

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

LAND TITLE REGISTRAR (RECORDING OF DOCUMENTS) ACT 2016

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WHEREAS it is expedient to transfer from the Registrar-General to the Land Title Registrar those functions that relate to the recording of interests in land;

Be it enacted by The Queen'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:

Citation

1 This Act may be cited as the Land Title Registrar (Recording of Documents) Act 2016.

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Interpretation

2 In this Act, unless the context otherwise requires—

“authorized officer” means—

- (a) the Land Title Registrar; and
- (b) any other public officer in the LTRO who is authorized by the Land Title Registrar in writing to perform any function under this Act (to the extent of such authorization);

“depositor”, in relation to any document submitted for recording and registration under this Act, means the person depositing that document in the LTRO for that purpose;

“Land Title Registrar” means the public officer known as the Land Title Registrar;

“LTRO” means the Land Title Registry Office headed by the Land Title Registrar;

“Minister” means the Minister responsible for land registration;

“prescribed” means prescribed by regulations under this Act;

“record book” includes an electronic record of documents.

Recording and registration of documents deposited in the office of the Land Title Registrar

3 (1) It shall be the duty of the Land Title Registrar to cause to be recorded and registered any deed or other document which may be deposited in the LTRO for recording and registration and which the Land Title Registrar is authorized or required pursuant to this Act to record and register.

(2) Any such recording and registration of a document may, at the option of the depositor, be lawfully effected either—

- (a) by the deposit of the original document in the LTRO, by the preparation by an authorized officer of a copy of such document, or abstract thereof where such is sufficient to meet the requirements of the Act under which such deposit is made, and by the insertion and retention of the copy or abstract as aforesaid in the appropriate record book; or
- (b) by the deposit of the original document in the LTRO, together with a copy of such document or of an abstract thereof in the prescribed form where such is sufficient to meet the requirements of the Act under which such deposit is made; by the comparison of such copy or abstract as aforesaid with the original document by an authorized officer to ensure that it is a true copy or, as the case may be, correct abstract; and by the insertion and retention of such copy or abstract in the appropriate record book.

(3) Any copy of a document made in pursuance of subsection (2)(a) may be typewritten, photographed or otherwise reproduced by any electronic, photographic or mechanical process.

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(4) Upon the completion of the recording and registration of any document under this section—

- (a) the original document shall be indorsed to the effect that it has been recorded and registered in the LTRO, and such indorsement shall show—
 - (i) the date on which the document was deposited for recording; and
 - (ii) the number and page of the record book in which the copy is retained, and shall be signed by an authorized officer; and
- (b) the original document indorsed in accordance with paragraph (a) shall be made available in the LTRO for delivery to the depositor or, upon prepayment of the appropriate postal fee, shall be sent to such address as may be notified to the Land Title Registrar by the depositor.

Judgments index

4 (1) It shall be the duty of the Land Title Registrar to prepare and keep current an index of every judgment listed in the cause book as appears to him might, pursuant to the Real Estate Assets Act 1787, affect land in Bermuda.

(2) The Registrar of the Supreme Court shall afford the Land Title Registrar such reasonable access to the cause book as will enable the Land Title Registrar to prepare such judgments index.

(3) The judgments index shall list each judgment by the date on which it is given, and by the name of the person against whom it is given.

(4) In this section, “cause book” has the meaning given in Order 1/4 (definitions) of the Rules of the Supreme Court 1985.

Inspection of registers and indexes; copying; obtaining certified copies

5 Subject to any regulations made under this Act, the Land Title Registrar, upon the application of any person and upon the payment of the appropriate fee prescribed under the Government Fees Act 1965, shall—

- (a) allow that person to inspect and examine any document recorded and registered under this Act, or any register or index maintained thereunder; and
- (b) allow that person to copy or make extracts from any such document, register or index as aforesaid; and
- (c) cause to be prepared and furnished to that person a copy of any such document, register or index as aforesaid, sealed and certified by an authorized officer to be a true copy thereof.

