

ACT NO. 16 OF 2014

I assent.

E. NAILATIKAU
President

[15 December 2014]

AN ACT**TO AMEND THE LAND SALES ACT (CAP. 137)**

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Land Sales (Amendment) Act 2014 and shall come into force on the date of its publication in the *Gazette*.

(2) The Land Sales Act (Cap. 137) shall be referred to as the “Act”.

Section 2 amended

2. Section 2 of the Act is amended by deleting the term “resident” and its definition, and substituting with the following new definition—

““resident” means—

- (a) an individual who is a Fiji citizen;
- (b) a company, the controlling interest of which is held by a Fiji citizen or Fiji citizens;
- (c) a trustee of a trust estate who is a Fiji citizen and who holds a substantial interest, being not less than 15% beneficial interest in the income of the trust estate;

- (d) a financial institution licensed by the Reserve Bank of Fiji; or
- (e) a foreign government or, international or multilateral organisation;”

Insertion of new section

3. The Act is amended by inserting the following new section after section 7—

“Land acquired by non-residents

7A.—(1) Notwithstanding anything contained in sections 6 and 7, any State land or freehold land for residential purposes in any area within the boundary of any town or city declared or extended under the Local Government Act (Cap. 125) shall not be sold, transferred or leased to a non-resident.

(2) Any State land or freehold land to which subsection (1) applies may only be sold, transferred or leased to a non-resident for the acquisition of strata or unit title.

(3) Nothing in subsection (1) shall limit or prevent the sale, transfer or lease of any State land or freehold land to a non-resident for—

- (a) industrial or commercial purposes;
- (b) residential purposes within an integrated tourism development; or
- (c) the operation of a hotel licensed under the Hotel and Guest Houses Act (Cap.195).

(4) Nothing in subsection (1) shall limit or prevent any State land or freehold land to which subsection (1) applies from being—

- (a) subjected to an agreement for tenancy for a term not exceeding 5 years with a non-resident;
- (b) sold, transferred or leased to an immediate family member who is a non-resident;
- (c) given, devised or bequeathed to a non-resident under the Succession, Probate and Administration Act (Cap. 60); or
- (d) sold, transferred or leased to a non-resident if the agreement for sale and purchase had been executed on or before 21 November 2014 and all necessary documents for the sale, transfer or lease are lodged with the Registrar of Titles on or before 31 March 2015.

(5) Notwithstanding anything contained in subsection (1), any State land or freehold land for residential purposes beyond the boundaries specified in subsection (1) may be sold, leased or transferred to a non-resident.

(6) Notwithstanding anything contained in subsection (1), any existing vacant State land or freehold land for residential purposes—

- (a) beyond the boundaries specified under subsection (1), whether wholly or partially, may only be sold, transferred or leased to a non-resident,

provided the non-resident commences and completes construction of a new residential dwelling on the State land or freehold land within 24 months from the date of the sale, transfer or lease; and

- (b) within or beyond the boundaries specified under subsection (1), whether wholly or partially, and owned by a non-resident, the non-resident must commence and complete construction of a new residential dwelling within 24 months from 31 December 2014.

(7) Pursuant to subsection (6), if construction is not completed within the prescribed period,—

- (a) a non-resident to whom the vacant State land or freehold land is sold, or leased, shall be liable to pay to the State a fixed penalty of 10% of the price at which the vacant State land or freehold land was sold or leased; or
- (b) a non-resident to whom the vacant State land or freehold land is transferred shall be liable to pay to the State a fixed penalty of 10 % of the value of the land,

at six-monthly intervals until construction is complete.

(8) Any person who contravenes this section shall be liable upon conviction to a fine not exceeding \$100,000.

(9) For the purposes of this section—

“construction” means the construction of a new residential dwelling which incurs building costs not less than \$250,000;

“immediate family member” means a spouse, child, sibling, parent, grandparent or grandchild;

“integrated tourism development” means the development of a hotel and the subdivision and sale of residential lots and includes and includes the development of jetties, moorings, recreational facilities and other amenities;

“residential purpose” means the use or occupation of property by any person (including but not limited to the owner of the property) as his or her place of residence for any period of time; and

“strata or unit title” means a form of individual ownership of part of a property called a lot, devised for multi-level apartment blocks and horizontal subdivisions with shared areas.”

Passed by the Parliament of the Republic of Fiji this 11th day of December 2014.