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Fourth Session Eleventh Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Registrar General Act,
Chap. 19:03, the Registration of Deeds Act,
Chap. 19:06, the Conveyancing and Law of
Property Act, Chap. 56:01, the Real Property Act,
Chap. 56:02, the Stamp Duty Act, Chap. 76:01
and the Registration of Title to Land Act, 2000

MISCELLANEOUS PROVISIONS (REGISTRAR GENERAL,
REGISTRATION OF DEEDS, CONVEYANCING AND LAW
OF PROPERTY, REAL PROPERTY, STAMP DUTY AND
REGISTRATION OF TITLE TO LAND) ACT, 2019
(AMENDMENT) BILL, 2019

Explanatory Notes

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Registrar General Act, Chap. 19:03, the Registration of Deeds Act, Chap.19:06, the Conveyancing and Law of Property Act, Chap. 56:01, the Real Property Act, Chap. 56:02, the Stamp Duty Act, Chap. 76:01 and the Registration of Title to Land Act, 2000 to deal with fraud that occurs with land dealings, to make provisions for transparency in respect of legal arrangements and beneficial ownership and meet our international requirements under Recommendation 25 and Immediate Outcomes 5 of the Financial Action Task Force Recommendations.

The Bill would contain eight clauses.

Clause 1 of the Bill would provide for the short title of the Act for which this is the Bill.

Clause 2 of the Bill would provide for the implementation of the Act on such date as is fixed by the President by Proclamation.

Clause 3 of the Bill would amend the Registrar General Act in sections 4, 5, 7 and the Schedule. Paragraph (a) of clause 3 would therefore amend section 4 of the Act to first change the reference to the number of indicies that may be created by the Registrar from 4 indicies to 6 indicies. The two additional indicies under this subsection are indicies for contracts for sale of land and beneficial owners (which becomes necessary because of amendments to the Companies Act to deal with beneficial ownership). Subparagraph (ii) would insert a number of new subsections. The proposed subsection (1A) would empower the Registrar General to keep another index for all instruments of trusts which are registered under the Registration of Deeds Act. This index is a closed index and for the purpose of our obligations under the Financial Action Task Force Recommendations can only be accessed by the Director of the Financial Intelligence Unit of Trinidad and Tobago (the FIU) for the purpose of enabling the FIU

to do its analysis under the Financial Intelligence Unit of Trinidad and Tobago Act. The index will also be open to an officer of the police service of the rank of Superintendent or above attached to the financial investigations or fraud divisions, solely for the purposes of investigating whether an offence has been committed under any written law, for the purpose of laying any information or the preferring of an indictment. The index is also open to the Chairman of the Board of Inland Revenue and by order of the court.

Subparagraph (iii) of paragraph (a) would amend section 4(2) to include a new paragraph (f) which would require the index of trust should be kept in alphabetical order of the initial letter of the surnames of the trustees together with the given names and surnames in full length. Subparagraph (iv) would insert after subsection (5) a new subsection (6) which would set out the definitions for “beneficial owner” and “trust”.

Paragraph (b) would amend sections 5 and 6 to recognize that the index of trusts is not open to the public as the other indicies are. Paragraph (c) would amend section 7 to introduce a new subsection to allow the Minister to amend the Schedule by Order subject to negative resolution so as to allow the scale of fees to be amended through delegated legislation while giving the Parliament some degree of scrutiny. Finally, paragraph (d) would amend the Schedule of fees to provide for the new administrative fees due to the new applications that are being proposed under this Bill.

Clause 4 Clause 4 would amend the Registration of Deeds Act, Chap. 19:06 in sections 1, 2, 5A, 7, 13A and to add new sections 5B, 5C, 5D, 15A-15H and 22-27. In an effort to manage the Act better a number of headings are being inserted into the Act. Since the Interpretation Act, Chap 3:01 recognizes the headings as parts of the Bill we are allowed to therefore insert, delete and amend the headings. Accordingly, in paragraph (a) the first heading entitled “Part I Preliminary” is being inserted before section 1. Paragraph (b) would amend section 2 of the Registration of Deeds Act to insert two new definitions for phrases being used in the Act. The definitions included are “approved form” and “authorized clerk”. The definition of “qualified functionary” is being amended to remove the reference “to a conveyancer”. Subparagraph (iii) would introduce a new subsection (2A) to provide for the definition of “registrable documents” which is to be used in Parts IV and V of the Act.

Paragraph (c) would introduce a new heading for Part II which is to be entitled “Execution and Registration of Deeds”.

Paragraph (d) would correct the reference to the Land Surveyors Act. Paragraph (e) would insert after section 5A a

number of new sections. Proposed section 5B would take some of the substantive parts of section 7 and move them here in terms of layout of the Act and further reconcile procedural aspects under the Conveyancing and Law of Property Act with the processes and method of execution under the Act. The new section would therefore provide for the mode of execution of documents inside and outside of Trinidad and Tobago and where it is executed by a company or corporation. Where it is executed in Trinidad and Tobago, the Deed must be executed in the presence of at least one witness not being a party to the Deed and a qualified functionary and the Deed's signing and delivery are to be attested by one of those witnesses stating his name, abode or business address, profession or occupation or condition in life and by the qualified functionary stating his name and his qualifications. Where the Deed is executed outside of Trinidad and Tobago, the execution must be in the presence of at least one witness not a party to the Deed and the signing is to be attested by one such witness stating his name, abode or business address, profession or occupation or condition in life. Where the Deed is executed by a company or corporation the Deed is to be executed and attested in the manner required by any written law or the common law. A qualified functionary is defined in the current law to be a Judge of the Supreme Court, A Justice, an Attorney-at-law or the Registrar of the Supreme Court.