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Transfer of functions under the Registrar-General (Recording of Documents) Act 1955 relating to land

6 (1) The following functions of the Registrar-General are transferred to the Land Title Registrar, and the Land Title Registrar shall be the authority for—

- (a) recording and registering deeds under the Disentailing Act 1901;
- (b) recording and registering mortgages and other conditional conveyances of property under the Mortgage Registration Act 1786;
- (c) recording and registering voluntary conveyances of land under the Conveyancing Act 1983;
- (d) recording and registering memoranda respecting the acquisition or disposal of land by bodies corporate deposited under the Corporate Bodies' Lands Act (No. 2) 1936, and for the carrying out of ancillary functions under that Act;
- (e) recording and registering licensed land and licences issued under the Bermuda Immigration and Protection Act 1956;
- (f) recording and registering the name and particulars of any person who becomes entitled to a freehold estate (except by way of mortgage) in any land in Bermuda in accordance with section 7; and
- (g) carrying out any other functions pursuant to section 11 (consequential amendments transferring functions relating to recording interests in land).

(2) The form of documents in respect of memoranda relating to mortgages, the acquisition of land and voluntary conveyances shall be in Forms A, B and C respectively in Schedule 1.

(3) If the form of a document to be deposited in the LTRO is not prescribed (or is not required to be in a form in Schedule 1 or 2), the document shall be in such form as the Land Title Registrar may determine.

(4) Subject to subsection (5), on the coming into operation of this Act, the Land Title Registrar shall be the custodian of the existing records and registers referred to in subsection (1).

(5) Any existing records or registers referred to in subsection (1)—

- (a) may remain in the possession of the Registrar-General for such period of time after the coming into operation of this Act as is reasonably necessary for the Land Title Registrar to transfer such records or registers into his custody; and
- (b) may be converted to electronic form.

(6) The Land Title Registrar may keep the records and registers in his custody in electronic or paper form, or partly in one form and partly in the other as the Land Title Registrar may determine.

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(7) Any documents required to be recorded and registered under any of the transferred functions, which were duly lodged with the Registrar-General but have not yet been recorded and registered when this Act comes into operation, shall be forwarded by the Registrar-General to the Land Title Registrar for recording and registration as if they were, with necessary modifications, lodged under this Act.

Change in ownership of freehold estate not by way of mortgage to be registered

7 (1) Any person who becomes entitled to a freehold estate (except by way of mortgage) in any land in Bermuda shall, within three months after becoming so entitled, give written notice thereof to the Land Title Registrar.

(2) A notice under subsection (1) shall be given in duplicate in the form in Schedule 2, and shall be accompanied by a certified copy of the deed of conveyance sufficient to indicate if stamp duty has been paid thereon.

(3) The Land Title Registrar shall, on receipt of a notice given under subsection (1) and upon payment of such fee, if any, as may be prescribed under the Government Fees Act 1965, register the name of the person entitled and such other particulars as may be appropriate in the parish assessment books (which were transferred to the custody of the Registrar-General in pursuance of the First Schedule to the Parish Councils Act 1971).

(4) Any person who fails to give the notice required of him by subsection (1) within the requisite time shall be liable on summary conviction to a fine not exceeding \$200.

Regulations

8 (1) The Minister may make regulations for carrying the foregoing provisions of this Act into effect; and, without prejudice to the foregoing provision, regulations made as aforesaid may provide—

- (a) for requiring the maintenance by the Land Title Registrar of registers and indexes of documents recorded and registered in pursuance of this Act;
- (b) with respect to the insertion in record books of documents deposited for recording and registration under this Act and for prescribing which classes of documents are to be inserted and retained in each record book;
- (c) for prescribing forms to replace any of the forms in Schedule 1 or 2;
- (d) for prescribing the safeguards to be observed in connection with the custody of documents, record books, registers and indexes maintained under this Act;
- (e) for specifying the form, including the material and size of pages, of copies of documents submitted in pursuance of section 3;
- (f) for specifying the conditions under which any of the documents, record books, registers and indexes maintained under this Act may be inspected, examined or copied;
- (g) with respect to the sealing of certified copies of documents, or entries in registers or indexes, furnished under this Act; and

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(h) any other matter which is to be prescribed under this Act.

