

OBJECTS AND REASONS

This Bill would amend the *Student Revolving Loan Fund Act*, Cap. 54A to make provision for

- (a) the recovery of debts owed to the Fund;
- (b) garnishment; and
- (c) related matters.

Arrangement of Sections

Section

1. Short title.
2. Amendment of section 7 of Cap. 54A.
3. Amendment of section 16 of Cap. 54A.
4. Amendment of section 16A of Cap. 54A.
5. Amendment of Cap. 54A.

BARBADOS

A Bill entitled

An Act to amend the *Student Revolving Loan Fund Act*.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Student Revolving Loan Fund* Short title.
(Amendment) Act, 2009.

Amend-
ment of
section 7 of
Cap. 54A.

2. Section 7 of the *Student Revolving Loan Fund Act*, in this Act referred to as the principal Act, is deleted and the following is substituted:

"Interest
and
surcharge.
Cap. 316.

7. (1) Notwithstanding the *Rate of Interest Act*, loans provided pursuant to section 6(a) are subject to the payment of interest at such a rate as the Committee may determine but the rate shall not exceed a rate which is more than 1.5 per cent above the prevailing prime rate of the interest given on sums saved by a person with a commercial bank.

(2) A loan made under this Act to a person pursuing a course study is subject to a surcharge of 1 per cent .".

Amend-
ment of
section 16
Cap. 54A.

3. Section 16 of the principal Act is deleted and the following is substituted:

"Recovery
of loans
and
judgments.

16. (1) Where repayment of a loan is not made in accordance with the regulations and the terms and conditions of the loan, the sums of money due and owing to the Fund are recoverable as a debt and may be recovered by the Committee, without prejudice to any other remedy, in civil proceedings in the High Court or the magistrate's court for District "A".

(2) In the recovery of unpaid sums of money the Committee may certify, in relation to the person who owes the unpaid sums of money, in a certificate called a "Notice of Unpaid Debt Certificate", hereinafter referred to as the "Certificate", the sums of money due and owing by that person.

(3) Where a person referred to in subsection (2) does not pay the sum of money or make arrangements for the payment of the sums of money, the Committee may file the Certificate in the High Court or the magistrate's court for District "A", and the Certificate shall be registered in the court in which the Certificate is filed.

(4) Subject to subsection (6), the Certificate has, after the expiration of 7 days from the date on which it is filed, the same force and effect as a judgment of the court in which it is registered in the favour of the Committee against the person named in the Certificate for

- (a) the sums of money specified in the Certificate;
- (b) the interest on the sums of money at the rate of $\frac{1}{2}$ per cent per month for each month or part thereof for which the sum of money remains unpaid; and
- (c) all reasonable costs and charges incurred by the Committee upon the registration of the Certificate.

(5) Proceedings may be taken on a Certificate as if it were a judgment of the court in which it is registered.

(6) Where the Committee files a Certificate in the High Court or the magistrate's court for District "A", the Committee shall, without delay, deliver a copy of the Certificate to the person to whom the Certificate relates, and if the copy of the Certificate is not so delivered within 14 days from the date of filing, then subsections (4) and (5) cease to have effect with respect to that Certificate."

Amend-
ment of
section 16A
of
Cap. 54A.

4. Section 16A of the principal Act is deleted and the following is substituted:

"Garnishment.

16A. (1) Where

- (a) a person is indebted to the Fund and the repayment of the loan is not made in accordance with the regulations and the terms and conditions of the loan; and
- (b) the Committee knows or suspects that the person is entitled to or due to receive a payment from another person in this section referred to as the "third party",

the Committee may deliver to the third party a demand for payment.

(2) The demand for payment referred to in subsection (1) shall state

- (a) the name of the person indebted to the Fund; and
- (b) the amount of debt due to the Fund, including the rate of interest,

and shall require the third party to, if the payment from the third party to the person indebted to the Fund is due and owing, make the payment forthwith and if the payment from the third party to that person is not then due and owing, as it becomes due and owing.

(3) Where the Committee delivers a demand to a third party under subsection (1), the third party shall pay to the Committee the sums of money otherwise payable by the third party to the person as interest, rent, dividends, annuity, salary, wages or other payment until the liability of the person owed under this Act is satisfied or such amount as is due from the third party to the person is exhausted, whichever is sooner.

(4) Where the Committee delivers a demand to a third party under subsection (1), the third party shall pay to the Committee, on account of the liability under this Act of a person who is an officer or an employee of the third party, the sums of money otherwise payable by the third party to that person as salary, wages or other remuneration; and the third party shall continue to do so until the amount due to that person is exhausted or until the amount demanded by the Committee is satisfied, whichever is sooner.

(5) A receipt issued by the Committee for the sums of money paid as required under this section is a good and sufficient, to discharge, to the extent of the payment, of the liability of the third party to the person.

(6) A third party who fails to comply with a requirement under subsections (1), (2), (3) or (4) is liable to pay to the Committee an amount equal to the amount that the third party was required to pay to the Committee under subsection (1).

(7) Where an amount that would otherwise have been payable by a third party to a person is paid by the third party to the Committee pursuant to a demand for payment letter served on the person under subsection (1) or pursuant to an assessment of an amount payable by the third party under subsection (6), the person shall be deemed for all purposes to have paid the amount to the Committee on behalf of that person.

(8) The application of this section is subject to the *Protection of Wages Act*.

Amend-
ment of
Cap. 54A.

5. The principal Act is amended by inserting the following section after section 20:

"Saving.

21. (1) Loans made under this Act before the

Act 1984-
38.
Act 2009-

(a) 27th of September, 1984 shall continue to be subject to the terms and conditions of this Act as if the *Student Revolving Loan Fund (Amendment) Act, 1984* and the *Student Revolving Loan Fund (Amendment) Act, 2009* had not been enacted; and

Act 2009-

(b) commencement of the *Student Revolving Loan Fund (Amendment) Act, 2009* shall continue to be subject to the terms and conditions of this Act as if that Act had not been enacted.

(2) Notwithstanding subsection (1), sections 16 and 16A shall, in spite of the date on which a loan is granted, apply to any loan granted by the Committee."