The new section would prohibit a qualified functionary from subscribing to any deed unless it bears the signature of the Attorney-at-law as having prepared the Deed. Proposed section 5C would provide for the attestation of Deeds executed outside of Trinidad and Tobago. Proposed section 5D would provide for the execution of documents where the person is unable to sign and for an execution to be done using foreign characters or a mark. However, the Registrar may refuse to register the Deed for which a foreign character or mark is used unless there is a certificate on the Deed of an Attorney-at-law, a Justice or a duly licensed interpreter, that he has explained or caused to be explained the true purpose of the Deed and he is satisfied that the person understands.

Paragraph (f) would repeal sections 7 and 8 which are now contained more substantively in sections 5A to 5D and substitute a new section 7 which would provide that where the Deed is properly attested in accordance with sections 5B and 5C it may be registered under the Act.

Paragraph (g) would amend section 13A to first amend section 13A to make it a 13A(1) and inserting a new paragraph (f) to allow the Minister to by Order prescribe further particulars for the cover sheet. Subsection (2) would, however, ensure that while

the relevant information on the cover sheet is entered on to the index that the cover sheet is not open to the public so that the personal information on the cover sheet is not open to the public.

Paragraph (*h*) would insert a new Part II that would deal with Contracts for the Sale or Other Dispositions of Land and would have 3 new sections, a new Part IV that would deal with the Execution and Registration of Registrable Documents which would contain 4 new sections and new Part V which would deal with Duty of Attorneys-at-law to inform client of obligations etc and would contain 2 new sections.

In New Part II, proposed section 15A would now require that every contract for sale or other disposition of land is to be prepared by an Attorney-at-law, be in writing, include all the terms of the contract expressly agreed by the parties for sale or other disposition of land and be signed by each party for sale or other disposition of land or his duly authorized agent. It requires the contract for sale or other disposition of land should also be executed and signed in the presence of at least one witness not a party to the contract and include a preparation certificate signed by an Attorney-at-law who prepared the contract for sale or other disposition of land. Proposed section 15B would now require every contract of sale to be registered by an Attorney-at-law or his authorized clerk within 30 days of the execution of the contract and it must be accompanied by a completed cover sheet and the relevant fee. The provision would go on to provide that if the contract for sale or other disposition of land is not registered within the 30 days as required, any party to the contract for sale or other disposition of land or legal personal representative of the party could apply in writing giving reasons to the Registrar General for the late registration of the contract for sale or other disposition of land. The provision goes on to provide that the Registrar General can refuse to register the contract for sale or other disposition of land if a subsisting contract for sale or other disposition of land which has been registered has not expired or for which a notice of termination has not been submitted. The provision makes it clear that this section would not apply to the transfer of land by gift or assent or by the grant for a lease of a term of less than three years as contracts do not proceed these instruments.

Proposed section 15C provides that where there is a variation or termination of a contract for sale or other disposition of land and all the parties to the contract for sale or other disposition of land agree to the variation or termination, the purchaser would submit a notice of the variation or termination to the Registrar General within 30 days of the variation or termination. The notice would be on a form approved by the Registrar General. The Registrar

General is required to inform all the parties to a contract for sale or other disposition of land within thirty days of receipt of a notice of variation or termination.

In New Part IV, proposed section 15D requires that registrable documents for sale or other disposition of land relate to a contract for sale or other disposition of land which had been registered under section 15B and should be consistent with the terms of the contract for sale or other disposition of land including any variation that was done under section 15C.

Proposed section 15E would require the Attorney-at-law who prepares a registrable document or his authorized clerk within 14 days of the execution of the contract for sale or other disposition of land to submit to the Registrar General a notice of execution, which shall be in the approved form.

Proposed section 15F requires every registrable document to be registered within 12 months (1 year) of its signing and delivery.

Provision is made for where the Attorney-at-law who submitted or authorized the submission of a notice of execution ceases to be the attorney-at-law for the client, the Attorney-at-law would within 7 days of ceasing to be the Attorney-at-law inform the Registrar General in writing of that fact and inform the client of any obligations that remain outstanding in respect of registration of the registrable document. The provision prohibits the Registrar General from accepting a registrable document for registration unless the Attorney-at-law is registered with the Financial Intelligence Unit of Trinidad and Tobago, has not been suspended under the Legal Profession Act, Chap. 93:03 and holds a valid practicing certificate under the Legal Profession Act. The Registrar General may also refuse to register a registrable document if the registrable document in respect of the sale of land does not relate to the contract for sale or other disposition of the land. The provision however makes an exception for the contract for sale or other disposition of land was executed before the coming into force of this Act.

The proposed subsection provides that a registrable document executed on or after the commencement of this Act must be registered under this Act failing which it is not effectual for the transfer of the land.

Proposed section 15G provides for where there is a need to apply to the Registrar General for an extension of time for the registration of a registrable document where it is as a result of circumstances beyond the control of the Attorney-at-law. The Registrar General is required within 14 days of the receipt of the application for the extension acknowledge receipt and indicate

whether or not the extension is granted. The Registrar General can grant an extension for 90 days or for a longer period as he thinks fit and a person can apply for a further extension. The document may now be registered within the extended period but not after it has expired.

If the Registrar General refuses the extension and the registrable document is not registered within the required time it will not be allowed for registration at a later date.

