

OBJECTS AND REASONS

This Bill would provide for a fund, to be known as the Catastrophe Fund, to provide financial aid to eligible persons and qualifying businesses in need of such aid as a result of a catastrophe.

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BARBADOS

A Bill entitled

An Act to provide for a fund, to be known as the Catastrophe Fund, to provide financial aid to eligible persons and qualifying businesses in need of such aid as a result of a catastrophe.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Catastrophe Fund Act, 2020*.

Interpretation

2. In this Act

“catastrophe” means an event, whether natural or not, that has a significant, adverse impact on the economy or a part of the economy including

- (a) a fire, an earthquake, a storm, a hurricane, a storm surge, a sea surge, flooding, lightning or another force of nature;
- (b) a pandemic;
- (c) a breach of cybersecurity; and
- (d) an act of terrorism;

“Committee” means the Physical Catastrophes Committee or the Economic Catastrophes Committee, as the case may be, established by section 6;

“financial aid” includes grants and loans;

“financial year” has the meaning assigned to it by section 39(8) of the *Interpretation Act, Cap. 1*;

“former Act” means the *Catastrophe Fund Act, Cap. 39D*;

“Fund” means the Catastrophe Fund referred to in section 3;

“member” means a member of the Physical Catastrophes Committee or the Economic Catastrophes Committee, as the case may be.

Catastrophe Fund

3. The Catastrophe Fund established under the former Act shall, on the repeal of the former Act, continue in existence under this Act and continue to consist of

- (a) annual contributions with effect from financial year 2006-2007 in the sum of \$2.5 million voted by Parliament for the purposes of the Fund for a period of not less than 5 years;
- (b) monthly contributions payable with effect from financial year 2006-2007 by every employed person and self-employed person in the amount of 0.1% of the earnings on which that person pays national insurance;
- (c) amounts realised from investment proceeds;
- (d) moneys that may accrue from the operations of the Fund.

Purpose of Fund

4. The purpose of the Fund is to provide financial aid to eligible persons and qualifying businesses in need of such aid as a result of a catastrophe.

Claim for financial aid

- 5.** A person described in the *First Schedule*
- (a) may, in the circumstances described in that Schedule, make a claim for financial aid under this Act; and
 - (b) shall, where he desires to make such a claim, apply to the relevant Committee in such form as the Committee may approve.

Committees

6.(1) There shall be established two committees, to be called the Physical Catastrophes Committee and the Economic Catastrophes Committee, respectively.

(2) The *Second Schedule* has effect with respect to the constitution of the Committees and otherwise in relation thereto.

(3) The Physical Catastrophes Committee shall be responsible for the consideration and assessment of claims by, and the grant of financial aid to, persons described in paragraph 1 of the *First Schedule*.

(4) The Economic Catastrophes Committee shall be responsible for the consideration and assessment of claims by, and the grant of financial aid to, persons described in the *First Schedule* other than those described in paragraph 1 of that Schedule.

(5) Each Committee shall, upon receipt of a claim, conduct an investigation into the circumstances relating to the claim in order to determine whether financial aid should be granted.

(6) Each Committee may employ such agents as it thinks fit for the purpose of subsection (5).

Management of Fund

7.(1) The contributions referred to in section 3 shall be paid to the National Insurance Office.

(2) The National Insurance Board shall be responsible for the management and investment of the Fund.

(3) The following payments may be made from the Fund:

- (a) the payment of financial aid pursuant to section 5;
- (b) refunds of any payment paid in excess or in error;

- (c) expenses incurred in respect of the administration of this Act.
- (4) All contributions payable pursuant to section 3(2)(b) are recoverable in the manner specified in section 43 of the *National Insurance and Social Security Act*, Cap. 47 as if the contributions were national insurance contributions.
- (5) The *Third Schedule* has effect with respect to investment of moneys from the Fund.

Accounts

- 8.(1) The Director, National Insurance shall
 - (a) keep proper accounts of the Fund and proper records in relation thereto;
 - (b) prepare a monthly statement of the accounts of the Fund; and
 - (c) not later than 2 weeks after the end of each month, submit the statements to
 - (i) the Chairman of the National Insurance Board; and
 - (ii) the Director of Finance and Economic Affairs.
- (2) The accounts of the Fund shall be audited at least once every financial year by the Auditor-General.

Reports

- 9.(1) The Director, National Insurance shall, not later than 3 months after the end of a financial year, submit to the Minister in respect of the year
 - (a) a statement of the accounts of the Fund; and
 - (b) a report on the investment portfolio and other economic activity of the Fund.
- (2) Each Committee shall, not later than 3 months after the end of a financial year, submit to the Minister in respect of the year, a general report on the discharge of the Committee's functions during the year.