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

Act not to derogate from or abridge Land Title Registration Act 2011

9 Nothing in this Act shall be construed so as to derogate from or abridge any provision of the Land Title Registration Act 2011.

Repeal and revocation in consequence of transfer of functions

10 In consequence of the transfer of functions under the Registrar-General (Recording of Documents) Act 1955 to this Act, the following provisions—

- (a) of the Registrar-General (Recording of Documents) Act 1955 are repealed—
 - (i) section 7 (functions transferred to Registrar-General on 1 June 1956 and later);
 - (ii) section 8 (change in ownership of freehold estate not by way of mortgage to be registered); and
 - (iii) the Schedule; and
- (b) of the Recording of Documents Regulations 1965 are revoked—
 - (i) regulation 2(2); and
 - (ii) the Schedule.

Consequential amendments transferring functions relating to recording interests in land

11 The following legislative provisions are amended as follows to, in each case, transfer the function of the Registrar-General relating to the recording of interests in land to the Land Title Registrar—

- (a) in section 58(3) of the Bermuda Housing Act 1980, by deleting “Registrar-General for recording and registering under the Registrar-General (Recording of Documents) Act 1955 [title 28 item 2]” and substituting “Land Title Registrar for recording and registering under the Land Title Registrar (Recording of Documents) Act 2016”;
- (b) in sections 102, 102A and 102D of the Bermuda Immigration and Protection Act 1956, by deleting “Registrar-General” wherever it occurs and, in each case, substituting “Land Title Registrar”;
- (c) in section 5A(2) of the Bermuda National Trust Act 1969, by deleting “Registrar General” and substituting “Land Title Registrar”;
- (d) in section 39 of the Conveyancing Act 1983—

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- (i) in subsections (1) and (2), by deleting “Registrar General” and substituting “Land Title Registrar”; and
- (ii) in subsection (2), by deleting “Registrar General (Recording of Documents) Act 1955 [title 28 item 2]” and substituting “Land Title Registrar (Recording of Documents) Act 2016”;
- (e) in section 55(2) of the Evidence Act 1905, by deleting “Registrar General (Recording of Documents) Act 1955 [title 28 item 2]” and substituting “Land Title Registrar (Recording of Documents) Act 2016”;
- (f) in section 75 of the Land Valuation and Tax Act 1967—
 - (i) in subsections (1) and (2), by deleting “Registrar General” and substituting “Land Title Registrar”; and
 - (ii) in subsection (2), by deleting “Registrar General (Recording of Documents) Act 1955 [title 28 item 2]” and substituting “Land Title Registrar (Recording of Documents) Act 2016”;
- (g) in the Mortgage Registration Act 1786—
 - (i) in the headings of both sections 1 and 2, by deleting “Registrar-General” and substituting “Land Title Registrar”;
 - (ii) in sections 1 and 2, by deleting “Registrar General” wherever it occurs and, in each case, substituting “Land Title Registrar”; and
 - (iii) in section 2, by deleting “Registrar General (Recording of Documents) Act 1955 [title 28 item 2]” and substituting “Land Title Registrar (Recording of Documents) Act 2016”;
- (h) in sections 18, 19A and 19B of the Timesharing (Licensing and Control) Act 1981, by deleting “Registrar General” wherever it occurs and, in each case, substituting “Land Title Registrar”;
- (i) in sections 1, 2, 4, 5 and 6 (including in the section headings) of the Corporate Bodies’ Lands Act (No. 2) 1936, by deleting “Registrar-General” wherever it occurs and, in each case, substituting “Land Title Registrar”;
- (j) in sections 1(2) and 2(2) of the Disentailing Act 1901, by deleting “Registrar-General” wherever it occurs and, in each case, substituting “Land Title Registrar”;
- (k) in the Proceeds of Crime Act 1997—
 - (i) in section 30(2), by, after “Registrar-General (Recording of Documents) Act 1955”, inserting “or, if it relates to land, the Land Title Registry Office for recording and registration in accordance with section 3 of the Land Title Registrar (Recording of Documents) Act 2016”;
 - (ii) in section 36Q(1), by deleting “Registrar-General for recording and registration in accordance with section 3 of the Registrar-General (Recording of Documents) Act 1955” and substituting “Land Title