In new Part V, section 15H sets out the duty of the Attorney-at-law retained in relation to a sale or other disposition of land to inform his client in writing of the obligations, timelines, fees and offences which apply to the transfer of the land and the Attorney must ensure that the client acknowledges the information in writing.

Paragraph (*h*) would introduce a new heading for PART VI before the words “Priority of Deeds and Protection of Purchasers and Mortgagees”. Paragraph (*i*) would repeal section 18. Paragraph (*j*) would introduce a new heading for PART VII before the words “Production of Deeds in Evidence”.

Paragraph (*k*) would introduce a new Parts VIII and IX. Part VIII would now provide for offences and would contain 5 sections. New proposed section 22 would provide that it is an offence for an Attorney-at-law to fail to comply with the requirements of sections 15E, 15F(2) or 15H(1). The penalty if convicted is a fine of \$10,000.00 and imprisonment for 6 months. Proposed section 23 would make it an offence for a person to comply with sections 15C (1), 15I(1) and (2). The penalty for breach would be a fine of \$10,000.00 and imprisonment for 6 months. Proposed section 25 would create a defense in proceedings for an offence under the Act if the accused proves that he did not knowingly authorize, permit or acquiesce in the commission of the offence.

Proposed section 26 would extend the time frame for commencing summary proceedings for an offence under this Act to seven years from the commission of the offence or within 18 months after evidence sufficient to justify the Registrar General for the institution of summary proceedings comes to his knowledge.

New Part IX would provide for Miscellaneous Provisions. Proposed section 27 would require all instruments of trusts to be done by Deed and registered under this Act failing which the trust is void. Provision is made to require trusts that are in existence prior to the commencement of this Act to be registered within twelve months of its commencement.

Where the trust in existence prior to the commencement of this Act is not registered as required the Registrar may refuse to register any dealings with respect to the land subject of the Trust. A person aggrieved by the decision may approach the court for an extension of the time.

Proposed section 28 would provide for appeals from decision of the Registrar to refuse to register a contract for the sale or other disposition of land under section 15B(6), to refuse to accept a registrable document for registration under section 15F(4) and 15I(6), to reject an application to register a registrable document under section 15G(4) and to reject an application for a further extension to register a registrable document under section 15G(7) to the High Court.

Clause 5 of the Bill would seek to make amendments to the Conveyancing and Law of Property Act, Chap. 56:01. Paragraph (1) would insert a new section 3A into the Act to require that all Deeds for the conveyance of an interest in land must be preceded by a contract for the sale or other disposition of that interest. This however does not apply to a Deed of gift, an assent or the grant of a lease for a term of less than three years as these are not preceded by a contract or where the Deed of conveyance was made prior to the commencement of this Act. Paragraph (b) would repeal section 4 and substitute a new section 4 that provides that no action can be brought upon any contract for the sale or other disposition of land or any interest in land unless the agreement or memorandum is in writing. Provision is made that this Act would not affect the law relating to the part performance before the coming into force of this Act. The provision makes it clear that after the coming into force of this Act, all contracts for the sale of land is required to be in writing and registered in accordance with the Registration of Deeds Act, however this does not affect to the law relating to the sale or disposition of land or an interest in land by an order of a court. Paragraph (c) would amend section 10 to repeal and replace subsection (1) to provide that any conveyance of land or of any interest in land is void for the purpose of conveyancing and creating a legal interest unless it is made by Deed and on or after the commencement of this Act they are registered.

Clause 6 of the Bill would amend the Real Property Act, Chap. 56:02. In paragraph (a) the clause would insert after section 61 a new section 61A to require that all Deeds for the conveyance of an interest in land must be preceded by a contract for the sale or other disposition of that interest and the contract should be in accordance with the Registration of Deeds Act.

In paragraph *(b)*, the clause would insert a new subsection (2), (3) or (4). New subsection (2) would prohibit the Registrar General from accepting a memorandum of transfer for registration unless it meets the requirements of section 5, 5A to 5D and Parts IV and V of the Registration of Deeds Act. The provision would require the memorandum of transfer presented for registration is to be accompanied by a cover sheet and place the relevant information in the relevant index.

Paragraph *(c)* would amend section 130 to delete the reference to “Act or Ordinance” and replace with “written law”. Paragraph *(d)* would insert a number of new sections after section 157. Proposed section 157A makes it an offence for a person to knowingly provide false information to the Registrar General. The penalty for this is a fine of \$10,000.00 and imprisonment for 6 months. Proposed section 157B would create a defense in proceedings for an offence under the Act if the accused proves that he did not knowingly authorize, permit or acquiesce in the commission of the offence. Proposed section 157C would extend the time frame for commencing summary proceedings for an offence under this Act to seven years from the commission of the offence or within 18 months after evidence sufficient to justify the Registrar General for the institution of summary proceedings come to his knowledge.

Clause 7 of the Bill would amend the Stamp Duty Act, Chap. 76:01 in section 16 to increase the penalty for a person to attempt with intent to defraud the State by executing an instrument in which all the said facts and circumstances are not fully set forth or being employed or concerned in or about the preparation of an instrument, neglect or omit fully and truly to set forth all the said facts and circumstances from \$400.00 to \$12,000.00 and imprisonment for 12 months. The clause would also amend section 82 to increase the penalty for a person who practices or is concerned in any fraudulent act contrivance or device, not specially provided for by law with intent to defraud the State of any stamp duty from \$15,000.00 to \$30,000.00.