Laying of reports

10. The Minister shall, not later than 4 weeks after receiving the reports and statements submitted under section 9, lay the reports and statements in Parliament.

Offence

11.(1) Any person who for the purposes of obtaining financial aid under this Act gives false or incomplete information, is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 5 years or to both.

(2) Where a person is convicted of an offence under subsection (1) and the person obtained financial aid under this Act, the person shall repay the full sum of the aid that was paid to him within such time as is fixed by the court.

(3) Where a person fails to repay the sum referred to in subsection (2) within the time fixed by the court, the person is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 5 years or to both.

(4) Where an amount paid to a person as financial aid under this Act

(a) was not payable to the person; or

(b) exceeds the amount that was payable to the person,

the person to whom the amount was so paid shall be given notice in writing of the fact and shall be directed to repay the sums within such time as is fixed in the notice.

(5) Where a person fails to repay a sum that was paid in error or a sum that was paid in excess in the circumstances mentioned in subsection (4), the person is guilty of an offence and is liable on summary conviction to a fine of \$25 000 or to imprisonment for 3 years or to both.

Regulations

- 12.** The Minister may make regulations
- (a) providing for the management and investment of the Fund;
 - (b) providing for the manner in which claims may be made; and
 - (c) generally for the proper administration of this Act.

Amendment of Schedules

13.(1) The Minister may by Order amend the *First, Second* and *Third Schedules*.

(2) An order made under subsection (1) is subject to negative resolution.

Repeal

14. The *Catastrophe Fund Act*, Cap. 39D is repealed.

FIRST SCHEDULE*(Sections 5 and 13)***CLAIMS FOR FINANCIAL AID****Destruction of homes by catastrophe**

- 1.(1)** An owner of a chattel house valued at not more than \$150 000 who occupies the house and who earns less than \$25 000 annually is, from 1st April 2008, entitled to a grant in such amount as is determined by the Physical Catastrophes Committee, where the house is damaged or destroyed by a catastrophe.
- (2) Where a house is constructed of both wood and brick
- (a) the house shall be regarded as a chattel house for the purposes of this paragraph if the house is, in the opinion of the Physical Catastrophes Committee, substantially constructed of wood; and
 - (b) the house shall be regarded as substantially constructed of wood if at least 75% of the house is wooden.
- (3) A grant under this paragraph shall be such amount as is required to replace or repair, as the case may be, the chattel house in respect of which the claim is made, but the grant shall in no case exceed \$150 000.
- (4) Where the Physical Catastrophes Committee determines that a grant should be made, a deduction shall be made with respect to any sum that is paid under an insurance policy in respect of the chattel house that has been destroyed or damaged.
- (5) Where with the approval of the Physical Catastrophes Committee
- (a) a house has been provided by an agency to a person who is entitled to a grant under this paragraph; or
 - (b) repairs have been effected by an agency to a house owned by a person who is entitled to a grant under this paragraph,

the Committee shall, instead of paying the grant to the person entitled, pay the amount of the grant to the agency, if the work was carried out to the satisfaction of the Committee.

- (6) For the purposes of this paragraph “agency” means
- (a) the Urban Development Commission established under the *Urban Development Commission Act*, Cap. 241;
 - (b) the Rural Development Commission established under the *Rural Development Commission Act*, Cap. 238; or
 - (c) any ministry or department of Government charged with providing social services.

Disruption of business by a pandemic and related containment measures

- 2.(1) A person who
- (a) is registered under the *Value Added Tax Act*, Cap. 87;
 - (b) pays value added tax; and
 - (c) can show that his cash flow has been severely disrupted by a pandemic and the measures taken to contain the pandemic,

is entitled to claim financial aid in such amount and on such terms as is determined by the Economic Catastrophes Committee.

- (2) A self-employed person who makes national insurance contributions and who can show that his cash flow has been severely disrupted by a pandemic and the measures taken to contain the pandemic, is entitled to claim financial aid in such amount and on such terms as is determined by the Economic Catastrophes Committee.

SECOND SCHEDULE

(Sections 6 and 13)

CATASTROPHE COMMITTEES

- 1.** The Physical Catastrophes Committee shall comprise
 - (a) ex officio*
 - (i) the Chief Executive Officer, Financial Services Commission or his nominee;
 - (ii) the Director, National Insurance or his nominee;
 - (iii) the Chief Fire Officer or his nominee; and
 - (iv) the Director, Department of Emergency Management or his nominee; and
 - (b)* two persons appointed by the Minister by instrument in writing.

