

A BILL

entitled

BERMUDA HOUSING AMENDMENT ACT 2018

WHEREAS it is expedient to amend the Bermuda Housing Act 1980 in relation to the powers of the Bermuda Housing Corporation, to provide statutory exemptions from stamp duty and land tax, and to apply the Tourism Investment Act 2017 to a proposed development of Corporation property into a hotel;

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 Bermuda Housing Amendment Act 2018.

Amends section 2

2 In section 2 of the Bermuda Housing Act 1980 ("the principal Act"), in the definition of "disposal of land or buildings", after "their sale" insert ", their transfer,".

Amends section 9

3 In section 9 of the principal Act—

(a) delete subsection (1)(c) and substitute—

"(c) acquire, build, develop, manage or dispose of premises other than dwellings which in the opinion of the Corporation will assist in the exercise of its functions;";

(b) delete subsection (1)(g) and substitute—

"(g) repair, improve or dispose of dwellings; and";

(c) after subsection (3), insert—

"(3A) The Corporation shall, with the consent of the Minister, have power to incorporate wholly owned subsidiary companies for the purpose of performing any functions or exercising any powers of the Corporation."

BERMUDA HOUSING AMENDMENT ACT 2018

Amends section 13

4 In section 13 of the principal Act, after subsection (6) insert—

“(7) In connection with the disposal of land and buildings which are not required for the purposes for which they were acquired, the Corporation may, if so directed by the Minister, enter into arrangements with any wholly owned subsidiary company incorporated pursuant to section 9(3A), including making loans or giving guarantees for loans (subject to section 48), so as to obtain the best financial return from such disposal.”

Inserts sections 13A and 13B

5 After section 13 of the principal Act, insert—

“Tax exemptions

13A (1) For the avoidance of doubt, the Corporation shall be deemed to be, and shall be deemed always to have been, an agent of the Crown for the purposes of section 4 of the Stamp Duties Act 1976 (exemptions).

(2) Any wholly owned subsidiary company incorporated pursuant to section 9(3A), shall also be deemed to be an agent of the Crown for the purposes of section 4 of the Stamp Duties Act 1976 (exemptions).

(3) The Corporation shall be exempt from payment of land tax.

(4) The exemption granted to the Corporation by subsection (3) from land tax shall not enure to the benefit of any lessee or tenant of the Corporation, and any such lessee or tenant shall be liable to land tax under the Land Valuation and Tax Act 1967 as if he were the owner of the premises the subject of his lease or letting, whatever the term of the lease or letting, notwithstanding subsection (3).

Application of Tourism Investment Act 2017

13B (1) In relation to any development of the property into a hotel by the Corporation, or by any wholly owned subsidiary company incorporated pursuant to section 9(3A), the Tourism Investment Act 2017 shall apply as if the property were within the definition of “new hotel” in section 2 of that Act.

(2) In this section, “property” means the dwellings known as—

- (a) Grand Atlantic Units 1 to 9 at 2, 4, 6 and 8 Atlantic Close, Warwick WK 08; and
- (b) Grand Atlantic Units 1 to 9 at 1, 2, 3, 4 and 5 Atlantic Crescent, Warwick WK 08.”

Commencement

6 This Act comes into operation on such day as the Minister responsible for housing may appoint by notice in the Gazette.

BERMUDA HOUSING AMENDMENT BILL 2018

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Bermuda Housing Act 1980 (“the principal Act”) in relation to the powers of the Bermuda Housing Corporation, to provide statutory exemptions from stamp duty and land tax, and to apply the Tourism Investment Act 2017 to a proposed development of Corporation property into a hotel.

Clause 1 is self-explanatory.

Clause 2 amends the definition of “disposal of land or buildings” in section 2 of the principal Act to include transfer as a form of disposal.

Clause 3 amends section 9 of the principal Act. Paragraph (a) replaces subsection (1) (c) to broaden the Corporation’s functions to acquire, build, develop, manage or dispose of premises other than dwellings. Paragraph (b) replaces subsection (1)(g) to give the Corporation the specific function of disposing of dwellings. These two amendments reinforce the Corporation’s power to dispose of property, with Ministerial consent, under section 13 of the principal Act. Paragraph (c) inserts new subsection (3A) which empowers the Corporation, with the consent of the Minister, to incorporate wholly owned subsidiary companies for the purpose of performing any functions or exercising any powers of the Corporation.

Clause 4 amends section 13 of the principal Act to insert new subsection (7) which allows the Corporation, in relation to disposal of land and buildings not required for the purposes for which they were acquired, and if so directed by the Minister, to enter into arrangements with any wholly owned subsidiary company incorporated pursuant to section 9(3A), including making loans or giving guarantees for loans (subject to section 48, which relates to security for money lent or guaranteed), so as to obtain the best financial return from such disposal.

Clause 5 inserts new sections 13A and 13B into the principal Act. Section 13A provides a statutory exemption from stamp duty to the Corporation and any wholly owned subsidiary company, and a statutory exemption to the Corporation from land tax. The stamp duty exemption given to the Corporation codifies the custom and practice that has existed since 1980 and is retrospective. Section 13B applies the Tourism Investment Act 2017 to certain Corporation property known as the Grand Atlantic Units, South Shore, Warwick so that a tourism investment order can be made with respect to any development of that property into a hotel.

Clause 6 provides for commencement.