Clause 8 of the Bill would amend the Registration of Title to Lands Act, 2000. Paragraph *(a)* of the clause would amend section 26(2) of the Registration of Title to Lands Act, 2000 to refer to trusts being registered in accordance with the Registration of Deeds Act. Paragraph *(b)* would amend section 35(*b*) to correct a typographical error. Paragraph *(c)* would amend section 55 to delete subsection (2) and substitute a new subsection which requires a Deed of trust to be registered in accordance with the Registration of Deeds Act. Paragraph *(c)* would amend section 79 to remove the reference to a trust.

BILL

AN ACT to amend the Registrar General Act, Chap. 19:03, the Registration of Deeds Act, Chap. 19:06, the Conveyancing and Law of Property Act, Chap. 56:01, the Real Property Act, Chap. 56:02, the Stamp Duty Act, Chap. 76:01 and the Registration of Title to Land Act, 2000

[, 2019]

ENACTED by the Parliament of Trinidad and Tobago as Enactment follows:

- Short title **1.** This Act may be cited as the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property, Stamp Duty and Registration of Title to Land) Act, 2019.
- Commencement **2.** This Act shall come into operation on such date as is fixed by the President by Proclamation.
- Chap. 19:03 amended **3.** The Registrar General Act is amended —
- (a) in section 4—
- (i) in subsection (1)—
- (A) by deleting the word “four” and substituting the word “six”;
- (B) in paragraph (c), by deleting the words “; and” substituting the words “;”;
- (C) in paragraph (d), by deleting the word “.” and substituting the words “;”;
- (D) by inserting after paragraph (d) the following new paragraphs:
- “(e) contracts for the sale of land; and
- (f) beneficial owners.”;
- (ii) by inserting after subsection (1) the following new subsections:
- “(1A) The Registrar General shall, in addition to the indexes under subsection (1) keep a separate index for all instruments of trusts registered under the Registration of Deeds Act

which shall not be open to the public and which may only be accessed by—

(a) the Director of the F i n a n c i a l Intelligence Unit of Trinidad and Tobago (hereinafter referred to as the “FIU”) solely for the purpose of enabling the FIU to do its analysis under the Financial Chap. 75:01 Intelligence Unit of Trinidad and Tobago Act;

(b) a member of the police service of the rank of Superintendent or above attached to the Division or Unit of the police service responsible for financial investigation or fraud, solely for the purpose of—

(i) investi-
gating
whether
an offence
has been
committed
u n d e r
any written
law;

(ii) the laying of information; or

(iii) the preferring of an indictment,

where such information can reasonably be regarded as being necessary for the purpose of ascertaining the circumstances in which an offence under any written law may have been committed, or the identity of the person who may have committed an offence;

(c) the Chairman of the Board of Inland Revenue; and

(d) by order of a court.”;

(iii) in subsection (2)—

(A) in paragraph (e) by deleting the word “.” and substituting the word “; and”;

(B) by inserting after paragraph (e) the following new paragraph:

“(f) every instrument of trust registered with him to be

entered in the index of Trusts under the letter of the alphabet corresponding with the initial letter of the surname of the trustees, together with the given names and surname at full length of every such person.”;

- (iv) by inserting after subsection (5) the following new subsection:

“ (6) For the purposes of this section—

“ “beneficial owner” has the meaning assigned to it by section 337A of the Companies Act; and

“trust” means a legal relationship created *inter vivos* by a person, the settlor, wherein land has been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose and—

(a) the land is not a part of

the bene-
f i c i a l
estate of
t h e
trustee;

(b) l e g a l
title to
l a n d
stands in
the name
of the
trustee
or in the
name of
another
person
on behalf
of the
trustee;
and

(c) t h e
trustee
has the
p o w e r
and the
duty, in
respect
of which
he is
account-
able, to
manage,
employ
or dis-
pose of
the land
in accor-
d a n c e

with the
terms of
the trust
and the
special
duties
imposed
on him
by law,

and includes
any transfer of
property previously
subject to a
trust.”;

(b) in sections 5 and 6, by deleting the word
“All” wherever it occurs and substituting
the words “Subject to section 4(1A), all”;

(c) in section 7, by—

(i) renumbering section 7 as section
7(1); and

(ii) inserting after subsection (1)
as renumbered, the following
subsection:

“ (2) The Minister may, by
Order subject to negative
resolution of Parliament,
amend the Schedule.”; and

(d) in Part A of the Schedule, by inserting after
paragraph (j), the following paragraphs:

“ (k) for the registration \$100.00
of a contract for the
sale of land

(l) for late registration \$2,000.00;
of a contract for the
sale of land

- (*m*) for late registration of a registrable document for the sale of land \$2,000.00;
- (*n*) for variation or termination of a contract for the sale of land \$100.00;
- (*o*) for notice of execution of a registrable document for the sale of land \$100.00;
- (*p*) for applications \$100.00.”.