- 2.** The Economic Catastrophes Committee shall comprise
 - (a) ex officio*
 - (i) the Revenue Commissioner, Barbados Revenue Authority or his nominee;
 - (ii) the Director, National Insurance or his nominee;
 - (iii) the Permanent Secretary, Ministry of Finance, Economic Affairs and Investment or his nominee; and
 - (iv) the Permanent Secretary, Ministry of Small Business, Entrepreneurship and Commerce or his nominee; and
 - (b)* 2 persons appointed by the Minister by instrument in writing.

- 3.(1)** The Minister shall appoint a member of each Committee to be Chairman of the Committee and another to be Deputy Chairman.

- (2) The Chairman shall preside at meetings of the Committee and, where the Chairman is absent, the Deputy Chairman shall preside.
 - (3) Three members of each Committee constitute a quorum of the Committee.
 - (4) Each Committee shall meet at such times as it considers necessary for the transaction of its business.
 - (5) Minutes of each meeting shall be kept in proper form by the Secretary or such other person as each Committee may appoint for the purpose and shall be confirmed in writing at the next meeting.
- 4.**(1) The decisions of each Committee shall be by a majority of votes and, in the event of an equality of votes, the Chairman shall have a casting vote.
- (2) All decisions made by each Committee, and all documents of each Committee, shall be signed by the Chairman or the Deputy Chairman of the Committee.
- 5.** The seal of each Committee shall be
- (a) kept in the custody of the Chairman or such other member as the Committee may approve, and may be affixed to documents or instruments in the presence of the Chairman and the Secretary to the Committee; and
 - (b) authenticated by the signature of the Chairman or Deputy Chairman and the Secretary to the Committee.
- 6.**(1) The Chairman of each Committee may invite any person to attend a meeting of the Committee where the Committee considers it necessary to do so.
- (2) A person referred to in subparagraph (1) may take part in the deliberations of the Committee but may not vote on any matter.
- 7.** Subject to this Act, each Committee may regulate its own proceedings.

THIRD SCHEDULE

(Sections 7 and 13)

INVESTMENTS FROM FUND

1. In this Schedule

“CARICOM Single Market and Economy” has the meaning assigned to it by section 2 of the *Caribbean Community Act, Cap. 15*;

“Government securities” means securities issued or guaranteed by the Government of

- (a) Barbados;
- (b) any state within the CARICOM Single Market and Economy;
- (c) the Republic of Ireland;
- (d) the United States of America;
- (e) any state within the Commonwealth; or
- (f) any other country approved by the Minister.

2.(1) Subject to subparagraph (2), moneys from the Fund may be invested in Government securities.

(2) Where an investment is made outside the CARICOM Single Market and Economy

- (a) the investment shall not exceed 40 per cent of the total Fund; and
- (b) the moneys payable in respect of Government securities must be payable in the currency of the United States of America.

CATASTROPHE FUND BILL, 2020

EXPLANATORY MEMORANDUM

The Bill would provide for a fund, to be known as the Catastrophe Fund, to provide financial aid to eligible persons and qualifying in need of such aid as a result of a catastrophe.

- Clause 1:** provides the short title.
- Clause 2:** defines certain terms used in the Bill.
- Clause 3:** provides for the continued existence of the Catastrophe Fund established under the *Catastrophe Fund Act*, Cap. 39D which is to be repealed.
- Clause 4:** explains that the purpose of the Catastrophe Fund is to provide financial aid to eligible persons and qualifying businesses affected by a catastrophe.
- Clause 5:** describes, by reference to the First Schedule, the persons who can make a claim for financial aid, and provides for making of claims
- Clause 6:** establishes two committees to consider claims for financial aid and provides for the composition of the committees in the Second Schedule.
- Clause 7:** provides for the management of the fund and the investment of money from the fund in accordance with the Third Schedule.
- Clause 8:** mandates the keeping of proper accounts and other records on the fund.

- Clause 9:** requires reports to be prepared on the accounts and activities of the fund.
- Clause 10:** provides for the reports to be laid in Parliament.
- Clause 11:** makes it an offence to supply false or incomplete information to obtain financial aid.
- Clause 12:** provides for the making of Regulations.
- Clause 13:** allows for the Minister to amend the Schedules.
- Clause 14:** repeals the *Catastrophe Fund Act*, Cap. 39D.