

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

THE LOREN (PINK BEACH AND ELBOW BEACH) ACT 2025

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WHEREAS it is expedient, in a special Act of the Legislature, to facilitate certain tax and customs duty relief to the Loren at Pink Beach and to facilitate the development of the Loren Hotel at Elbow Beach by providing, subject to conditions, certain tax and customs duty relief in respect of the development;

WHEREAS the Minister of Finance and the Minister responsible for tourism are satisfied that the hotel development is in the national economic interest of Bermuda;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

THE LOREN (PINK BEACH AND ELBOW BEACH) ACT 2025

Citation

1 This Act may be cited as the Loren (Pink Beach and Elbow Beach) Act 2025.

Interpretation

2 In this Act—

“Collector” means the Collector of Customs;

“customs duty” means the duty payable under the Customs Tariff Act 1970;

“Pink Beach hotel” means the Loren at Pink Beach, and its associate restaurants and facilities, including the development of the scheduled land as redeveloped by the hotel developer;

“Elbow Beach hotel” means the Loren at Elbow Beach and its associate restaurants and facilities, including the development of the scheduled land to be developed by the hotel developer;

“hotel developer” means Sardis Developments Limited, a company incorporated in Bermuda on 14 February 2014 and amalgamated with Pink Beach Hotel Limited on 6 March 2014, together with all successors and assigns to the freehold interest in the hotel;

“hotel development” means the development of the Elbow Beach hotel including a new hotel, restaurant, spa facilities, members’ lounge, event space, tennis courts and pickleball courts;

“hotel occupancy tax” has the meaning assigned by Part V of the Miscellaneous Taxes Act 1976;

“hotel opening date” means the date on which the licence to operate the Loren Hotel at Elbow Beach under the Hotels (Licensing and Control) Act 1969 comes into operation;

“land tax” means the tax payable under the Land Valuation and Tax Act 1967;

“Minister” means the Minister responsible for tourism;

“payroll tax” has the meaning assigned by the Payroll Tax Act 1995;

“scheduled land” means the land described in the Schedule.

Relief; Pink Beach hotel

3 (1) Subject to section 5, the hotel developer shall in respect of the Pink Beach hotel be entitled to the following relief—

- (a) for a period of fifteen years beginning on the commencement of this Act, full exemption from customs duty in respect of any building materials, furnishings, fixtures and equipment which are necessary for the building, furnishing and equipping of the Pink Beach hotel;

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- (b) for a period of fifteen years beginning on the commencement of this Act, full exemption from hotel occupancy tax otherwise payable in respect of the Pink Beach hotel;
- (c) for a period beginning six years after the hotel opening date and ending on the fifteenth anniversary of that date, full exemption of land tax payable in respect of the Pink Beach hotel;
- (d) for a period of fifteen years beginning on the commencement of this Act, full exemption from the employer's share of payroll tax otherwise payable in respect of any person employed by the Pink Beach hotel.

(2) For the purposes of subsection (1)(d), the employer's share of payroll tax means that portion of payroll tax which the employer is not entitled to deduct from an employee's wages under section 19 of the Payroll Tax Act 1995.

(3) The relief granted in subsection (1) shall cease to have effect for any hotel residential unit if such unit is not included in the hotel residential scheme for the period for which the exemption is claimed.

(4) In this section—

“hotel residential scheme” means a scheme approved by the Minister under which a person who has contracted to acquire a hotel residential unit at the Pink Beach hotel enters into a written agreement with the hotel developer to use the unit, or part of it, as tourist accommodation for at least six months as part of the hotel's inventory.

Relief; Elbow Beach hotel

4 (1) Subject to section 5, the hotel developer shall in respect of the Elbow Beach hotel be entitled to the following relief—

- (a) for a period of fifteen years beginning on the commencement of this Act, full exemption from customs duty in respect of any building materials, furnishings, fixtures and equipment which are necessary for the building, furnishing and equipping of the Elbow Beach hotel;
- (b) for a period of fifteen years beginning on the commencement of this Act, full exemption from hotel occupancy tax otherwise payable in respect of the Elbow Beach hotel;
- (c) for a period beginning six years after the hotel opening date and ending on the fifteenth anniversary of that date, full exemption of land tax payable in respect of the Elbow Beach hotel;
- (d) for a period of fifteen years beginning on the commencement of this Act, full exemption from the employer's share of payroll tax otherwise payable in respect of any person employed by the Elbow Beach hotel.

