

## Explanatory note

### General

The BAHA Act in force (Cap. 211) mandates BAHA to deliver “agricultural health services”, which includes plant health, animal health, veterinary and quarantine services (sec. 2). All the substantive provisions for the exercise of those functions are in Cap. 211. However, BAHA’s functions have expanded in recent years, especially in the food safety area, while these functions are not fully covered in Cap. 211. Where BAHA is acting only on the basis of regulations and not on a Parliamentary-level Act, this opens BAHA and the Government of Belize open to challenge and potential liability.

Accordingly, the new BAHA Bill takes into account BAHA’s existing and likely future mandate in animal health, plant health and food safety, and fully covers these areas. Because of the volume of changes required, it was not considered practical to retain Cap. 211. Instead, the administrative provisions of Cap. 211 have been broken out into a separate Bill, which is presented here. Draft laws in the substantive areas have been prepared, and this administrative Bill authorizes BAHA to implement them. The substantive laws update the existing provisions in Cap. 211, and reflect all past and present recommendations of IDB and FAO in these areas.

### Definitions and Functions

In this draft Bill, the following changes have been made to the provisions of the BAHA Act in force.

1) Since separate legislation will address the details of the regulatory functions for animal health, plant health and food safety, the section on definitions has been streamlined accordingly.

2) The section on BAHA’s functions (sec. 5) has been amended in order to avoid overlaps with the other draft legislation. However, in order to cover some gaps in Cap. 211, the following responsibilities have been inserted in this draft:

- a) the establishment and maintenance of food control and food safety services (definitions of “food control” and “food safety” and sec. 5(c));
- b) monitoring and control of import and export of live aquatic animals, including the inspection of fish products (sec. 5(d));
- c) control of veterinary drugs (sec. 5(k));
- d) inspection and testing of animals for the purpose of disease surveillance, animal traceability and issuance of official movement permits for monitoring internal animal transport (sec. 5(a));
- e) the certification of organic farms, commodities and production systems (sec. 5(j)).

3) For the implementation of its functions, BAHA has a number of powers (sec. 6), including the power to implement all subject matter legislation as to which it has implementation authority (sec. 7). BAHA can also enter into contracts or “memoranda of understanding” with any other public or private entity, including other national institutions operating in the agricultural health services area, in order to delineate the institutions’ respective roles (definition of “memorandum of understanding”, sec. 6(2)(c)).

### Internal Organization

With regard to the internal organization of BAHA, Cap. 211 provides that BAHA is established as a statutory body (sec. 3(2)), and the new draft follows Cap. 211 almost entirely. The Bill tasks a Board of Directors with policy-making functions. All the members of the Board are appointed by the Minister of Agriculture (sec. 10), and membership is as follows:

- (a) a representative of the Ministry responsible for agriculture or his/her designee;
- (b) a representative of the Ministry responsible for trade or his/her designee;
- (c) a representative of the Ministry responsible for health or his/her designee;
- (d) a representative of the Ministry responsible for economic development or his/her designee;
- (e) one Director appointed by the Minister in his discretion from among persons having knowledge or experience in the agricultural or commercial sectors;
- (f) four Directors appointed by the Minister from the Citrus Growers Association, the Banana Growers Association, the Belize Livestock Producers Association, the Sugar Cane Association, the Belize Chamber of Commerce and Industry and other agri-business associations;
- (g) one Director nominated by associations in the fishing industry having knowledge and experience in the fisheries sector; and
- (h) the Managing Director (MD).

Under Cap. 211 and under the new Bill, the membership of the Board includes several members of the private sector. Because this raises the question of potential conflicts of interest in decision-making, the new Bill includes a provision requiring the disclosure of a financial interest and the requirement of recusal from any decision relating to that interest (sec. 11(5)).

Under section 7 of the Bill, which reproduces section 7 of Cap. 211, the Minister is entitled to impart policy directions to the Board, and the Board shall give effect to those directions in the performance of its functions.

As in Cap. 211, the Board appoints the MD, who, subject to policy guidance from the Board, is responsible for the management of BAHA (secs. 8(1) and 9(1)).

In partial reform of Cap. 211, the Bill provides for appointment of staff by the MD, with the approval of the Board (sec. 9(2)(c)).

Similarly to Cap. 211, financial arrangements are set out whereby BAHA revenues come from the Consolidated Revenue Fund (i.e. the general state budget), as well as fees, charges and fines imposed by BAHA in its activities (secs. 6(2)(h) and 18). The Act speaks of borrowing powers within limits to be established by the Minister responsible for finance (sec. 20). Unlike the existing Cap. 211, the new Bill establishes a Biosecurity Fund, which the Authority may draw upon to meet urgent and unforeseen needs arising from a plant or animal health or food safety emergency (sec. 21).

### Regulations

To reflect the new expanded mandate of BAHA in the Bill and streamline the regulatory powers of the Minister accordingly, the Bill mandates the Minister to make regulations for, among other purposes, on “all activities undertaken in the agricultural health services area in Belize” (sec. 29(2)(a)).

While repealing Cap. 211, the Bill has saving clauses for:

- a) all regulations or other subsidiary instruments passed under prior legislation;
- b) permits, registrations or other documents issued under Cap. 211, provided they are not inconsistent with the provisions of the Bill (sec. 30).