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REAL PROPERTY TAX (AMENDMENT) ACT, 2009

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No. 25 of 2009

REAL PROPERTY TAX (AMENDMENT) ACT, 2009

AN ACT TO AMEND THE REAL PROPERTY TAX ACT.

[Date of Assent - 13th July, 2009]

Enacted by the Parliament of The Bahamas.

1. Short title.

This Act which amends the Real Property Tax Act (*Ch. 375*), may be cited as the Real Property Tax (Amendment) Act, 2009.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended as follows—

- (a) by the insertion of a new subsection "(1)" immediately before the words "In this Act,";
- (b) in the definition of "improvements" delete the words "five thousand" and substitute the words "fifty thousand";
- (c) by the insertion of new definitions in the appropriate alphabetical order as follows—
 - “owner-occupied property” means property occupied by a person who being the owner in fee simple or a mortgagor in possession occupies and resides in such property exclusively as a dwelling house on a permanent or seasonal basis;”
 - “unimproved property” means land on which no improvements have been effected;”and
- (d) by the insertion of a new subsection (2) —
 - “(2) References in this Act to the term “Out Island” shall be interpreted as references to the term “Family Island”.”.

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended as follows —

- (a) in subsection (2) in paragraph (a) as follows—
 - (i) by the deletion of the words “section 39” and the substitution of the words “section 42”.
 - (ii) by the repeal of subparagraph (iii); and
 - (iii) by the insertion immediately after subparagraph (ii) of the following new subparagraphs —
 - “(iii) upon that part of the market value which does not exceed five million dollars, a tax at the rate of one per centum per annum of the market value of the property;
 - (iv) upon that part of the market value which exceeds five million dollars, a tax at the rate of one quarter of one per centum per annum of the market value of the property;”;
- (b) in subsection (2) in paragraph (b) by the repeal of subparagraphs (i) to (iii) and the replacement as follows —
 - “(i) upon that part of the market value of the property which does not exceed seven thousand dollars, a tax of one hundred dollars;
 - (ii) upon that part of the market value of the property which exceeds seven thousand dollars, a tax at the rate of one and one half per centum per annum of the market value of the property;”;
- (c) in subsection (2) by the insertion immediately after paragraph (c) of the following—
 - “(d) in respect of any property which is a Crown Leased Cay, —
 - (i) a tax at the rate of half of one per centum per annum of the market value of the improvements up to ten million dollars; and
 - (ii) a tax at the rate of one quarter of one per centum per annum of the market value of improvements above ten million dollars;”;
- (d) repeal subsection (8) and replace as follows—
 - “(8) Where subsection (2) (a) applies to property owned by a company, the beneficial owner of such company shall submit to the Chief Valuation Officer a declaration in the prescribed form stating that such property is occupied by the beneficial owner exclusively as a dwelling house and is not leased or

rented to a third person for more than nine months during the calendar year.”.

4. Amendment of section 21 of the principal Act.

Section 21 of the principal Act is repealed and replaced by the following—

“21. Surcharge.

If any tax is not paid on or before the last day when the tax becomes due and payable under the provisions of this Act, there shall be added thereto as a surcharge a sum equal to five per centum of such tax per annum from that day until payment.”.

5. Insertion of new sections 21A and 21B in the principal Act.

The principal Act is amended by the insertion immediately after section 21 of the following as the new section 21A and section 22B respectively —

“21A. Waiver of surcharge.

Notwithstanding section 21, any surcharge which has accumulated in respect of—

- (a) owner-occupied property with a market value of up to two hundred and fifty thousand dollars shall be waived;
- (b) owner-occupied property which exceeds two hundred and fifty thousand dollars, shall be waived, if the outstanding real property tax is paid on or before December 31, 2009; and
- (c) other property, shall be waived by fifty per cent if the outstanding real property tax is paid on or before December 31, 2009.

21B. Revival of Surcharge.

If after December 31, 2009 any real property tax remains outstanding in respect of—

- (a) owner occupied property with a market value of up to two hundred and fifty thousand dollars,
- (b) owner-occupied property which exceeds two hundred and fifty thousand dollars; and
- (c) other property,

the owner of such property, shall be liable to pay a new surcharge of five per centum of such tax per annum.”.

6. Insertion of a new sections 25A to 25E in the principal Act.

The principal Act is amended by the insertion immediately after section 25 of the following as the new sections 25A to 25E—