(2) For the purposes of subsection (1)(d), the employer's share of payroll tax means that portion of payroll tax which the employer is not entitled to deduct from an employee's wages under section 19 of the Payroll Tax Act 1995.

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(3) The relief granted in subsection (1) shall cease to have effect for any hotel residential unit if such unit is not included in the hotel residential scheme for the period for which the exemption is claimed.

(4) In this section—

“hotel residential scheme” means a scheme approved by the Minister under which a person who has contracted to acquire a hotel residential unit at the Elbow Beach hotel enters into a written agreement with the hotel developer to use the unit, or part of it, as tourist accommodation for at least six months as part of the hotel’s inventory.

Terms and Conditions

5 (1) To qualify for the exemption from land tax under section 3(1)(c) or 4(1)(c), the hotel developer shall, for the relevant period, confirm in writing to the Minister that in years six through sixteen, 70% of the hotel’s staff are Bermudian.

(2) To qualify for the exemption from the employer’s share of the payroll tax under section 3(1)(d) or 4(1)(d), the Minister responsible for workforce development shall, for the relevant period, confirm in writing to the Minister, annually, that a management training programme for Bermudians is in operation at the hotel.

(3) Where the construction of the development of the Elbow Beach Hotel is not complete by the fifth anniversary of the commencement of this Act, any relief granted to hotel residential units under sections 3(1) and 4(1) shall cease to have effect.

(4) In this section—

“Bermudian” means a person who possess Bermudian status under the Bermuda Immigration and Protection Act 1956;

“relevant period” means the period for which the exemption is claimed.

Relief from customs duty

6 (1) Subject to this Act, relief may be made available by such administrative methods and procedures as the Collector may establish.

(2) The hotel developer or any person in Bermuda who supplies goods to him (“the supplier”) may be a claimant for relief in respect of those goods.

(3) A supplier shall make himself known to the Collector as soon as practicable so that the requirements of this section may be fulfilled in relation to him.

(4) For a period of six years after importing goods subject to relief from customs duty, the hotel developer and each supplier shall—

- (a) maintain at his place of business in Bermuda such full and proper records of the goods as the Collector may from time to time require; and
- (b) whenever so required by the Collector, within 24 hours produce for inspection by the Collector, or any person authorised by him for the

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purpose, those records or such portion of them as the Collector may specify.

(5) Section 99(2) of the Revenue Act 1898 (seizure and detention of records which may afford evidence of commission of offence) shall apply to records produced under subsection (4)(b) as it applies to records produced under section 99(1) of that Act.

(6) The Collector may give to any person to whom subsection (3) applies such reasonable directions as the Collector deems necessary for the purpose of ensuring that relief is made available in accordance with this section and not otherwise; and a person to whom such a direction is given shall comply with it.

(7) For a period of six years after importing goods subject to relief from customs duty the hotel developer shall, whenever so required by the Collector, permit the Collector or any person authorised by him for the purpose to inspect the hotel redevelopment or the goods to which this section applies.

Payment of customs duty on diversion

7 (1) The hotel developer who has imported goods subject to relief from customs duty may make an application to the Collector if he wishes, within five years of their importation, to use or dispose of the goods otherwise than in accordance with the relief granted under section 6.

(2) The Collector may, upon payment of the outstanding duty, approve such use or disposal.

(3) Subsections (3) to (6) of section 89 of the Revenue Act 1898 (penalties for improper use of goods) shall apply, with the necessary modifications, in relation to the use or disposal of goods otherwise than in accordance with this section without the authorisation of the Collector under this section, as they apply in relation to the use or disposal of restricted goods in contravention of that section.

(4) For the purposes of this section—

- (a) “duty” includes any surcharge;
- (b) “outstanding duty” means any amount of duty payable in respect of goods less any amount already paid;
- (c) where the goods in question are goods in respect of which duty is charged on the basis of their value, the value of the goods shall be taken to be that value which the Collector places on goods which in his opinion are goods of a description, age and condition of the goods in question at the time of the change of use or disposal;
- (d) the rate of duty to be taken for the purposes of calculation of outstanding duty is the rate in force at the time of the change of use or disposal.

