

Belize Constitution

BELIZE:

BILL

for

AN ACT to amend the Belize Constitution, Chapter 4 of the Laws of Belize, Revised Edition 2000-2003, to provide that the Government shall at all times have majority ownership and control of public utilities; to clarify the provisions relating to the amendment of the Constitution; and to provide for matters connected therewith or incidental thereto.

(Gazetted.....2011).

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: -

Short title. 1. This Act may be cited as the

BELIZE CONSTITUTION (NINTH AMENDMENT)
ACT, 2011,

CAP. 4

**Act 2/01
39/01
23/05
13/08
4/10**

and shall be read and construed as one with the Belize Constitution which, as amended, is hereinafter referred to as the Constitution.

**Amendment
of section 2.**

2. Section 2 of the Constitution is hereby amended by renumbering that section as subsection (1) and by adding the following as subsection (2):-

“(2) The words “other law” occurring in subsection (1) above do not include a law to alter any of the provisions of this Constitution which is passed by the National Assembly in conformity with section 69 of the Constitution.”

**Amendment
of section 69.**

3. Section 69 of the Constitution is hereby amended by the addition of the following new subsection after subsection (8):-

“(9) For the removal of doubts, it is hereby declared that the provisions of this section are all-inclusive and exhaustive and there is no other limitation, whether substantive or procedural, on the power of the National Assembly to alter this Constitution; and a law passed by the National Assembly to alter any of the provisions of this Constitution which is passed in conformity with this section shall not be open to challenge in any court of law on any ground whatsoever.”

**Addition of
new Part
XIII and
sections 143
to 145.**

4. The Constitution is hereby amended by the addition of the following as new Part XIII (containing sections 143 to 145) immediately after section 142:-

"PART XIII
GOVERNMENT CONTROL OVER PUBLIC UTILITIES

Interpretation. 143. For the purposes of this Part:-

"public utilities" means the provision of electricity services, telecommunication services and water services;

"public utility provider" means —

(a) Belize Electricity Limited, a
CAP. 250 **company incorporated under the Companies Act, or its successors by whatever name called;**

(b) Belize Telemedia Limited, a
CAP. 250 **company incorporated under the Companies Act, or its successors by whatever name called;**

(c) Belize Water Services Limited,
CAP. 250 **a company incorporated under the Companies Act, or its successors by whatever name called; and**

(d) any other entity designated as a public utility provider for the

purposes of this Part by a resolution passed by the National Assembly in that behalf;

“Government” means the Government of Belize;

“Government shareholding” shall be deemed to include any shares held by the Social Security Board;

“majority ownership and control” means the holding of not less than fifty one *per centum* (51%) of the issued share capital of a public utility provider together with a majority in the Board of Directors, and the absence of any veto power or other special rights given to a minority shareholder which would inhibit the Government from administering the affairs of the public utility provider freely and without restriction.

Majority ownership and control of public utilities.

No. __ of 2011.

144. (1) From the commencement of the Belize Constitution (Ninth Amendment) Act, 2011, the Government shall have and maintain at all times majority ownership and control of a public utility provider; and any alienation of the Government shareholding or other rights, whether voluntary or

involuntary, which may derogate from Government's majority ownership and control of a public utility provider shall be wholly void and of no effect notwithstanding anything contained in section 20 or any other provision of this Constitution or any other law or rule of practice:

Provided that in the event the Social Security Board ("the Board") intends to sell the whole or part of its shareholding which would result in the Government shareholding (as defined in section 143) falling below 51% of the issued stock capital of a public utility provider, the Board shall first offer for sale to the Government, and the Government shall purchase from the Board, so much of the shareholding as would be necessary to maintain the Government's ownership and control of a public utility provider; and every such sale to the Government shall be valid and effectual for all purposes.

(2) Any alienation or transfer of the Government shareholding contrary to subsection (1) above shall vest no rights in the transferee or any other person other than the return of the purchase price, if paid.

**Validity of
Acquisition
Orders in
respect of Belize
Electricity
Limited and
Belize Telemedia
Limited.**

145. (1) For the removal of doubts, it is hereby declared that the acquisition of certain property by the Government under the terms of the —

**CAP. 221
Act 12/07
Act 4/11
S.I. 67/11**

(a) Electricity Act, as amended, and the Electricity (Assumption of Control Over Belize Electricity Limited) Order, 2011 (hereinafter referred to as “the Electricity Acquisition Order”); and

**Act 16/02
29/05
9/09
8/11
S.I. 70/11**

(b) Belize Telecommunications Act, as amended, and the Belize Telecommunications (Assumption of Control Over Belize Telemedia Limited) Order, 2011, (hereinafter referred to as “the Telemedia Acquisition Order”),

was duly carried out for a public purpose in accordance with the laws authorising the acquisition of such property, and no court shall enquire into the constitutionality, legality or validity of the said acquisitions notwithstanding anything to the contrary contained in section 17, section 20 or any other provision of this Constitution or any other law or rule of practice.

(2) The bar on the jurisdiction of the court contained in subsection (1) above is absolute and no

court shall assume jurisdiction on any ground whatsoever including, without limitation, any alleged ground of lack of jurisdiction in the persons making the said Acquisition Orders, or any ground alleging breach of the rules of natural justice.

(3) The property acquired under the terms of the Electricity Acquisition Order and the Telemedia Acquisition Order referred to in subsection (1) above shall be deemed to vest absolutely and continuously in the Government free of all encumbrances with effect from the date of commencement specified in the said Orders.

(4) Nothing in the foregoing provisions of this section shall prejudice the right of any person claiming an interest in or right over the property acquired under the said Acquisition Orders to receive reasonable compensation within a reasonable time in accordance with the law authorising the acquisition of such property. "

_____ ... _____