***25A. Power of Sale.**

- (1) Notwithstanding section 23, where any real property tax relative to unimproved property is in arrears and unpaid the Treasurer may sell the unimproved property in respect of which the tax is due and payable, for the recovery of such real property tax.
- (2) The power of sale in subsection (1) shall not be exercised unless the real property tax has been in arrears and unpaid for more than six months after the expiration of thirty days from becoming so due.
- (3) Where any land is liable to be sold under subsection (1), the Treasurer may, at any time after the power of sale becomes exercisable as mentioned in subsection (2), by warrant of sale under his hand addressed to any person named therein, order the sale of such land, on such day and at such place as is named and appointed in the warrant of sale.
- (4) A warrant of sale under subsection (3) shall be in the Form A set out in the Third Schedule, and, if the Treasurer thinks fit, may contain the names of the owners of the unimproved properties.
- (5) Every sale made under this section shall be by public auction and shall be conducted by the person named in that behalf in the warrant of sale and on the date and at the place thereby named and appointed.
- (6) Notification of every sale shall be given to the owner as registered with the Chief Valuation Officer of the unimproved property by the Treasurer at least thirty days before the day appointed for the sale —
 - (a) by an advertisement in a daily newspaper published in The Bahamas describing the property to be sold; or
 - (b) such other manner that may be prescribed by the Minister, and the service of such documents shall be in accordance with section 28(2) to (7).
- (7) Nothing shall prevent the mortgagee of any unimproved property that is advertised for sale in accordance with this section from paying the tax that is due and payable, before the day appointed for the sale and in that event such payment shall be a further charge on the unimproved property in favour of the mortgagee.
- (8) Any land to be sold under this section shall be sold free from any mortgage or other encumbrance and any reserve price fixed by the Treasurer pursuant to section 25E shall be not less than the amount of tax due plus penalties and interest thereon and the cost of advertising and conducting the sale.
- (9) The Treasurer may at any time before the sale of any land advertised under subsection (6), postpone either generally or to some day specified, the sale of all or any part of the land.

- (10) Where any land advertised for sale is not sold on the day appointed for the sale thereof by reason either —
- (a) of the postponement of the sale under subsection (9); or
 - (b) of the absence of any bids for the land, or for any other cause, the land may again be put up for sale and notice of the sale shall be given in the manner provided by subsection (6).
- (11) The warrant of sale under subsection (10) shall be in the Form B set out in the Third Schedule.
- (12) The person conducting a sale under this section shall report to the Treasurer the result of the sale, stating in the report —
- (a) the amount of the highest bid received for the land; and
 - (b) the name and address of the highest bidder,
- and the Treasurer may, subject to subsection (13), declare the highest bidder as the purchaser of the land and upon payment of the purchase money or of the balance thereof in cases where any required deposit on account thereof has been made by the highest bidder, convey the land to the purchaser.
- (13) Where the Treasurer, upon consideration of a report made under subsection (12), is satisfied —
- (a) that there has been some fraud or improper conduct with reference to the sale;
 - (b) that there is some material error in the description of the land;
 - (c) that the tax for non-payment of which the land was offered for sale had been paid at the time when the bid for the land was made, or
 - (d) that the reserve price, if any, had not been reached,
- he may declare the sale to be, and it shall thereupon be, void.
- (14) Where a sale of land is declared void under subsection (13), the Treasurer may issue a fresh warrant for the sale thereof.
- 25B. Conveyance to purchaser and application of proceeds of sale.**
- (1) Where land is sold under section 25A, the Treasurer shall have power to execute a deed which shall be in the Form D set out in the Third Schedule conveying such land in the name of the owner and the purchaser of the land shall not be concerned to inquire whether the provisions of this Act relating to the sale have been complied with nor otherwise to inquire into the regularity or validity of the sale and the land described in the deed shall become vested in the purchaser freed and discharged from all estates, charges and encumbrances but subject to —
- (a) such restrictive covenants and conditions, easements, exceptions and reservations, service charges and uses as may then exist; and

- (b) any charges thereon in respect of debts due to the Crown other than real property taxes or stamp duty payable on the conveyance.
- (2) The purchase money from any sale under section 25A shall be applied —
- (a) in the first place, in payment of any costs incidental to the sale, including costs or charges incurred in relation to any previous attempts to sell the land;
- (b) in the next place, in payment of any tax due to the Treasurer at the date of the conveyance,
- and the surplus, if any, shall, subject to subsection (3), be paid to the person entitled thereto.
- (3) Where, upon any sale under this Part, there remains in the hands of the Treasurer any surplus after applying the proceeds of the sale in payment of any tax, charges, debts, costs and expenses to which they are applicable, the Treasurer may, if he thinks fit, pay the surplus into the Court, and the Court may, on the petition of any person entitled or claiming to be entitled to such moneys or part thereof, make an order for the payment of the moneys or any part thereof to the person entitled thereto.
- (4) For the purpose of having the proceeds of sale deposited in the Court under subsection (3), a formal request in the Form C set out in the Third Schedule shall be addressed by the Treasurer to the Registrar of the Supreme Court.

25C. Saving of certain rights.

Notwithstanding anything in this Act authorising the Treasurer to sell any land for the recovery of tax, such sale and the deed of conveyance executed to give effect thereto shall not affect any estate, interest, right or property of the Crown in the land.

25D. Power of sale in addition to any remedy.

The power sale conferred by this Act shall be in addition to any remedy by action or otherwise which the Treasurer may have under this Act or otherwise at law or in equity.

25E. Power to make conditions with respect to procedure at sale.

The Treasurer may make conditions with respect to the procedure at the sale by public auction under any power of sale conferred on him by this Act, and may by such conditions of sale conferred on him by this Act —

- (a) require a deposit to be made by the highest bidder and fix the amount thereof;
- (b) fix a reserve price;
- (c) prescribe the time within which the deposit shall be made and the events in which it shall be forfeited;

- (d) provide that in the event of the highest bidder in respect of any land failing to make the required deposit or to complete the purchase within the time fixed therefor respectively, the next highest bidder shall be deemed to be the highest bidder and purchaser of the land.”.

