

CAYMAN ISLANDS



Law 34 of 1993

I Assent

MICHAEL J GORE
Governor

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THE STAMP DUTY (AMENDMENT) LAW, 1993 **(LAW 34 OF 1993)**

Enacted by the Legislature of the Cayman Islands.

Short title.

1. This Law may be cited as the Stamp Duty (Amendment) Law 1993.

Amendment of
section 2.

2. Section 2 of the Stamp Duty Law 1973 (the principal Law) is amended by inserting the following definitions in the appropriate alphabetical sequence:

"Consideration" has the same meaning as that ascribed to it under the heading "Conveyance or transfer" in the Schedule;

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1. This Law may be cited as the Stamp Duty (Amendment) Law 1993.

Amendment of
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2. Section 2 of the Stamp Duty Law 1973 ("the principal Law") is amended by inserting the following definitions in the appropriate alphabetical sequence -

"Consideration" has the same meaning as that ascribed to it under the heading "Conveyance or transfer" in the Schedule;

"Conveyance or transfer" has the same meaning as that ascribed to it under that heading in the Schedule;

"Premium" in respect of an assignment means the amount howsoever paid to the assignor by the assignee for the benefit of the agreement (disregarding sums payable prior to the date of such assignment in accordance with such agreement or by way of reimbursement of such sums).".

New section 5A and section 5B.

3. After section 5 of the principal Law there are inserted the following sections -

Information and records.

5A. (1) The Commissioner may by notice require any person to -

- (a) supply to him such information, and
- (b) produce to him such records,

as may be specified in the notice, being information and records the supply and production of which the Commissioner considers necessary or desirable for the purpose of enabling him to carry out his functions.

(2) A notice under subsection (1) shall require the information to be supplied and the records to be produced within such period as may be specified in the notice, being not less than 30 days from the date of the notice.

Inquiries.

5B. (1) The Commissioner may hold such inquiries as he considers necessary or desirable to enable him to carry out his functions.

(2) For the purposes of an inquiry under this section the Commissioner may by notice require any person -

- (a) to attend to give evidence on any of the matters specified in the notice at the time, day and place so specified, and
- (b) to produce all records in his possession or under his control which relate to any such matters.

(3) For the purposes of an inquiry

under this section -

(a) subject to paragraph (b), the Commissioner may take evidence on oath and for that purpose administer oaths, or, instead of administering an oath, may require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined;

(b) no person shall be compelled to give any evidence which he could not be compelled to give in proceedings before the Grand Court.

(4) The procedure at any such inquiry shall be determined by the Commissioner, but so that any person who has received a notice under subsection (2) requiring him to attend to give evidence shall be entitled to representation by an attorney.

(5) The costs, charges or expenses in relation to an inquiry under this section, incurred by the Commissioner or any other person, shall be borne and paid by such person and in such manner and proportion as the Commissioner shall direct.

(6) For the purposes of this section and section 5A -

(a) "records" includes any document in whatever form it is held; and

(b) where any such records are held in or kept by means of a computer, the powers of the Commissioner to require the supply of information, production of records and attendance to give evidence shall include powers -

(i) to have access to, and inspect and check the operation of, any computer and associated appara-

tus or material which is or has been in use in connection with the records.

(ii) to require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford to the Commissioner such assistance as he may reasonably require, and

(iii) to require the records to be produced or copied in any form which he may reasonably request."

Repeal and
substitution of
section 18.

4. Section 18 of the principal Law is repealed and the following section substituted -

"Time for stamping
of instruments.

18. (1) Subject to the following provisions of this section, an instrument which is required by this Law to be stamped shall be stamped at the time of its execution.

(2) An instrument chargeable with *ad valorem* duty which is not referred to elsewhere in this section shall be stamped or presented for adjudication at any time before the end of the period of 45 days beginning with the day on which -

(a) it is first signed or, if first signed outside the Islands, it has first been received in the Islands following that signing, or

(b) if held in escrow following that signing or receipt, the last condition is fulfilled in respect of which the instrument was so held.

(3) In respect of any conveyance or transfer of land, strata title or interest therein the transferee shall ensure that the relevant instrument shall: -

(a) upon conveyance or transfer

be duly and fully completed in accordance with its terms and, in the case of a transfer prepared pursuant to the Registered Land Rules (Revised), signed by the transferor and the transferee and certified as provided by the Registered Land Rules (Revised); and

(b) cause the same to be stamped or presented for adjudication, in the case of a transfer prepared pursuant to the Registered Land Rules (Revised), at any time before the end of the period of forty five days of its signature by the transferor, and in all other cases within forty five days of the disposition, or first disposition of the land, strata title or interest effected by or under that instrument.

(4) An instrument chargeable with *ad valorem* duty which provides for the assignment of any right or interest in relation to the purchase of, or of an interest in, any land or strata title, shall be stamped or presented for adjudication by the assignee at any time before the end of the period of 45 days beginning with the day on which the instrument was signed by the assignor.

