



**NATIONAL PARLIAMENT OF SOLOMON ISLANDS**

**BILLS AND LEGISLATION COMMITTEE**

**REPORT**

**ON**

**THE SECURED TRANSACTIONS BILL 2008**

*National Parliament Paper No. 11 of 2008*

## CONTENTS

1. TERMS OF REFERENCE
2. FUNCTIONS
3. MEMBERSHIP
4. PURPOSE OF THE BILL
5. BACKGROUND
6. EVIDENCE AND OBSERVATIONS
7. RECOMMENDATIONS

## 1. TERMS OF REFERENCE

To examine and report to Parliament the Committee's observations and recommendations on:-

**"The Secured Transactions Bill 2008"**

## 2. FUNCTIONS

In accordance with Section 62 of the Constitution, as read with Section 71 of the Standing Orders, the Bills and Legislation Committee's functions in addition to the provisions in Standing Orders 50 and 55, shall be to:-

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee's deliberations.

### 3. **MEMBERSHIP**

The Membership of the Bills & Legislation Committee comprises:

Hon. Severino Nuaiasi, MP (Chairman)

Hon. Manasseh Sogavare, MP

Hon. Siriako Usa, MP

Hon. Isaac Inoke Tosika, MP

Hon. Augustine Taneko, MP

Hon. Nelson Ne'e, MP

Hon. Japhet Waipora, MP

### 4. **PURPOSE OF THE BILL**

The objects and reasons as stated in the Bill are as follows:

“...to regulate security priority in collateral against all other persons in satisfaction of the security interest obligations. It will introduce a system of notice whereby a notice of the security interest in collateral is required to be electronically filed.

The Bill will also repeal the Bill of Sale Act [Cap 174] which makes provisions of the securing charges against movable property. The Act is cumbersome, expensive and outdated.

A Filing Office will be established under the Bill within the Ministry of Finance and Treasury. The Filing Office will ensure that secured interests are properly

filed and recorded. This Bill will also improve access to capital and credit for business and individuals in Solomon Islands. This is done by permitting the more effective use of movable property as collateral for lending and other forms of financing”.

## 5. **BACKGROUND**

In the Solomon Islands, access to credit facility is often limited to a very small minority of the economy. Strict banking requirements often related to securable assets has prevented individuals and small-medium scale businesses from having the opportunity to access finance capable of enhancing and improving their business capacities. This in turn has contributed to the lack of economic development in the Solomon Islands as a whole; a trend common in many underdeveloped or developing countries.

The solution increasingly adopted by most economic reform programs in countries with similar developing economies as the Solomon Islands is to introduce a new concept of lending where banks are encouraged to provide credit facilities to individuals and small-medium scale businesses against personal and movable property, directly allowing more people to start or improve their business enterprises. This concept has culminated in what is known as the ‘Secured Transactions’ legislation.

The Secured Transactions Bill developed by the Economic Reform Unit and the Ministry of Finance & Treasury in the Solomon Islands is a Bill that seeks to assist individuals including rural Solomon Islanders to have improved access to

funding, which can be used to promote consistent development throughout the country.

## 6. EVIDENCE AND OBSERVATIONS

The Committee met on Tuesday, 29 July 2008 from 9:30am to 11:00am to inquire into **“The Secured Transactions Bill 2008”**.

The witnesses that appeared before the Committee included:

- Mr. Makini Dentana, Acting Director, Economic Reform Unit, Ministry of Finance & Treasury
- Dr. Bryn Battersby, Advisor, Economic Reform Unit, Ministry of Finance & Treasury
- Mr. Daniel Tuhanuku, Chief Executive Officer, Solomon Islands Chamber of Commerce and Industries;
- Mr. John Ryan, Manager, ANZ Banking Corporation Limited;
- Mr. Doug Hughes, Manager, Westpac Banking Corporation Limited
- Mr. John Haurae, Legal Draftsman, Attorney General’s Chambers
- Mr. Rupeni Nawaqakuta, Legislative Drafting Adviser, Attorney General’s Chambers

At the outset, the Committee members noted with appreciation the extensive consultation that the witnesses had initiated with the Committee and stakeholders. The Committee also expressed their appreciation for the intentions of the Bill, particularly in light of its aim to improve more even development

across the sectors of the economy. The Bill introduces a new concept of securities transactions and contained therefore terms and ideas that required financial and legal expertise. The Committee was accordingly pleased to receive presentations from the Economic Reform Unit (“**ECU**”), the Ministry of Finance & Treasury (“**Ministry**”) and the Attorney General and also from the private sector including the Solomon Islands Chamber of Commerce & Industries (“**Chamber of Commerce**”), Westpac Banking Corporation Ltd. (“**Westpac Bank**”) and ANZ Banking Corporation Ltd. (“**ANZ Bank**”).

The Following are issues which the Committee would like to highlight;

- The Bill clearly intends to bring about improvements in credit transactions but it is also an instrument that indirectly promotes development in the Solomon Islands. If such securities interests can be competently relied upon by the banking sector, then indeed the Bill promises greater equity to individuals who may not have cash money or real property, to obtain credit facilities against equally valuable properties.
- The Committee was pleased to hear that the private sectors also generally supported the concept of the Bill. This was evident in the advice provided by representatives of the Chamber of Commerce, Westpac Bank and ANZ Bank. The representative of the ANZ Bank in particular informed the Committee that the Bank had experience with a similar Bill that was adopted in Cambodia.
- The Bill clearly states that the Act will not come into force until the Filing Office provided for therein is first set up. This provision is important

because effective registration of securities interests under the Bill cannot take place; comprehensive registration of securities interest is itself an integral part of the transaction. However, whilst the Committee appreciates the relevance and practicality of having the Filing Office set up before the Act comes into force, it also feels that Parliament should not be required to debate and pass a Bill only to wait for an administration process to make the Act effective. On that basis, the Committee recommends that the necessary process of setting up the Filing Office must be rapidly completed. The Committee proposes to keep track of the commencement of the Act by way of the Committee review of the proclamation in the Government gazette.

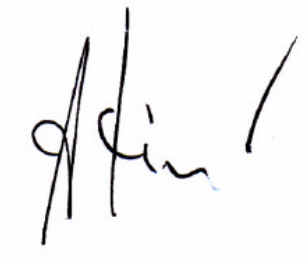
- The Committee also notes the submissions made by the representatives of Westpac Bank and ANZ Bank in requesting consultations in the drafting the regulations. Proper consultations between banks lending institutions will ensure that regulations are correct and in accordance with best practice principles and will also ensure familiarity from the institutions. The Committee needs to monitor the enforcement of the Bill and the drafting of regulations with very strong interest.



7. **RECOMMENDATIONS**

The Committee has reviewed the Bill and recommends:

- (a) that **The Secured Transactions Bill 2008 be presented and debated in Parliament.**
- (b) that the Filing Office provided for in the Bill be rapidly set up so that the Bill comes into force as soon as possible after Parliament formally passes the same.

A handwritten signature in black ink, appearing to read 'S. Nuaiasi', is positioned above the typed name of the Chairman.

**Hon. Severino Nuaiasi**

**Chairman**

**Bills & Legislation Committee**

**1 August 2008**