7. Amendment of section 42 of the principal Act.

The principal Act is amended in section 42 as follows—

- (a) in subsection (1) as follows—
 - (i) in paragraph (g) in the proviso by the deletion of the words “subject to the provisions of subsection (5)”; and
 - (ii) in paragraph (h) in the proviso by the deletion of the words “subject to the provisions of subsection (5)”;
- (b) by the repeal of subsection (2);
- (c) by the repeal of subsection (5); and
- (d) by the renumbering of subsections (3), (4) and (6) as (2), (3) and (4) respectively.

8. Amendment of section 42B of the principal Act.

The principal Act is amended by the repeal of section 42B.

9. Insertion of the Third Schedule into the principal Act.

The principal Act is amended by the insertion of the Third Schedule as follows—

“THIRD SCHEDULE

SECTION 25A(4)

FORM A

SECTION 25A(4)

WARRANT OF SALE

THE REAL PROPERTY TAX ACT, CH. 375

To

I _____, Treasurer, do hereby order you, the
said _____, to sell or cause to be sold by public auction
at _____ on the _____ day of _____, 20____
the several parcels of unimproved property described in the list hereto attached
in respect of which the sums set out opposite the description of such land are
respectively due for real property tax and have been for more than six months in

REAL PROPERTY TAX (AMENDMENT) ACT, 2009

arrears and unpaid, save and except such of those parcels of unimproved property in respect of which they have been paid to me before the day of such sale the sums so due and payable.

Given under my hand this day of.....20

TREASURER.

LIST ATTACHED TO WARRANT OF SALE

Parcels of Land	Owner	Real Property Tax in respect of which land is to be sold	Amount

**FORM B
SECTION 25A(11)
WARRANT OF SALE AFTER POSTPONEMENT
THE REAL PROPERTY TAX ACT, CH. 375**

To

I Treasurer , do hereby order you, the said
..... to sell by public auction at
.....on the day of 20 the
parcels of land contained in the list attached to the warrant of sale dated
the day of , 20 save and except such of those
parcels of land in respect of which they have been paid before the sale of the
sums mentioned in that warrant as being then due and payable.

Given under my hand this day of 20

TREASURER.

FORM C
SECTION 25B(4)
REQUEST FOR REGISTRAR OF SUPREME COURT
THE REAL PROPERTY TAX ACT, CH. 375

In the matter of the Real Property Tax Act, and of the parcel of land (describe it)
sold under section 25A of this Act.

To: The Registrar of the Supreme Court.

Please place to the account of a special fund the sum of \$ being the
surplus proceeds of sale of the parcel of land described above which was
sold on the day of , 20 under section 25 A
of the said Act.

Dated this day of , 20

TREASURER.

FORM D
SECTION 25B(1)
CONVEYANCE
THE REAL PROPERTY TAX ACT, CH. 375

THIS INDENTURE is made the day of **A.D.**,
BETWEEN (name of the owner of record of the property)
(hereinafter called "the Owner") of the first part **THE TREASURER OF THE**
COMMONWEALTH OF THE BAHAMAS a corporation sole established
under the provisions of section 4 (1) of the Ministry of Finance Act (hereinafter
called "the Treasurer") of the second part **AND** (name
and address of the purchaser) (hereinafter called "the Purchaser") of the third part

WHEREAS:-

(A) The Owner according to the assessment lists is the owner in fee simple in possession of the hereditaments described in the Schedule hereto (hereinafter referred to as "the said hereditaments") in respect of which taxes are due and unpaid for a period in excess of seven (7) months;

(B) Pursuant to the power conferred by the Real Property Tax Act, (hereinafter called "the Act") the said hereditaments were put up for sale by the Treasurer by public auction on the [date of auction] and the Purchaser offered the sum of \$ [] and was the highest bid.

NOW THIS INDENTURE WITNESSETH that in pursuance of the premises and in consideration of the said sum of Dollars (\$) paid to the Treasurer by the Purchaser (the receipt whereof the Treasurer hereby acknowledges) the Owner acting by the Treasurer hereby grants and conveys unto the Purchaser **ALL** the said hereditaments

TOGETHER WITH the appurtenances thereunto belonging **TO HOLD** the same unto and to the use of the Purchaser in fee simple **SUBJECT** to the exceptions and qualifications mentioned in section 25B subsection (1) of the Act **BUT OTHERWISE FREED AND DISCHARGED** from all estates charges and encumbrances.

THE SCHEDULE HEREINBEFORE REFERRED TO

(description of the said hereditaments)

IN WITNESS WHEREOF and pursuant to the provisions of section 25B subsection (1) of the Act the Treasurer in the name of the Owner has hereunto set his hand and seal the day and year first hereinbefore written.

The Official Seal of the Treasurer was affixed hereto by
Treasurer of the Commonwealth of The Bahamas and the said
subscribed his signature hereto in the presence of:—”