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- Registrar for recording and registration in accordance with section 3 of the Land Title Registrar (Recording of Documents) Act 2016”; and
- (iii) in section 36Q(2), by deleting “Registrar-General (Recording of Documents) Act 1955” and substituting “Land Title Registrar (Recording of Documents) Act 2016”;
 - (l) in Schedule 3 to the Proceeds of Crime (Designated Countries and Territories) Order 1998, in section 30(2) of the Proceeds of Crime Act 1997 as modified, by, after “Registrar-General (Recording of Documents) Act 1955”, inserting “or, if it relates to land, the Land Title Registry Office for recording and registration in accordance with section 3 of the Land Title Registrar (Recording of Documents) Act 2016”;
 - (m) in paragraph 4(4) of Order 115A of the Rules of the Supreme Court 1985, by, after “Registrar-General”, inserting “or, where the charging order relates to land, the Land Title Registrar”; and
 - (n) in regulation 65 of the Timesharing (Licensing and Control) Regulations 1982, by deleting “Registrar General” and substituting “Land Title Registrar”.

Other consequential amendments

12 (1) The Schedule to the Commissioners for Oaths and Notaries Public Act 1972 is amended by, after paragraph 8, inserting—

“8A The Land Title Registrar.”.

(2) The Schedule to the Government Fees Regulations 1976 is amended by, after Head 33, inserting the following new Head—

| Head 33A | |
|--|------|
| Land Title Registrar (Recording of Documents) Act 2016 | |
| (1) Inspecting, examining, copying or making extracts from any document, register or index and making any necessary search of any record book in connection therewith under section 5 (per hour or part of an hour occupied) | \$24 |
| (2) Searching by a public officer for any document or of any register or index (per hour or part of an hour occupied) | \$58 |
| (3) Searching by a public officer or a member of the public for any document or of any register or index, where in the opinion of the Land Title Registrar the information to be obtained will be for the public benefit | Nil |

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Head 33A

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- | | |
|---|-------|
| (4) Examining, certifying and sealing a copy of any document or entry in a register or index— | |
| (a) for the first page or part thereof | \$40 |
| (b) for each additional page or part thereof | \$18 |
| (5) Recording and registering any document— | |
| (a) where the Land Title Registrar prepares a copy— | |
| (i) for the first page or part thereof | \$112 |
| (ii) for each additional page or part thereof | \$24 |
| (b) where a copy is supplied— | |
| (i) for the first page or part thereof | \$80 |
| (ii) for each additional page or part thereof | \$18 |
| (c) where a duplicate copy is stamped, per page or part thereof | \$24 |
| (6) Preparing and furnishing a copy of any document or entry in a register or index— | |
| (a) for the first page or part thereof | \$30 |
| (b) for each additional page or part thereof | \$18 |
| (c) examining, certifying and sealing the same | \$40 |
| (7) Where in respect of paragraph (5)(a) a document is involved, being a document written in whole or in part in a foreign language, or comprising a map or plan, or a mechanical or scientific diagram or drawing, or a set of mathematical computations, or a photograph or other pictorial representation, comprising other materials not printed or typewritten, in addition to the actual cost incurred— | |
| (a) for the first page or part thereof | \$45 |
| (b) for each additional page or part thereof | \$18 |

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SCHEDULE 1

(section 6(2))

FORMS OF MEMORANDA FOR REGISTRATION BY LAND TITLE REGISTRAR

Form A

MEMORANDUM OF MORTGAGE

(State whether first or subsequent Mortgage or Further Charge)

DATE:

MORTGAGOR (S) :

(add address if desired)

MORTGAGEE (S) :

(add address if desired)

SUM SECURED: \$

RATE OF INTEREST: \$

INTEREST COMPUTED FROM (date)

