

I ASSENT

[L.S.]

PEARLETTE LOUISY,  
*Governor-General.*

*February 15, 2011.*

## SAINT LUCIA

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**No. 2 of 2011**

**AN ACT** to provide for airport development and for related matters.

[ 21st February, 2011 ]

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the Airport Development Act 2011.

**Interpretation**

2. In this Act —

“Authority” means the Saint Lucia Air and Sea Ports Authority established under section 3 of the Saint Lucia Air and Sea Ports Authority Act, Cap. 8.13;

“carrier” means –

- (a) the owner of an aircraft which transports a passenger from an airport to any place outside Saint Lucia;
- (b) the pilot or other person in charge or control of an aircraft which transports a passenger from an airport to any place outside Saint Lucia;
- (c) the agent in Saint Lucia of any person referred to in paragraph (a) or (b); or
- (d) if the owner referred to in paragraph (a) or the agent referred to in paragraph (c) is a corporation, every director and manager of that corporation;

“Collector” means any person or carrier designated in writing as a collector by the General Manager of the Authority;

“debt service” means the amount required to satisfy the repayment of the debt on terms mutually agreed between the Authority and a lender;

“development charge” means the charge imposed under section 3;

“Minister” means Minister responsible for finance;

“traveller” means any person who –

- (a) travels from an airport to any place outside Saint Lucia; or
- (b) proposes to travel from an airport to any place outside Saint Lucia.

**Development charge**

3.— (1) There is established a charge as set out in the Schedule, to be known as the airport development charge, to be levied by the Authority and to be paid by every traveller on the purchase of an airline ticket for the purpose of making payments for the debt service required to implement airport facility improvement projects.

(2) The Minister may by Order published in the Gazette increase or decrease the level of the charge collected from every traveller.

**Collection of charge by carrier**

4.— (1) A carrier who collects the charge shall:

- (a) establish and maintain an accounts payable system to handle the charge revenue;
- (b) account for the charge revenue separately and the charge revenue must not be commingled with the carrier's other sources of revenue;
- (c) segregate the charge revenue in a designated separate charge account;
- (d) remit to the Authority the charge revenue recorded in the accounting system of the carrier no later than the last day of the following calendar month or if that date falls on a weekend or holiday, the first subsequent business day;
- (e) provide monthly reports to the Authority unless otherwise agreed by the carrier and the Authority providing an accounting of funds collected and funds remitted.

(2) The report referred to under subsection (1)(e) must, unless otherwise agreed by the carrier and the Authority:

- (a) state –
  - (i) the name of the carrier and airport involved;
  - (ii) the total charge revenue collected;
  - (iii) the total charge revenue refunded to passengers; and
  - (iv) the dates and amounts of each remittance for the month;

(b) be filed by the last day of each month.

(3) The charge revenue is held by a carrier after collection in trust for the beneficial interest of the Authority and the carrier holds neither legal nor equitable interest in the charge revenues.

(4) A carrier who fails to comply with any requirements of this section or causes the Authority to spend funds to recover or retain payment of the charge revenue shall compensate the Authority for the cost incurred to recover the charge owed and is subject to an interest charge on all outstanding charge revenues for the period until revenues are remitted to the Authority.

**Bank account**

5. The charge must be paid into and placed to the credit of an account at a bank approved by the Authority with the consent of the Minister.

**Debt arrangement and lockbox account**

6.— (1) The Authority may enter into a debt arrangement for the purpose of carrying out airport development projects on terms mutually agreed between the Authority and a Lender.

(2) Where a debt is incurred under sub-section (1), the Authority shall set up a lockbox account into which monies collected from the development charge are transferred for the purpose of meeting sums required to service any debt obligation incurred for that purpose.

(3) A lockbox account may be set up exclusively for the benefit of a lender to cover debt service.

(4) A lockbox account set up under sub-section (3) is immune from and is not subjected to any or available for any rights, duties claims or other expenses of or against the Authority, the Government or any other corporate or governmental entity related to the Authority or the Government.

(5) A lockbox account set up under sub-section (3) shall be administered by a Trustee for the exclusive interest of the lender and for the purpose of debt service.

(6) The proceeds in a lockbox account may be subjected to a perfected first security interest pledged to a lender.

(7) The Authority shall ensure that the revenue in a lockbox account is not less than sufficient to meet the sums required to service the debt incurred.

#### **Airport Facility Development Fund**

7.— (1) Where the charge collected by the Authority, together with interest on the charge exceeds the debt service requirement of a loan, the Authority shall transfer the excess to an Airport Facility Development Fund established by the Authority for that purpose.

(2) The use of the monies collected in the Airport Facility Development Fund shall be determined by the Authority with the approval of the Minister.

#### **Prohibition of boarding aircraft without payment of development charge**

8.— (1) A traveller shall not board, or proceed to board, an aircraft by which he or she proposes to travel from an airport, unless he or she has paid the development charge to a Collector.

(2) A person who is in charge of an aircraft shall not permit a person who is liable to pay, but has not paid the charge, to board the aircraft of which he or she is in charge or control.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on summary conviction, to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months.

(4) A Magistrate may, in addition to any penalty he or she may impose on any person convicted of an offence under subsection (3), order the person convicted to pay any charge found to be due and payable by him or her inclusive of interest and may order, in default

of such payment, imprisonment of that person for a term not exceeding one month.

**Liability of and recovery from carrier**

**9.**— (1) Where the development charge, due and payable under section 3 remains unpaid by any traveler, the full amount of the charge is due and payable by, and recoverable from the carrier of that traveller.

(2) Where under sub-section (1) a sum of money due and payable in respect of the development charge is recoverable from more than one person, the liability of such persons to pay that sum is joint and several.

(3) Any sum due and payable under this section may be recovered as a debt due to the Authority in civil proceedings.

**Power to withhold clearance of aircraft from unpaid development charge**

**10.** The authorized officers under section 43(1) of the Saint Lucia Air and Sea Ports Authority Act, Cap. 8:13 may withhold clearance of an aircraft whose pilot or other person in charge or control proposes, or is about to transport any traveller in respect of whom any development charge is due and payable but has not been paid in accordance with this Act.

No. 2] *Airport Development Act* [ 2011.

**SCHEDULE**

(Section 3)

**Rate of development charge**

**Rate of Charge**

All Travellers US\$35.00 or the equivalent in Eastern  
Caribbean Dollars

Passed in the House of Assembly this 1st day of February, 2011.

ROSEMARIE HUSBANDS-MATHURIN,  
*Speaker of the House.*

Passed in the Senate this 8th day of February, 2011.

LEONNE THEODORE-JOHN,  
*President of the Senate.*