Chap. 19:06
amended

4. The Registration of Deeds Act is amended—

- (*a*) by inserting before section 1 the following heading:

“PART I

PRELIMINARY”

- (*b*) in section 2—

- (i) by inserting in the appropriate alphabetical sequence the following definitions:

“ “approved form” means a form approved by the Registrar General; and

“authorized clerk” means a person who is authorized in writing by an Attorney-at-law, in respect of a specific transaction;”;

- (ii) in the definition of “qualified functionary”, by deleting the words “, a conveyancer”; and

(iii) by inserting after subsection (2) the following new subsection:

“(2A) For the purposes of Parts IV and V—

“registrable document” means a written instrument to create, transfer or convey any interest in land and includes every—

(a) conveyance of land required to be by Deed and registered under section 10 of the Conveyancing and Law of Property Act; Chap. 56:01

(b) instrument to be registered under the Real Property Act; Chap. 56:02

(c) Deed of assent;

- (d) Deed of gift or settlement;
or
- (e) instrument of trust.”;
- (c) by inserting before the heading “EXECUTION AND REGISTRATION OF DEEDS”, the words, “PART II”;
- (d) in section 5A, by deleting the word “Ordinance” and substituting the word “Act”;
- (e) by inserting after section 5A, the following sections:

“Mode of execution

5B. (1) Every Deed required or intended to be registered shall be executed and attested as follows:

- (a) a Deed that is executed in Trinidad and Tobago shall be executed in the presence of at least one witness not being a party thereto and of a qualified functionary, and the signing and delivery thereof shall be attested by one such witness at least subscribing his name with the addition of his place of abode or business and his profession, occupation, or condition in life and by the qualified functionary subscribing his name with the addition of his qualification;

- (b) a Deed that is executed out of Trinidad and Tobago shall be executed in the presence of at least one witness not being a party thereto and a person referred to in section 10(1)(b), and the signing and delivery thereof shall be attested by one such witness at least subscribing his name with the addition of his place of abode or business and his profession, occupation or condition in life and by the person referred to in section 10(1)(b) subscribing his name with the addition of his qualification; and
- (c) a Deed that is executed by a company or corporation shall be executed and attested in manner prescribed by written law or the common law.

(2) A qualified functionary shall not subscribe a Deed under this section unless it bears the signature of some Attorney-at-law as having prepared the Deed.

executed outside of Trinidad and Tobago, the affidavit or solemn declaration of the witness proving such execution shall be made and the making of the same may be certified in the like manner as that prescribed for Deeds executed out of Trinidad and Tobago by section 10.

Execution of instrument by marksman 5D. (1) The signing in relation to a Deed includes signing by use of foreign characters or by the making of a mark.

(2) The Registrar General may refuse to register any Deed executed by a person signing his name in foreign characters, or by making his mark, unless the same bears upon it a certificate by an Attorney-at-law, a Justice, or a duly licensed interpreter, that he has explained or caused to be explained the true purport of such Deed to such person so signing as aforesaid, and that he is satisfied that the person understands the same.”;

(f) by repealing sections 7 and 8 and substituting the following section:

“Registration of Deed executed in accordance with section 5B and 5C 7. A Deed that is executed and attested in accordance with sections 5B and 5C may be registered under this Act.”;

(g) in section 13A—

(i) by renumbering section 13A as section 13A(1); and

- (ii) in section 13A(1) as renumbered, by deleting paragraph (g) and substituting the following paragraph:

“(g) such other particulars as the Minister may by Order prescribe.”; and

- (iii) inserting after section 13A(1) as renumbered, the following new subsection:

“ (2) The Registrar General shall cause the information contained in the cover sheet referred to in subsection (1), to be placed in the relevant index, but the cover sheet shall not be open to the public.”;

- (h) by inserting after section 15, the following Parts:

“PART III

CONTRACT FOR THE SALE OR
OTHER DISPOSITION OF LAND

- | | |
|--|---|
| <p>Form and content of contract for sale or other disposition of land to be registered</p> | <p>15A. (1) Notwithstanding any other law, every contract for sale or other disposition of land shall—</p> <ul style="list-style-type: none"> (a) be prepared by an Attorney-at-law; (b) be in writing; (c) include all the terms of the contract expressly agreed upon by the parties for sale or other disposition of land; (d) be signed by each party to the contract for sale or |
|--|---|

other disposition of land
or his duly authorized
agent;

- (e) executed and signed in the presence of at least one witness not being a party thereto; and
- (f) include a preparation certificate signed by the Attorney-at-law who prepared the contract for sale or other disposition of land.

(2) Subsection (1) shall also apply to an assignment of a contract for sale or other disposition of land and sub-contracts under a contract for sale or other disposition of land.

Registration
of contract
for the sale
or other
disposition
of land

15B. (1) Subject to subsection (3), every contract for the sale or other disposition of land shall be registered by an Attorney-at-law or his authorized clerk, within thirty days of execution of the contract for sale or other disposition of land.

(2) A contract for the sale or other disposition of land shall not be registered unless it is accompanied by—

- (a) a duly completed cover sheet; and
- (b) the relevant fee specified in the Schedule to the Registrar General Act.

(3) The Registrar General may request any other information with respect to a contract for the sale or other disposition of land.

(4) Where a contract for the sale or other disposition of land is not registered within the period specified under subsection (1), any party to the contract for sale or other disposition of land or the legal personal representative of the party may apply to the Registrar General for the late registration of the contract for sale or other disposition of land.

(5) An application under subsection (4) shall be in writing, include reasons for the delay and be accompanied by the fee specified in the Schedule to the Registrar General Act.

(6) The Registrar General shall refuse to register a contract for sale or other disposition of land if there is a subsisting contract affecting the land—

- (a) which has been registered under this section and which has not expired; or
- (b) for which a notice of termination under section 15C has not been submitted.

(7) Where a subsisting contract referred to in

subsection (6) expires, the Registrar General may proceed to register the contract for the sale or other disposition of land in accordance with this Act.

(8) This section does not apply to the transfer of lands by gift or assent or by the grant of a lease for a term of less than three years.

