



Bill Summary

Land Sales (Budget Amendment) Bill

Bill No. 44 of 2016

The Land Sales Budget Amendment Bill 2016 seeks to amend the Land Sales Act (Cap.137) of 1974.

The Land Sales Act (Cap.137) provides for the regulation of certain speculative and other dealings in land and the taxation of profits thereon. The Land Sales Act has been amended five (5) times since 1974. The most recent amendment, which is the *Land Sales Amendment Act 2014*, made provisions for the purchase of land by non-residents.

In the 2016/2017 Budget Address, the Minister of Finance while tabling the Bill in Parliament stated that, “in the wake of *TC Winston*, a number of people who experienced difficulties in complying with the requirements under the Land Sales Act sought extension for compliance because of the inability to build because of *Cyclone Winston*. In order to address these concerns, we will amend the law by establishing a review committee to assess the non-resident owners request for extensions in relation to the requirement to build on the land within the two years¹.”

Objectives, scope and intent of the Bill

The Bill amends the Act to establish a review committee to assess the non-resident owners request for extensions in relation to the requirement to build on the land within the two years as outlined in the Act.

Summary of provisions

Short title and commencement

Clause 1(1) – this law may be cited as the *Land Sales (Budget Amendment) Act 2016*.

Clause 1(2) – this Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Clause 1(3) – in this Act the Land Sales Act (Cap.137) will be referred to as the “Principal Act”.

Section 2 Amended

Clause 2 amends Section 2 of the Principal Act by inserting the following new definitions (**in bold**) –

“Minister” means the Minister responsible for the administration of this Act;

“Review Committee” means the committee established under section 7B;

Section 7A Amended

Clause 3(a) amends Section 7A of the Principal Act by inserting the following new subsections after subsection (6) (**in bold**) –

“(6A) If a non-resident is unable to complete construction within the prescribed period pursuant to subsection (6), the non-resident may apply to the Review Committee for an extension of such period.

(6B) The Review Committee shall, after receipt and upon consideration of an application under subsection (6A), make a recommendation to the Minister to approve or refuse the application, within such time as may be prescribed by regulations.

(6C) In considering the application under subsection (6A), the Review Committee shall be guided by such procedures as may be prescribed by regulations.

¹ Parliament of the Republic of Fiji (2016) Hansard. Chamber Parliamentary Debates [Amended], 22 June 2016, p.1997 [hard copy]



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(6D) The Minister shall, after receipt and upon consideration of the recommendation of the Review Committee, make a decision to approve or refuse the application.

(6E) No appeal shall lie against a decision of the Minister or the recommendation of the Review Committee under this section."

The proposed subsection (6A) allows for a non-resident who is unable to begin construction as required to apply to the Review Committee for an extension of the prescribed period.

The proposed subsections (6B) to (6D) outline the process for handling the application and subsection (6E) provides for finality of process.

Clause 3(b) amends Section 7A subsection 7 (**deletions are struck out, substitutions in bold**) –

~~(7) Pursuant to subsection (6), if construction is not completed within the prescribed period, If~~
construction is not completed within the prescribed period pursuant to subsection (6) or extension of such period pursuant to subsection (6D), –

(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.

New Section 7B

Clause 4 amends the Principal Act by inserting the following new section after Section 7A (**in bold**) –

"Review Committee"

7B.—(1) There shall be a Review Committee established for the purpose of receiving and considering applications pursuant to section 7A(6A) and making recommendations to the Minister for his or her decision.

(2) The Minister shall, by regulations, prescribe the composition of the Review Committee and prescribe any functions and responsibilities as the Minister may deem fit.

The above amendment establishes the Review Committee which receives and considers applications in accordance to section 7A(6A), which are applications from non-residents. It also permits the Minister, by regulations, to recommend the structure, functions and responsibilities of the Review Committee as the Minister considers appropriate.

New Section 19

Clause 5 amends the Principal Act by inserting the following new section (**in bold**) after Section 18 –

"Regulations"

19.—(1) The Minister may make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

(2) Without affecting the generality of subsection (1), the Minister may make regulations—



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(a) appointing persons to enforce the provisions of this Act, which shall include the carrying out of inspections to assess compliance with the requirements under this Act; and

(b) prescribing offences and penalties, not exceeding—

(i) \$50, 000 or two years imprisonment or both, for an individual; or

(ii) \$100,000 or five years imprisonment or both, for a company.

The amendment in Clause 5 of the Bill empowers the Minister to make regulations to matters with regards to the Act and the appointments of people to implement the provisions of the Act and proposes offences and penalties, not more than the limitations stated above in Section 19 subsection 2(b)(i)-(ii).

Ministerial responsibility – the Act comes under the responsibility of the Minister responsible for finance.

International comparisons

Australia

Foreign persons generally need to apply and receive foreign investment approval by the Foreign Investment Review Board before purchasing vacant residential land for development². Foreign persons will normally be allowed to purchase vacant land for residential dwelling development, subject to conditions that:

- The development is completed within four years from the date of approval; and
- Evidence of completion of the dwelling/s is submitted within 30 days of being received. This could include a final occupancy or builder's completion certificate.

Vacant land that previously has an established dwelling on the land would generally not be considered as vacant land for the purposes of Australia's foreign investment framework.

Jordan

Foreign ownership of Jordanian land and assets³ is governed by **The Leasing of Immovable Assets, and Their Sale to Non-Jordanian and Judicial Persons Law No 47 of 2006**, (the "2006 Law") which repealed all previous laws in this regard.

Article 3 of the 2006 Law, provided that the buyer's country of residence maintains a reciprocal relationship, foreign nationals are afforded the right of ownership of property within urban borders in Jordan for residential purposes (but only after acquiring the required permission from the Minister of Finance or the General Director of the Survey Department). Nationals of Arab countries are exempt from this requirement.

Gender analysis

The Bill does not have any disproportionate impact on women and men.

² Foreign Investment Review Board, Residential real-estate, Vacant Land. Available at: <http://firb.gov.au/real-estate/vacant-land/> [Accessed 6 July]

³ Mazzaai Maria, Al Tamimi & Company, Law Update, *The Foreign Ownership of Land in Jordan*, July-August 2013. Available at: <http://www.tamimi.com/en/magazine/law-update/section-5/july-august-2/the-foreign-ownership-of-land-in-jordan.html> [Accessed 6 July]



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Further information

- Land Sales (Budget Amendment) Bill 2016 – No.44 of 2016. Available at: [http://www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-44-Land-Sales-\(Budget-Amendment\).pdf](http://www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-44-Land-Sales-(Budget-Amendment).pdf)
- *Land Sales Act 1974*. Available at: http://www.paclii.org/fj/legis/consol_act_OK/lsa99/
- *Land Sales Amendment Act 2014*. Available at: [http://www.parliament.gov.fj/getattachment/Parliament-Business/Acts/ACT-No-16-Land-Sales-\(Amendment\).pdf.aspx](http://www.parliament.gov.fj/getattachment/Parliament-Business/Acts/ACT-No-16-Land-Sales-(Amendment).pdf.aspx)
- Knight Frank Residential Research, Asia-Pacific Residential Review, *Special Analysis: Restrictions for foreign purchasers of residential property around the Asia-Pacific region*, July 2013. Available at: <http://www.btinvest.com.sg/system/assets/17045/KF%20Residential%20Review.pdf>

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