EXPLANATORY NOTE

INSOLVENCY (AMENDMENT) BILL

1. The Bill for consideration is the Insolvency (Amendment) Bill (the Bill).

2. The purpose of the Bill is to amend the Insolvency Act, No. 17 of 2024 (the Act).

3. Clause 1 of the Bill makes provision for the short title of the Bill and clause 2 of the Bill provides for interpretation.

4. Clause 3 of the Bill amends section 2 of the Act (Interpretation) with respect to the definition of the words "relevant Act" to substitute the reference to the International Business Companies Act, Cap. 12.14 with the International Insurance Act, Cap. 12.15 and insert the Virtual Asset Business Act, Cap. 12.33. Section 2 of the Act is additionally amended to delete the definition of the words "specified financial institution".

5. In clause 4 of the Bill, section 3 of the Act (Application and non-application of this Act) is amended to make the Act not applicable to a relevant Act or a specified financial institution.

6. Section 16 of the Act (Interpretation: Part II) is amended in clause 5 of the Bill to remove the definition for the word "alien" and insert definitions for the words "member State" and "national".

7. In clause 6 of the Bill, section 18 of the Act (Application by persons practicing as a trustee, receiver, receiver-manager or liquidator prior to commencment of this Act) is amended to ensure that these persons are involved in involvency and bankruptcy and to insert new subsections (3), (4), (5) and (6) to that section to make provision for the making and granting of an application for a licence by the Supervisor.

8. Clause 7 of the Bill, amends section 19 of the Act (Application for a licence to act as a trustee) in subsection (2) to remove paragraph (b) and substitute that paragraph with a requirement for a trustee making an application to act as a trustee to be a national of a member State. Subsection (2) of section 19 of the Act is additionally amended to remove the requirement for a trustee who makes an application to not be an alien.

9. The Bill amends section 23 of the Act (Conditions of a licence) in clause 8 of the Bill to include as a condition the requirements of the Financial Intelligence Authority.

10. Clause 9 of the Bill, amends section 48 of the Act (Registration of assignment and bankruptcy order) to indicate that an assignment certified by the Supervisor or a bankruptcy order certified by the Registrar or another officer of the Court must be registered rather than both of them being registered.

11. Section 52 of the Act (Vesting of property of bankrupt in trustee on assignment of bankruptcy order) is amended under clause 10 of the Bill by substituting subsection (3) to indicate the property of a bankrupt that is the same as the property under section 173 of the Act (Property of bankrupt).

12. In clause 11 of the Bill, section 112 (Term of consumer proposal) is amended by substituting that section to allow the term of a consumer proposal to extend to between five years and fifteen years.

13. Section 148 of the Act (Effect of annulment) is amended under clause 12 of the Bill by changing the reference to the official receiver to the Supervisor so that when a consumer proposal is annulled a report is immediately filed with the Supervisor rather than the official receiver.

14. Under clause 13 of the Bill, section 172 of the Act (Stay of proceedings in relation to consumer proposal) is amended to substitute subsection (3) to make provision for the

principal residence of a consumer debtor and to insert a new subsection (5) that restricts the commencement or continuation of an enforcement action against the principal residence unless the leave of the Court is granted.

15. Clause 14 of the Bill, amends section 369 of the Act (Notice by secured creditor) in subsection (2) to change the time for enforcing the security in a notice sent under subsection (1) from ten days to twenty-one days.

16. Schedule 1 of the Act (Qualifications of a Trustee) is amended in clause 15 of the Bill to remove item 2 which required that a trustee must not be an alien.

17. Schedule 2 of the Act (Priority of Payment) is amended in clause 16 of the Bill to include in Category 2 privileges established by the Civil Code, Cap. 4.01 or another enactment.

18. A new Schedule 3 is amended to the Act under clause 17 of the Bill to list the Member States that are provided for under section 16 of the Act.

SAINT LUCIA

No. of 2026

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Amendment of section 2
4. Amendment of section 3
5. Amendment of section 16
6. Amendment of section 18
7. Amendment of section 19
8. Amendment of section 23
9. Amendment of section 48
10. Amendment of section 52
11. Substitution of section 112
12. Amendment of section 148
13. Amendment of section 172
14. Amendment of section 369
15. Amendment of Schedule 1
16. Amendment of Schedule 2
17. Insertion of new Schedule 3

I Assent

[L.S.]