(5) An agreement or memorandum of agreement in respect of which the purchaser has elected to pay *ad valorem* duty shall be stamped or presented for adjudication before the end of the period of 45 days beginning with the first day on which any obligation under the agreement or memorandum of agreement was discharged.

(6) The Commissioner may at any time-

- (a) waive or abate the whole or part of the duty payable, or
- (b) extend any time period provided for under this Law."

Amendment of

5. Section 26(1) of the principal Law is amended by substituting a

section 26(1).

semi-colon for the full stop at the end of paragraph (h), inserting "or" thereafter and adding the following paragraphs -

- "(i) fails without reasonable excuse to comply with a notice under section 5A(1) or, in purported compliance with such a notice, knowingly or recklessly supplies information or produces a record which is false or misleading in a material respect, or
- (j) refuses without reasonable excuse to attend in compliance with a notice under section 5B(2), or to give evidence as required by such a notice, or knowingly alters, suppresses, conceals, destroys or refuses to produce any record which he may be required to produce for the purposes of that provision, or
- (k) fails to comply with the requirements of subsection (3) or (4) of section 18; or
- (l) knowingly fails to comply with any other requirement contained in this Law."

Amendment to
section 27.

6. Section 27 of the principal Law is amended by -

- (a) repealing subsection (1) and substituting the following new subsection -

"(1) Whoever commits an offence under section 26(1) or attempts to commit or aids or abets any other person to commit such an offence is liable on summary conviction to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding five years or to both."; and

- (b) by adding after subsection (2) the following subsection -

"(3) Where an offence under section 26 (1) has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributed to any neglect on the part of, any director, member, secretary or other similar officer of that body, or any person who was purporting to act in that capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly."

Repeal and
substitution of sec-
tion 28.

7. Section 28 of the principal Law is repealed and the following section substituted -

"28. (1) If any person of a description referred to in subsection (2) is convicted of an offence under section 26(1), the Governor may, in addition to any other penalty imposed by a court in respect of that conviction, suspend or terminate that person's licence or authorisation to

practice or carry on business or suspend or remove that person from his office, for such time and on such conditions as the Governor may determine.

(2) The descriptions of person referred to in subsection (1) are any -

(a) attorney-at-law,

(b) bank or trust company,

(c) officer or other employee of a bank or trust company,

(d) accountant,

(e) agent,

(f) broker or estate agent,

licensed or authorised to practise or carry on business or employment as such in the Islands.

Amendment of
Schedule.

8. The Schedule to the principal Law is amended as follows -

(1) Under the heading "AGREEMENT OR MEMORANDUM OF AGREEMENT" by deleting items (a) and (b) and substituting the following -

"(a) for the sale or purchase of any land or strata title or interest therein at the option of the purchaser either -

(i) \$20.00, or

(ii) 7 1/2% of the value of the consideration:

PROVIDED THAT where, pursuant to this provision, the assessed duty of 7 1/2% of the value of the consideration is paid, duty shall not be subsequently charged or paid under the heading of CONVEYANCE OR TRANSFER on the subsequent registration of the land, strata title or interest therein which is the subject of the agreement or the memorandum of agreement;

(b) in any other case, if under hand and where no other duty is specified under any other head of charge: \$2.00.";

(2) Under the heading "ASSIGNMENT" by deleting item (a) and substituting the following -

"(a) of any rights under an agreement or memorandum of agreement for or in 7 1/2 per cent of the value of the consideration for the

relation to the purchase of, or an interest in, any land or strata title or other immovable property for the first two assignments:

premium for the assignment howsoever paid.

for any subsequent assignment:

7 1/2 per cent of the value of the consideration."

(3) By deleting from the heading "CONVEYANCE OR TRANSFER ON SALE" in the schedule the words "ON SALE";

(4) Under the heading "CONVEYANCE OR TRANSFER" by deleting the third paragraph and substituting and adding the following paragraphs -

"For the purpose of this charge to duty the expression "conveyance or transfer" includes every instrument pursuant to which any land, strata title or interest therein is transferred to acquired or enjoyed by another which shall include the right to occupy the same or enjoy the rents and profits thereof, and includes any grant, bargain, assignment, release, foreclosure or disclaimer howsoever described but shall not include any instrument conferring or vesting such rights in a receiver or any lease or licence or agreement for a lease or licence.

An instrument whereby an interest in land or strata title is conveyed or transferred to any person in contemplation of a sale of that interest shall be treated for the purposes of this Law as a conveyance or transfer on sale of that land or strata title for a consideration equal to the value contemplated in respect of that sale."

Transitional.

9. If on the date when this Law comes into force there is any land, strata title or interest therein which is the subject of a prior conveyance or transfer not then registered in accordance with the Registered Land Law (Revised), the transferee shall make an application for the stamping or adjudication of that conveyance or transfer before the end of the period of one hundred and eighty days beginning with that date.

Passed by the Legislative Assembly the 29th day of November, 1993.

SYBIL McLAUGHLIN
Speaker.

GEORGETTE MYRIE
Clerk of the Legislative Assembly.