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Offences

8 (1) A person is guilty of an offence if he fails, without reasonable excuse, to comply with a requirement or direction made of or given to him under this Act by the Collector.

(2) A person is guilty of an offence if—

- (a) in relation to an application under section 3 or 4, he makes any statement, or otherwise supplies to the Minister, the Collector or the Tax Collector any information, which that person knows to be false or does not believe to be true; or
- (b) he fails, without reasonable excuse, to disclose to the Minister, the Collector or the Tax Collector any information which that person knows or believes, or ought reasonably to know or believe, that he is expected to supply pursuant to a requirement made of him under this Act.

(3) A person is guilty of an offence if he fails, without reasonable excuse, to comply with a duty imposed upon him by or under section 6(4) or (7).

Penalties and forfeitures

9 (1) A person who is guilty of an offence under section 8(1) is liable on summary conviction to a fine of the level 3 amount.

(2) A person who is guilty of an offence, as prescribed by section 84A of the Revenue Act 1898, under section 8(2) or (3) is liable on summary conviction—

- (a) to a fine of the level 4 amount; or
- (b) where duty is lost to the revenue as a result of the offence, to a fine of the level 4 amount or five times the amount of the duty lost to the revenue by reason of the commission of the offence, whichever is the greater amount.

(3) For the avoidance of doubt, the provisions of sections 110, 111, 111A, 112, 114 and 115 of the Revenue Act 1898 (recovery of penalties and forfeitures) shall apply with the necessary modifications in relation to penalties and forfeitures under this section as those provisions apply in relation to penalties and forfeitures under that Act.

(4) Subsection (3) of this section is without prejudice to the application in relation to penalties and forfeitures under this section or any other provision of the Revenue Act 1898 that is also applicable in relation to those penalties and forfeitures according to the tenor of that provision.

Offences by corporations

10 Where an individual who has committed an offence against this Act was at the time he committed the offence a director, manager, secretary or other similar functionary of a body corporate and committed the offence in that capacity, then the body corporate is also guilty of the offence and liable to be proceeded against and punished accordingly.

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Minister power to amend or repeal

11 (1) The Minister, with the agreement of the Minister or Finance, and having consideration for any objections made by the hotel developer may, by regulations, amend or repeal any provision of sections 3, 4, 5 or 6 in any of the following circumstances—

- (a) if there has been any breach of the terms and conditions in section 5;
- (b) if any false declarations are made to the Collector in respect of the goods to which customs duty relief applies;
- (d) if any goods which were imported subject to customs duty relief are used for purposes which do not relate directly to the hotel redevelopment otherwise than in accordance with section 7;
- (e) where any offence under this Act is committed.

(2) Regulations made under subsection (1) are subject to the negative resolution procedure.

Minister may issue guidance

12 (1) The Minister may issue such guidance as he considers appropriate and such guidance may be taken into account when assessing compliance with the provisions this Act.

(2) The Minister may from time to time revise any guidance issued under this section.

(3) For the avoidance of doubt, any guidance issued under this section is not a statutory instrument within the meaning of the Statutory Instruments Act 1977.

Minister may make regulations

13 (1) The Minister may make regulations—

- (a) generally for carrying out the purposes and provisions of this Act;
- (b) for such transitional, incidental, supplementary or consequential provision as appears to the Minister to be necessary or expedient

(2) The negative resolution procedure shall apply to regulations made under this section.

Application of the Development and Planning Act 1974

14 Nothing in this Act shall be taken to modify the requirements of the Development and Planning Act 1974 as regards obtaining any planning permission necessary for the hotel development.

Consequential amendments

15 The Revenue Act 1898 is amended—

- (a) in section 84A(5) by inserting the following after paragraph (i)—

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- “(ia) Loren (Pink Beach and Elbow Beach) Act 2025 (“L(PBEB)A”);
- (b) in paragraph 4 of the Fourth Schedule by inserting “or the Loren (Pink Beach and Elbow Beach) Act 2025 after “the Fairmont Southampton Hotel Act 2023”.