DESCRIPTION OF PROPERTY MORTGAGED:

Form B

MEMORANDUM OF ACQUISITION OF LAND FROM AND/OR BY ALIEN

DATE OF ACQUISITION:

TRANSFEROR(S) :

NATIONALITY OF TRANSFEROR(S) :

TRANSFeree (S) :

NATIONALITY OF TRANSFeree(S):

ADDRESS ABROAD OF TRANSFeree(S) (if alien):

MODE OF ACQUISITION:

ACCURATE AREA OF LAND ACQUIRED:

ESTATE OR INTEREST IN LAND ACQUIRED:

DESCRIPTION OF LAND ACQUIRED:

Form C

MEMORANDUM RELATING TO VOLUNTARY CONVEYANCES

DATE:

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GRANTOR (S) :

(add address if desired)

GRANTEE (S) :

(add address if desired)

DESCRIPTION OF PROPERTY:

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SCHEDULE 2

(section 7(2))

FORM OF NOTICE TO LAND TITLE REGISTRAR OF ENTITLEMENT TO FREEHOLD
ESTATE

In accordance with the requirements of the Land Title Registrar (Recording of Documents) Act 2016, I/we hereby give you notice that on the [blank] day of [blank], 20 [blank], I/we became entitled to an interest in all the parcel of land in [blank] Parish described below.

DATE

NAME IN FULL (in case of a married woman also give husband's full name)

ADDRESS IN FULL

NATIONALITY

DATE OF BIRTH

OCCUPATION

NATURE OF INTEREST ACQUIRED

MODE OF ACQUISITION

FULL NAME OF PERSON FROM WHOM LAND ACQUIRED

FULL DESCRIPTION OF LAND ACQUIRED
(including measurements, area, boundaries and attach a scale plan)

PURCHASE PRICE

LAND TITLE REGISTRAR (RECORDING OF DOCUMENTS) BILL 2016

EXPLANATORY MEMORANDUM

This Bill would transfer, to the Land Title Registrar, the current functions of the Registrar-General relating to the recording of interests in land in Bermuda.

Clause 1 gives the citation.

Clause 2 defines expressions used in this Bill ("this Act").

Clause 3 provides for, and sets out the procedure for, the recording and registration of documents deposited in the office of the Land Title Registrar pursuant to this Act.

Clause 4 provides for the preparation of an index of judgments by the Land Title Registrar that, pursuant to the Real Estate Assets Act 1787, appear to him might affect land in Bermuda.

Clause 5 provides for the inspection of registers, indexes and documents, as well as copying and obtaining certified copies thereof.

Clause 6 provides for the transfer of certain functions of the Registrar-General under the repealed section 7 of the Registrar-General (Recording of Documents) Act 1955 and other legislative provisions to the Land Title Registrar.

Clause 7 supersedes the repealed section 8 of the Registrar-General (Recording of Documents) Act 1955. After the coming into operation of this Act, any change in ownership of a freehold estate (not by way of mortgage) is to be registered by the Land Title Registrar.

Clause 8 provides for the making of regulations by the Minister.

Clause 9 provides that nothing in this Act derogates from or abridges the Land Title Registration Act 2011.

Clause 10 repeals and revokes certain provisions of the Registrar-General (Recording of Documents) Act 1955 and its Regulations, respectively, in consequence of the transfer of functions under that Act to this Act.

Clause 11 makes consequential amendments to other legislative provisions to transfer functions relating to recording interests in land from the Registrar-General to the Land Title Registrar.

Clause 12 makes a consequential amendment to the Commissioners for Oaths and Notaries Public Act 1972 by adding the Land Title Registrar to the persons listed in the Schedule thereto as ex officio commissioners for oaths. It also adds a new Head (Head 33A - Land Title Registrar (Recording of Documents) Act 2016) to the Schedule to the Government Fees Regulations 1976.

Schedule 1 sets out the forms of memoranda to be registered by the Land Title Registrar.

Schedule 2 sets out the form of the notice to the Land Title Registrar of the entitlement to a freehold estate.