Notice of
variation or
termination
of contract for
sale or other
disposition of
land

15C. (1) Where a registered contract for the sale or other disposition of land is varied or terminated and all the parties to the contract for sale or other disposition of land agree to the variation or termination, the purchaser shall submit to the Registrar General a notice of the variation or termination.

(2) A notice under subsection (1) shall be submitted within thirty days of the variation or termination.

(3) A notice under subsection (1) shall be in the approved form and include in respect of the contract for sale or other disposition of land—

- (a) the names of the parties;
- (b) the date of registration;
- (c) the registration number issued by the Registrar General;

- (d) the particulars of the variation or termination; and
- (e) evidence that all other parties to the contract for sale or other disposition of land have agreed to the variation or termination.

(4) Within fourteen days of the receipt of a notice under subsection (1), the Registrar General shall, in writing, inform all other parties to the contract for sale or other disposition of land of the receipt of that notice.

PART IV

EXECUTION AND REGISTRATION OF REGISTRABLE DOCUMENTS

Form and
content of
registrable
documents

15D. The contents of a registrable document for the sale or other disposition of land shall—

- (a) relate to a contract for sale or other disposition of land which is registered in accordance with section 15B; and
- (b) be consistent with the terms of the contract for sale or other disposition of land, including any variation submitted under section 15C.

Notice of
execution of
registrable
document

15E. An Attorney-at-law who prepares a registrable document or his authorized clerk shall, within fourteen days of the

execution of the registrable document, submit to the Registrar General a notice of the execution which shall be in the approved form.

Registration
of
registrable
document 15F. (1) Subject to section 15G, every registrable document shall be registered with the Registrar General within twelve months of its signing and delivery.

(2) Subject to subsections (4) and (5), an Attorney-at-law or his authorized clerk shall register a registrable document.

(3) An Attorney-at-law who submits, or authorizes the submission of a notice under section 15G(1), and who ceases to be the Attorney-at-law retained in respect of the registrable document, shall within seven days of ceasing to be the Attorney-at-law on record, inform—

- (a) the Registrar General in writing of that fact; and
- (b) his former client of any obligations that remain outstanding with respect to the registration of the registrable document.

(4) The Registrar General shall not accept a registrable document for registration unless—

- (a) the Attorney-at-law

referred to in subsection (2)—

- (i) is registered with the Financial Intelligence Unit established under the Financial Intelligence Unit of Trinidad and Tobago Act;^{Chap. 72:01}
 - (ii) is not suspended from practice under section 25 of the Legal Profession Act;^{Chap. 93:03} and
 - (iii) holds, or is deemed to hold, a valid practising certificate under section 23 or 26 of the Legal Profession Act, as the case may be; and
- (b) where, the registrable document is in respect of the sale of land, the contract for the sale or other disposition of land to which registrable document relates, is registered in accordance with section 15B.

(5) Notwithstanding subsection (4), the Registrar General may accept a registrable

document for sale of land for registration if the contract for sale or other disposition of land to which the registrable document for sale of land relates, having been executed prior to the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019, was not registered.

(6) A former client who is informed of outstanding obligations under subsection (3)(b), shall be liable for the registration of the registrable document in accordance with this Act.

(7) A registrable document executed on or after the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019 shall not be effectual for the creation, transfer or conveyance of lands, unless registered in accordance with this Act.

Application
for extension
of time

15G. (1) Where, as a result of circumstances beyond his control, an Attorney-at-law fails to—

(a) register a registrable document; or

- (b) cause a registrable document to be registered,

within ten months of its execution, he may apply to the Registrar General for an extension of time to register the registrable document.

(2) An application under subsection (1) shall—

- (a) be in writing;
- (b) be made before the expiration of eleven months from the date of execution of the registrable document;
- (c) include reasons for the failure to register the registrable document and such other information as the Registrar General may require; and
- (d) be accompanied by the fee specified in the Schedule to the Registrar General Act.

(3) Within fourteen days of receipt of an application under subsection (1), the Registrar General shall, in writing, acknowledge receipt of the application and indicate whether or not the extension is granted.

(4) Where the Registrar

General rejects an application under subsection (1), he shall give reasons for the rejection in writing.

(5) An extension granted by the Registrar General under subsection (3) shall be for a period of ninety days or such longer period as the Registrar General may think fit.

(6) The Registrar General may, on an application made at least one month before the expiration of an extension, grant a further extension for such period as the Registrar General may think fit.

(7) Where the Registrar General rejects an application under subsection (1), and the registrable document is not registered within the period specified under section 15F(1), the registrable document shall not be accepted for registration.

(8) Where an extension is granted under subsection (3), the registrable document may be registered within the period of extension but shall not be accepted for registration after the expiration of the extension.

(9) A late registration fee specified in the Schedule to the Registrar General Act shall be

paid to the Registrar General in respect of a registrable document that is registered pursuant to subsection (8).

PART V

DUTY OF ATTORNEY-AT-LAW TO INFORM CLIENT OF OBLIGATIONS, ETC.

Duty of
Attorney-at-
law to inform
his client of
obligations
etc.

15H. (1) An Attorney-at-law who is retained in relation to a sale or other disposition of land shall inform his client in writing of the obligations, timelines, fees and offences which apply to the transfer of the land under this Act.

(2) Where an Attorney-at-law informs a client in accordance with subsection (1), the Attorney-at-law shall ensure that the client acknowledges the information in writing.

Transitional
provisions

15I. (1) Where a registrable document is executed prior to the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019, and is not registered on, or before the commencement of that Act, the person with custody of the registrable document shall, notwithstanding section 15F(2), register it within twelve months of commencement of that Act.