Commencement

16 This Act may come into operation on such day as the Minister appoints by Notice in the Gazette.

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SCHEDULE

(Section 2)

SCHEDULED LAND

The Loren Hotel at Pink Beach

Firstly ALL THAT lot of land situate in Smiths Parish in the Islands of Bermuda delineated and outlined in red on the plan prepared by Bermuda-Caribbean Engineering Consultants Limited dated March 2025 under Drawing No. SV16340/1/19 ("the Plan") (registered plan of subdivision number S0038/16 dated 23 January 2017) designated as "A" on the Plan containing Two decimal point two nine seven Hectares (2.297Ha or 5.675 Ac) (forming part of Land Title Registry Office Parcel Number SM-3220) TOGETHER WITH the hotel buildings erected thereon known as 'The Loren at Pink Beach', 116 South Road, Hamilton Parish HS01 (VAN: 115512918 (hotel) and 115513116 (retail)) and all other buildings fixtures walls fences ways rights of way rights lights liberties privileges easements advantages and appurtenances whatsoever to the parcel of land belonging or usually held or enjoyed therewith.

Secondly ALL THAT lot of land straddling the Smiths/Hamilton Parish boundary line in the Islands of Bermuda also delineated and outlined in red on the Plan designated as "B" on the Plan containing Two decimal point one five six Hectares (2.156 Ha or 5.328 Ac) (forming part of Land Title Registry Office Parcel Number SM-3220) TOGETHER WITH the tourism units erected thereon known as 'The Residence at the Loren', 2A South Road, Hamilton Parish HS01 (VAN: 081275811 (main unit) and 081275919 (cottage)) and all other buildings fixtures walls fences ways rights of way rights lights liberties privileges easements advantages and appurtenances whatsoever to the parcel of land belonging or usually held or enjoyed therewith.

Thirdly ALL THAT lot of land situate in Smith's Parish in the Islands of Bermuda delineated and outlined in red on the Plan and thereon designated as "C" on the Plan containing Nought decimal point nine five four of a hectare (0.954ha or 2.357ac) (forming part of Land Title Registry Office Parcel Number SM-3220) containing the 7 hotel residences known as 'the Villas at the Loren':

"Grove Villa" 118 South Road Smiths HS01 Assessment Number: 115514023

"Hibiscus Villa" 120 South Road Smiths HS01. Assessment Number: 115141014

"Surf Side Villa" 122 South Road Smiths HS01. Assessment Number: 115514210

"Sea Cliff Villa" 124 South Road Smiths HS01. Assessment Number: 115514317

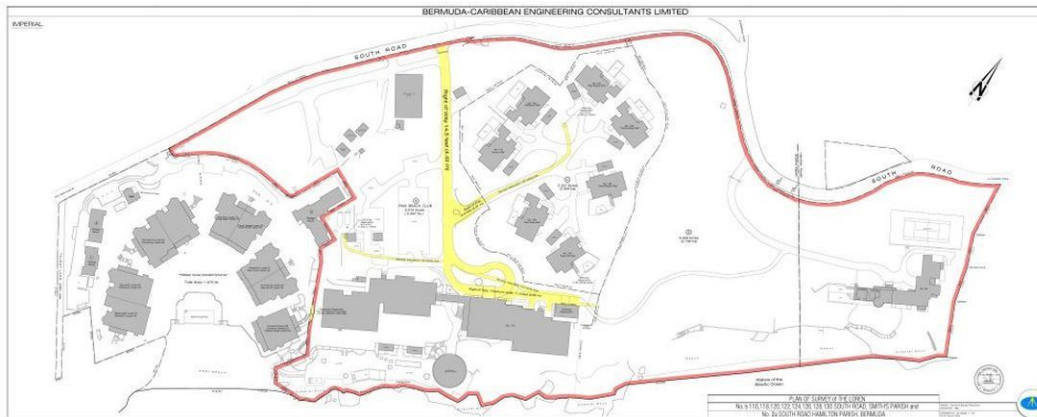
"Sea Sweep Villa" 126 South Road Smiths HS01. Assessment Number: 115514414

"Canton Bay Villa" 128 South Road Smiths HS01. Assessment Number: 115515917

"Bay Grape Villa" 130 South Road Smiths HS01. Assessment Number: 115516018

and all other buildings fixtures walls fences ways rights of way rights lights liberties privileges easements advantages and appurtenances whatsoever to the parcel of land belonging or usually held or enjoyed therewith, whilst the relevant hotel residence shall participate in the hotel residential scheme.