SAINT LUCIA

No. of 2026

AN ACT to amend the Insolvency Act, No. 17 of 2024.

[ ]

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

Short title

1. This Act may be cited as the Insolvency (Amendment) Act, 2026.

Interpretation

2. In this Act, "principal Act" means the Insolvency Act, No. 17 of 2024.

Amendment of section 2

3. Section 2 of the principal Act is amended —

(a) in the definition of the words "relevant Act" in paragraph (a) —

(i) by deleting subparagraph (vi) and substituting the following —

"(vi) the International Insurance Act, Cap. 12.15,",

(ii) in subparagraph (x), by deleting the semi-colon and substituting a comma,

(iii) by inserting immediately after subparagraph (x) the following new subparagraph (xi) —

"(xi) the Virtual Asset Business Act, Cap. 12.33;";

(b) by deleting the definition of the words "specified financial institution";".

Amendment of section 3

4. Section 3(3) of the principal Act is amended by deleting paragraph (a) and substituting the following —

"(a) apply to a —

(i) financial institution, except under the authority of the Regulator or otherwise with the written consent of that Regulator, or

(ii) relevant Act;".

Amendment of section 16

5. Section 16 of the principal Act is amended —

(a) by deleting the definition of the word "alien";

(b) by inserting in the proper alphabetical sequence the following definitions —

" "member State" means a member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in Schedule 3;

"national" means a person who —

(a) is a citizen of a member State;

(b) has a connection with a member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being native or resident of that member State for the purposes of the laws of that member State relating to immigration;

(c) is a company or other legal entity constituted in a member State in accordance with the laws of that member State and which that member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the member State and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);

and for the purposes of this definition, a company or other legal entity is —

(i) substantially owned if more than fifty per cent of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b),

(ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or are otherwise legally entitled to direct its actions;".

Amendment of section 18

6. Section 18 of the principal Act is amended —

(a) in subsections (1) and (2) by inserting the words "involved in insolvency and bankruptcy" immediately after the words "trustee, receiver, receiver-manager or liquidator";

(b) by inserting immediately after subsection (2) the following new subsections (3), (4), (5) and (6) —

"(3) A trustee, receiver, receiver-manager or liquidator involved in insolvency and bankruptcy under subsection (1) shall, within one year commencing from the 3rd day of November, 2025 make an application for a licence.

(4) The Supervisor may, on receipt of an application under subsection (3), grant approval for the person to continue to act as a trustee, receiver, receiver-manager or liquidator involved in insolvency and bankruptcy, subject to such conditions as the Supervisor considers appropriate.

(5) A person who fails to make an application within the period specified under subsection (3) or whose application is refused, shall cease to act in that capacity on notice by the Supervisor and the Supervisor may make such directions as are necessary for the continuation of the administration of the estate.

(6) For the avoidance of doubt, any act lawfully done by a person under subsection (1) prior to the commencement of this Act is deemed valid and effective.".

Amendment of section 19

7. Section 19(2) of the principal Act is amended —

(a) by deleting paragraph (b) and substituting the following —

"(b) be ordinarily resident in Saint Lucia or a national of a member State;";

(b) by deleting paragraph (d).

Amendment of section 23

8. Section 23(2) of the principal Act is amended by inserting immediately after the word "terrorism" the words "and any other requirements of the Financial Intelligence Authority".

Amendment of section 48

9. Section 48(1) of the principal Act is amended in paragraph (a) by deleting the word "and" and substituting the word "or".

Amendment of section 52

10. Section 52 of the principal Act is amended by deleting subsection (3) and substituting the following —

"(3) For the purposes of subsection (2), the property of a bankrupt —

(a) comprises —

(i) property of the bankrupt wherever situated at the date of the bankruptcy or that may be required by or devolve on the bankrupt before discharge, including any refund owing to the bankrupt under the Income Tax Act, Cap. 15.02 in respect of the calendar year or the financial year of the bankrupt if it is different from the calendar year in which the bankrupt became a bankrupt, except the portion that —

(A) is not subject to the operation of this Act; or

(B) in the case of a bankrupt who is the judgment debtor named in a garnishee summons served on His Majesty under any law relating to family orders and agreement enforcement assistance, is garnishable money that is payable to the bankrupt and is to be paid under the garnishee summons, and

(ii) the powers in, over or in respect of the property exercised by the bankrupt for his or her benefit;

(b) does not comprise —

(i) property held by the bankrupt in trust for any other person,

(ii) any property that as against the bankrupt is exempt from execution or seizure under any laws,