(2) Notwithstanding section 15F, the purchaser shall be liable for the registration of a registrable document in accordance with subsection (1).

(3) Where as a result of circumstances beyond his control, a purchaser fails to register a registrable document within the period specified in subsection (1), he may apply to the Registrar General for an extension of time to register the registrable document.

(4) An application under subsection (3), shall be in the approved form and be accompanied by the fee specified in the Schedule to the Registrar General Act.

(5) Within fourteen days of receipt of an application under subsection (3), the Registrar General shall, in writing, acknowledge receipt of the application and indicate whether or not the extension is granted.

(6) Where the Registrar General rejects an application under subsection (3), he shall give reasons for the rejection in writing.

(7) An extension granted by the Registrar General under subsection (5), shall be for a period of ninety days or such longer period as the Registrar General may think fit.

(8) Where the Registrar General rejects an application under subsection (3), and the registrable document is not registered within the period specified under subsection (1), the registrable document shall not be accepted for registration.

(9) Where an extension is granted under subsection (5), the registrable document shall be registered before the expiration of the extension.

(10) The late registration fee specified in the Schedule to the Registrar General Act shall be paid to the Registrar General in respect of a registrable document that is registered pursuant to subsection (9).”;

- (i) by inserting before the heading “PRIORITY OF DEEDS AND PROTECTION OF PURCHASERS AND MORTGAGEES”, the following heading:

“PART VI”;

- (j) by repealing section 18;

- (k) by inserting before the heading “PRODUCTION OF DEEDS IN EVIDENCE”, the following heading:

“PART VII”; and

- (l) by inserting after section 21 the following Parts:

“PART VIII

OFFENCES

Failure to
comply with
section 15E,
15F(2) or
15H(1)

22. An Attorney-at-law who fails to comply with section 15E,

15F(2) or 15H(1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for six months.

Failure to
comply with
section
15C(1) or
15I(1)

23. A person who fails to comply with section 15C(1) or 15I(1) and (2), commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for six months.

Providing
false
information
to the
Registrar
General

24. A person purporting to comply with this Act who, knowingly provides false information to the Registrar General commits an offence and is liable upon summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

Defence

25. It is a defence in proceedings for an offence under this Act if the accused proves that he did not knowingly authorize, permit or acquiesce in the commission of the offence.

Limitation re:
summary
offences

26. (1) Notwithstanding any written law prescribing a time within which proceedings may be brought before a court of summary jurisdiction, proceedings for an offence under this Act may be instituted at any time within seven years from the commission of the offence or within eighteen months after the relevant date.

(2) In this section, the “relevant date” means the date on which evidence sufficient in the opinion of the Registrar General, to justify the institution of summary proceedings, comes to his knowledge.

(3) For the purpose of subsection (2), a certificate as to the date on which the evidence referred to in subsection (2), comes to the knowledge of the Registrar General, shall be conclusive evidence of that fact.”.

PART IX

MISCELLANEOUS PROVISIONS

Instruments
of Trusts

27. (1) An instrument of trust that is made on or after the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019, is void, unless made by Deed and registered in accordance with this Act.

(2) Within twelve months of the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019, every trustee of a trust in existence prior to the commencement of that

Act shall submit to the Registrar General, the particulars of the trust in the approved form.

(3) Where a person fails to submit to the Registrar General, the particulars of a trust as required by subsection (2) the Registrar shall not register any dealings in respect of the land subject to the trust and any person affected by such decision shall apply to the court for an extension of the time under subsection (2) for the registration of the trust.

(4) Every *inter vivos* dealing or transaction affecting a trust of land or affecting land which is the subject of the trust made on or after the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property and Stamp Duty) Act, 2019 including—

- (a) a disposition of—
 - (i) a subsisting trust; and
 - (ii) an equitable interest in land which is the subject of a trust;
- (b) a declaration of a trust;
- (c) appointment of a trustee;

- (d) retirement of a trustee;
- (e) disclaimer of a trustee;
- (f) delegation of duties of a trustee;
- (g) variation of the terms and conditions of a trust,

shall be void unless made by Deed and registered in accordance with this Act.

(5) For the purposes of this section—

“instrument of trust” means—

- (a) a document creating an express trust in respect of any land or interest therein; or
- (b) a document containing an *inter vivos* dealing or transaction affecting a trust of land or affecting land which is the subject of a trust, including—
 - (i) a subsisting trust; and
 - (ii) an equitable interest in land which is the subject of a trust;
- (c) a disposition of—
 - (i) a subsisting trust; and
 - (ii) an equitable interest in land which is the subject of a trust;
- (d) a declaration of a trust;

- (e) the appointment of a trustee;
- (f) the retirement of a trustee;
- (g) the disclaimer of a trustee;
- (h) delegation of duties of a trustee;
- (i) variation of the terms and conditions of a trust,

but does not include a testamentary disposition; and

“trust” means a legal relationship *inter vivos* created by a person (the settlor) wherein land has been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose and—

- (a) the land is not a part of the beneficial estate of the trustee;
- (b) legal title to land stands in the name of the trustee or in the name of another person on behalf of the trustee; and
- (c) the trustee has the power and the duty, in respect of which he is accountable, to

manage, employ or dispose of the land in accordance with the terms of the trust and the special duties imposed on him by law,

and includes any transfer of property previously subject to a trust.

(6) For the purpose of the definition of “trust” under subsection (5)(b) a reservation by a settlor of certain rights and powers and the fact that the trustee himself has rights as a beneficiary are not necessarily inconsistent with the existence of a trust.