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The Loren Hotel at Elbow Beach

Firstly ALL THAT certain parcel of land formerly known as “The Elbow Beach Hotel” situate at 60 South Road, Paget Parish PG04 in the Island of Bermuda outlined in red on the plan prepared by Jones Waddington Ltd drawing number LS5734FB1 (updated by Bermuda Land Surveys in September 2023) comprising Eleven decimal point five nine nine Hectares (11.599 Ha) and all other buildings fixtures walls fences ways rights of way rights lights liberties privileges easements advantages and appurtenances whatsoever to the parcel of land belonging or usually held or enjoyed therewith and including without limitation all hotel residence units subsequently erected thereon whilst the relevant hotel residence shall participate in the hotel residential scheme.

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THE LOREN (PINK BEACH AND ELBOW BEACH) BILL 2025

EXPLANATORY MEMORANDUM

This Bill seeks to create a special Act of the Legislature, to provide, subject to terms and conditions, certain tax and customs duty relief for the redevelopment at the Loren at Pink Beach and to facilitate the development of the Loren Hotel at Elbow Beach by providing, subject to terms and conditions, certain tax and customs duty relief in respect of the development.

Clause 1 provides the title of the Bill.

Clause 2 provides the definitions of words used in the Bill.

Clause 3 sets out the customs duty and tax relief granted in respect of the redevelopment of the Loren at Pink Beach, as follows:

- (a) full relief from customs duty in respect of any building materials, furnishings, fixtures and equipment necessary for the building, furnishing and equipping the hotel, for a period of fifteen years after the coming into operation of the Act;
- (b) full relief in relation to hotel occupancy tax for a period of fifteen years after the coming into operation of the Act;
- (c) full relief in relation to land tax for a period commencing six years after the opening date of the Elbow Beach hotel and ending on the fifteenth anniversary of that opening date;
- (d) full relief in relation to the employer's share of the payroll tax paid in respect of persons employed by the hotel for a period of fifteen years after the coming into operation of the Act.

Clause 4 sets out the customs duty and tax relief granted in respect of the development of the Loren at Elbow Beach, as follows:

- (a) full relief from customs duty in respect of any building materials, furnishings, fixtures and equipment necessary for the building, furnishing and equipping the hotel, for a period of fifteen years after the coming into operation of the Act;
- (b) full relief in relation to hotel occupancy tax for a period of fifteen years after the coming into operation of the Act;
- (c) full relief in relation to land tax for a period commencing six years after the opening date of the Elbow Beach hotel and ending on the fifteenth anniversary of that opening date;
- (d) full relief in relation to the employer's share of the payroll tax paid in respect of persons employed by the hotel for a period of fifteen years after the coming into operation of the Act.

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Clause 5 sets out the terms and conditions subject to which the rebates are granted. The land tax exemption is subject to confirmation that in years six through fifteen at least 70% of the hotel's staff are Bermudian. The payroll tax exemption is subject to the operation of a management training programme at the hotel for Bermudians.

Clause 6 relates to relief from customs duty and provides for the giving of certain information to the Collector of Customs in relation to goods necessary for the building, furnishing and equipping the hotel redevelopment.

Clause 7 relates to the payment of customs duty on the use or disposal of goods which were imported duty free.

Clause 8 creates criminal offences subject to the penalties provided in Clause 9.

Clause 9 provides the penalties and forfeitures.

Clause 10 makes provision for offences committed by officers of corporations.

Clause 11 gives the Minister the power to amend or repeal provisions of section 4, 5 or 6 of the Act where there has been a breach of any of the given circumstances.

Clause 12 gives the Minister the power to issue guidance.

Clause 13 gives the Minister the power to make regulations.

Clause 14 clarifies that this Bill does not modify the requirements of the Development and Planning Act 1974 as regards obtaining any planning permission necessary for the hotel redevelopment.

Clause 15 provides consequential amendments to the Revenue Act 1898 in furtherance of clause 7.

Clause 16 provides the commencement of the of the Bill.