

TOQUAHT NATION GOVERNMENT

**ISLAND TIMBERLANDS LAND
PURCHASE BORROWING ACT**

TNS 6/2020



This law enacted on May 12, 2020

Signed *Anne Mack*
Anne Mack, ḥaʔwił of the Toquaht Nation

DEPOSITED IN THE
REGISTRY OF LAWS AND
OFFICIAL RECORDS

ON 2020/05/15

Kristen Johnson

Signature of Law Clerk

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INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Island Timberlands Land Purchase Borrowing Act.

Executive oversight

1.2 The member of the Executive holding the finance portfolio is responsible for the executive oversight of this Act.

Definitions

1.3 In this Act,

“BMO” means the Bank of Montreal;

“BMO prime rate” means the floating annual rate of interest established from time to time by BMO as the reference rate it will use to determine rates of interest on Canadian dollar loans to customers in Canada;

“BMO floating rate” means the BMO prime rate plus 0.50 percent;

“environmental checklist and indemnity form” means a form confirming there are no environmental issues with the property, there will be no environmentally sensitive operations conducted on the property and if there are any environmental issues with the property, they will be remediated at Toquaht Nation’s cost;

“Island Timberlands” means Island Timberlands Limited Partnership, by its general partner Island Timberlands GP Ltd.;

“letter agreement” means the agreement referred to in section 2.1(a)(iv)(A)

“loan” means the loan referred to in section 2.1(a);

“loan documents” means the letter agreement and any other document reasonably required by BMO setting out the terms and conditions of the loan;

“property” means

PID: 009-389-873

SECTION 38, CLAYOQUOT DISTRICT, EXCEPT PART IN PLAN VJP75650;

PID: 008-947-147

SECTION 40, CLAYOQUOT DISTRICT;

PID: 008-947-163

SECTION 41, CLAYOQUOT DISTRICT EXCEPT PART IN PLAN VJP84395;

PID: 008-947-201

SECTION 90, ALBERNI DISTRICT, (SITUATED IN CLAYOQUOT DISTRICT)
EXCEPT PART IN PLAN VIP75648; and

PID: 000-913-871

SECTION 36, CLAYOQUOT DISTRICT, EXCEPT PART IN PLAN VIP75649;

“purchase agreement” means the agreement of purchase and sale between Island Timberlands and Toquaht Nation dated April 9, 2020, as may be amended from time to time in accordance with its terms, under which Island Timberlands agrees to sell and Toquaht Nation agrees to purchase the property;

“purchase price” has the meaning set out in the purchase agreement.

PART 2 - BORROWING FOR LAND PURCHASE

Borrowing for land purchase

- 2.1 (a) Council hereby authorizes the Toquaht Nation to obtain a loan from BMO to finance the purchase of the property on the following terms and conditions:
- (i) the amount of the loan will be the lesser of \$5,500,000 and the purchase price plus costs;
 - (ii) the loan will be repaid over a maximum period of 300 months, with the first payment due within 30 days of advancement of the loan proceeds;
 - (iii) subject to subsection (c), the interest rate for the loan will be the BMO floating rate;
 - (iv) the loan will be secured by
 - (A) a letter of agreement between Toquaht Nation and BMO,
 - (B) a Council resolution authorizing the borrowing signed by a quorum of Council, and
 - (C) an environmental checklist and indemnity form; and
 - (v) the loan will be subject to any other terms and conditions set out in the loan documents.
- (b) For certainty, in accordance with section 8.7 of the Financial Administration Act, the loan documents must be signed by at least two members of the Executive.
- (c) If in the opinion of the director of operations it is in the best interests of Toquaht Nation to do so, the director of operations may convert the loan from a floating rate loan to a fixed rate loan or combination of the two in accordance with the loan documents.

Commencement

- 2.2 This Act comes into force on the date it is enacted.