(iii) goods and services tax credit payments that are made in prescribed circumstances to the bankrupt and that not property under subparagraph (i) or (ii),

(iv) prescribed payments relating to the essential needs of any individual that are made in prescribed circumstances to the bankrupt and that are not property under subparagraph (i) or (ii), or

(v) without restricting the generality of paragraph (a), property in a registered retirement savings plan, a registered retirement income fund or a registered disability savings plan, or any prescribed plan other than property contributed to any such plan or fund in the twelve months before the date of bankruptcy,

(vi) the prescribed amount to be paid out of the proceeds of sale of the principal residence.".

Substitution of section 112

11. The principal Act is amended by deleting section 112 and substituting the following —

"Term of consumer proposal

112.—(1) A consumer proposal must provide that its performance is to be completed within five years.

(2) Notwithstanding subsection (1), the Supervisor or the Court may approve a consumer proposal providing for payment over a period exceeding five years and not exceeding fifteen years from the date of approval of the proposal, where the consumer proposal relates to the retention of the principal residence of the consumer debtor and the Supervisor or the Court is satisfied that —

(a) the extension is necessary to enable the debtor to retain the principal residence;

(b) the proposal provides a greater recovery to creditors than would likely be achieved in bankruptcy; and

(c) the consumer debtor has demonstrated a reasonable ability to comply with the consumer proposal.".

Amendment of section 148

12. Section 148(c) of the principal Act is amended by deleting the words "official receiver" and substituting the word "Supervisor.".

Amendment of section 172

13. Section 172 of the principal Act is amended —

(a) by deleting subsection (3) and substituting the following —

"(3) Subject to sections 120, 184 to 191 and 312, the filing of a consumer proposal under this Division does not prevent a secured creditor from realizing or otherwise dealing with the security, except in relation to the principal residence of a consumer debtor, in the same manner as he or she would have to realize or deal with it if this section had not been passed, unless the Court otherwise orders, but in so ordering the Court shall not postpone the right of the secured creditor to realize or otherwise deal with the security, except as follows —

(a) in the case of a security for a debt that is due at the date of the approval or deemed approval of the consumer proposal or that becomes due not later than six months thereafter, that right is not postponed for more than six months from that date; and

(b) in the case of a security for a debt that does not become due until more than six months after the date of the approval or deemed approval of the consumer proposal, that right is not postponed for more than six months from the date, unless all installments of interest that are more than six

months in arrears are paid and all other defaults of more than six months standing are cured, and as long as no installment of interest remains in arrears or defaults remain for more than six months, and, in any event, not beyond the date at which the debt secured by the security becomes payable under the instrument, enactment or law, creating the security.";

(b) by inserting immediately after subsection (4) the following subsection (5) —

"(5) Notwithstanding subsections (3) and (4), a secured creditor shall not commence or continue any enforcement action against the principal residence of a consumer debtor during the period in which a consumer proposal is filed and under consideration, except with the leave of the Court.".

Amendment of section 369

14. Section 369(2) of the principal Act is amended by deleting the words "ten days" and substituting the words "twenty-eight days".

Amendment of Schedule 1

15. Schedule 1 of the principal Act is amended by deleting item 2.

Amendment of Schedule 2

16. Schedule 2 of the principal Act is amended under Part A in paragraph (b) —

(a) by deleting the semi-colon and substituting a full stop;

(b) by inserting immediately after subparagraph (vi) the following new subparagraph (vii) —

"(vii) privileges established by the Civil Code, Cap. 4.01 or other enactment.".

Insertion of new Schedule 3

17. The principal Act is amended by inserting immediately after Schedule 2 the following new Schedule 3 —

"SCHEDULE 3

(Section 16)

MEMBER STATES

1. Anguilla
2. Antigua and Barbuda
3. Barbados
4. Belize
5. Bermuda
6. British Virgin Islands
7. Cayman Islands
8. Commonwealth of Dominica
9. Grenada
10. Guyana
11. Haiti
12. Jamaica
13. Montserrat
14. Saint Christopher and Nevis
15. Saint Vincent and the Grenadines
16. Suriname
17. The Bahamas
18. Trinidad and Tobago
19. Turks and Caicos Islands".

Passed in the House of Assembly this day of , 2026.

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Speaker of the House of Assembly.

Passed in the Senate this day of , 2026.

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President of the Senate.