comments in connection with the said reports.

(7) The Minister shall lay a copy of the reports referred to in sub-section (5) and the Commission's comments, if any, before the National Assembly as soon as possible after he receives them.

(8) A Local Authority who wishes to issue Municipal Securities or which has outstanding Municipal Securities shall make information about themselves and their securities available both at the time of a securities offering and on an ongoing basis and shall maintain a website containing the following information—

- (a) its audited financial statements;
- (b) its quarterly interim financial statements;
- (c) its annual reports;
- (d) notices of any material changes which have occurred in the affairs of the Local Authority including information regarding the nature and substance of the change;
- (e) the reports referred to in sub-section (5);
- (f) information on any delinquency in payments; and
- (g) such other information as the Local Authority has agreed to provide in any agreements relating to an issue of securities.

14.—(1) A holder may, if a Local Authority defaults on the payment of any interest or principal payable to that holder, deduct the equivalent sum from any payment due to the relevant Local Authority in respect of any trade licence fee, property tax, traffic related or other fees due by the holder to the relevant Local Authority.

Set off.

(2) The holder shall, seven days before the date on which a payment to the relevant Local Authority is due, give to such Local Authority written notice of his intention to exercise a set-off under sub-section (1).

15. A Municipal Securities Fund or Sinking Fund established under the provisions of this Act 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.

Protection of
Municipal
Securities Funds
and Sinking
Funds.

Exemption from Securities Industry Act. Act No. 46 of 2021.

16. Securities issued pursuant to this Act shall not be subject to the Securities Industry Act, other than in regards to the specific relevant sections cited.

Exemption from taxes.

17.—(1) All securities, and the interest thereon, issued by any Local Authority under the provisions of this Act shall be exempt from the income tax, business tax, stamp duty and all other taxes, rates, charges and imposts charged or levied by the Government on a Local Authority.

(2) For the purpose of this section, the amount of the discount on any securities which are sold at discount shall be deemed to be interest paid in advance.

Regulations.

18. The Commission may make Regulations for the better carrying out of the objects and purposes of this Act, and without prejudice to the generality of the foregoing, regulations may provide for—

- (a) the registration and certification of securities issued;
- (b) public consultations;
- (c) financial audits in respect of securities proceeds; and
- (d) fees to be imposed for the performance of its functions and powers under this Act.

Consequential amendments. Schedule.

19. The statutes specified in Column 1 of the Table in the Schedule are amended to the extent specified in Column 2 of that Schedule.

Commencement.

20.—(1) This Act shall come into force on such date as the Minister may appoint by Order published in the Gazette.

(2) An Order under sub-section (1) may appoint different dates for the commencement of different provisions of this Act.

SCHEDULE
[section 19]

Statute to be Amended	Extent of Amendment
Belize City Council Act, CAP. 85.	<p>Section 22 of the principal Act is amended by inserting the following new sub-section immediately after sub-section (4)–</p> <p>“(5) Notwithstanding any other provision herein, the Council may borrow sums through the issuance of Municipal Securities subject to and in accordance with the requirements of the Municipal Securities Act.”.</p>
Belmopan City Council Act, CAP. 86 .	<p>Section 22 of the principal Act is amended by inserting the following new sub-section immediately after sub-section (4)–</p> <p>“(5) Notwithstanding any other provision herein, the Council may borrow sums through the issuance of Municipal Securities subject to and in accordance with the requirements of the Municipal Securities Act.”.</p>
Town Councils Act, CAP. 87.	<p>Section 22 of the principal Act is amended by inserting the following new sub-section immediately after sub-section (4)–</p> <p>“(5) Notwithstanding any other provision herein, the Council may borrow sums through the issuance of Municipal Securities subject to and in accordance with the requirements of the Municipal Securities Act.”.</p>