Appeals

28. A person who is aggrieved by a decision of the Registrar General to—

- (a) refuse to register a contract for the sale or other disposition of land under section 15B(6);
- (b) refuse to accept a registrable document for registration under section 15F(4) and 15I(6);
- (c) reject an application for an extension to register a registrable document under section 15G(4); and

(d) reject an application for a further extension to register a registrable document under section 15G(7),

may appeal to the High Court and the High Court may take such order as it thinks fit.”.

Chap. 56:01
amended

5. The Conveyancing and Law of Property Act is amended in Part II—

(a) by inserting after the heading “PART II SALES AND OTHER TRANSACTIONS CONTRACTS” the following new section:

“Contract to precede Deed 3A. (1) Subject to subsection (2), on or after the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019, every Deed for the conveyance of an interest in land shall be preceded by a contract for the sale or other disposition of that interest.

(2) Subsection (1) does not apply to a Deed of gift, an assent or a grant of a lease for a term of less than three years.

(3) Subsection (1) shall not apply where the Deed of conveyance was made prior to the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019.”;

(b) by repealing section 4 and replacing it with the following section—

“Contracts for sale, etc., of land to be in writing and registered 4. (1) No action may be brought upon any contract for the sale or other disposition of land or any interest in land, unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing, and signed by the party to be charged or by some other person lawfully authorized by him.

(2) Subsection (1) applies to contracts made before the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019.

(3) The Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019 does not affect the law relating to part performance before the coming into force of that Act.

(4) On or after the commencement of the Miscellaneous Provisions Chap. 19:03 (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019, all

contracts for the sale of land shall be in writing and registered in accordance with the Registration of Deeds Act.

(5) Subsection (4) does not affect the law relating to the sale or other disposition of land or an interest in land by an order of a Court.”; and

(c) in section 10, by repealing subsection (1) and substituting the following new subsection:

“Lands to be granted by registration

10. (1) All conveyances of land or of any interest therein are void for the purpose of conveying or creating a legal estate unless—

(a) made by Deed; and

(b) on or after the commencement of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property and Stamp Duty) Act, 2019, they are registered in accordance with PART IV of the Registration of Deeds Act.”.

Chap. 56:02 amended

6. The Real Property Act is amended—

(a) by inserting after the heading “PART V TRANSFERS AND OTHER DEALINGS” the following section:

“Contract to precede instrument for conveyance

61A. (1) On or after the commencement of the

Miscellaneous Provisions
 (Registrar General, Registration
 of Deeds, Conveyancing and Law
 of Property, Real Property and
 Stamp Duty) Act, 2019, every
 instrument for the conveyance of
 an interest in land shall be
 preceded by a contract for the sale
 or other disposition of that
 interest.

(2) A contract referred to
 in subsection (1), shall be in
 accordance with sections 15A, 15B
 and 15C of the Registration of
 Deeds Act.”;

(b) in section 62 by—

- (i) by renumbering section 62 as section 62(1);
- (ii) in section 62(1) as renumbered, by deleting the words “may execute” and substituting the words “shall execute”; and
- (iii) by inserting after section 62(1) as renumbered, the following subsections:

“ (2) The Registrar General shall not accept a memorandum of transfer for registration unless it meets the requirements of sections 5, 5A to 5D, and PARTS IV and V of the Registration of Deeds Act.

(3) Every memorandum of transfer presented for registration shall be accompanied by a cover sheet,

in duplicate, prepared by the Attorney-at-law presenting the Deed, containing the following particulars:

- (a) name of the Attorney-at-law who prepared the memorandum;
- (b) date of the practising certificate of that Attorney-at-law;
- (c) address of the firm or chambers of that Attorney-at-law;
- (d) current certificate of title reference;
- (e) registered proprietor of the property to which the memorandum relates;
- (f) opposite party;
- (g) date of execution of the memorandum;
and
- (h) any other particulars which the Registrar General may require.

(4) The Registrar General shall place the information referred to in subsection (1) and contained in the cover sheet in the relevant index”;

- (c) in section 130, by deleting the words “Act or Ordinance” and substituting the words “written law”; and

(d) by inserting after section 157 the following sections:

“ Providing false information to the Registrar General 157A. A person purporting to comply with this Act who knowingly provides false information to the Registrar General commits an offence and is liable upon summary conviction to a fine of ten thousand dollars and to imprisonment for six months.

Defence 157B. It is a defence in proceedings for an offence under this Act if the accused proves that he did not knowingly authorize, permit or acquiesce in the commission of the offence.

Limitation re. summary offences 157C. (1) Notwithstanding any written law prescribing a time within which proceedings may be brought before a Court of summary jurisdiction, proceedings for an offence under this Act may be instituted at any time within seven years from the commission of the offence or within eighteen months after the relevant date.

(2) In this section, the “relevant date” means the date on which evidence sufficient, in the opinion of the Registrar General, to justify the institution of summary proceedings comes to his knowledge.

(3) For the purpose of subsection (2), a certificate as to the date on which the evidence

I confirm the above.

Speaker

Passed in the Senate this day of , 2019.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 8 of 2019

FOURTH SESSION
ELEVENTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Registrar General Act, Chap. 19:03, the Registration of Deeds Act, Chap. 19:06, the Conveyancing and Law of Property Act, Chap. 56:01, the Real Property Act, Chap. 56:02, the Stamp Duty Act, Chap. 76:01 and the Registration of Title to Land Act, 2000

Received and read the

First time

Second time

Third time