

[The Housing Development Corporation (Amendment) Law, 1994 -7]

transfer of functions. prepare for any enactment by or under which the functions of the Corporation are transferred to another statutory corporation.

(2) The Corporation may do whatever is necessary for, or conducive to, the carrying out of the preparations referred to in subsection (1) above."

2. The Housing Development Corporation Law, 1981, shall be amended by substituting for the numeral "III" in the heading "PART III FINANCIAL" (immediately preceding section 18 of that Law) the numeral "IV"; and the heading in that Law "PART IV MISCELLANEOUS" shall be amended by substituting for the numeral "IV" the numeral "V".

Passed by the Legislative Assembly the 23 day of September, 1994.

SYBIL McLAUGHLIN
Speaker.

GEORGETTE MYRIE
Clerk of the Legislative Assembly.

CAYMAN ISLANDS



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**THE HOUSING DEVELOPMENT CORPORATION
(AMENDMENT) LAW, 1994
(LAW 11 OF 1994)**

- (a) a transfer under section 17A above; or
- (b) any preparations for such a transfer, including –
 - (i) the enactment of this Part of this Law; or
 - (ii) any preparations for the enactment of this Part of this Law.

(2) For the purposes of this section –

- (a) any provision which has the effect of penalising the effecting of any description of transfer shall be treated as prohibiting it; and
- (b) any provision which relates to the ceasing of the Corporation's business, or the Corporation threatening to do so, shall be treated as prohibiting any transfer necessary to effect such a cessation of business or relating to a threat to do so.

Preparatory work and the overriding nature of functions under this Part.

17E. (1) The functions of the Corporation shall be deemed always to have included the functions of preparing for the enactment of this Part of this Law.

(2) Nothing done in pursuance of this Part of this Law by the Corporation, or by any member or officer of the Corporation, shall be taken to constitute a breach of any duty owed to persons –

- (a) who are holders of debentures given by the Corporation; or
- (b) who have charged any property to the Corporation.

Stamp duty.

17F. (1) No transfer effected under section 17A above shall give rise to any liability to stamp duty.

(2) Stamp duty shall not be chargeable --

- (a) on a transfer scheme approved by the Governor under section 17B above; or
- (b) on an instrument which is certified by the Governor to be made in pursuance of such a scheme.

Power to prepare for

17G. (1) The Corporation shall have power to

operate to transfer to the transferee –

- (a) the right to demand, sue for, recover, and give receipts for, the money or money's worth secured by the charge, and the interest then due, if any, and thenceforth to become due thereon;
- (b) the benefit of all securities for the same, and the benefit of and the right to sue on all covenants with the mortgagee, and the right to exercise all powers of the mortgagee; and
- (c) all the estate and interest in the property subject to the charge then vested in the Corporation subject to redemption, but as to such estate and interest subject to the right of redemption then subsisting.

(3) The transferee shall be entitled to be registered as proprietor in place of the Corporation on an application in that behalf made to the Registrar of Lands.

(4) On an application made under subsection (3) above, the transferee shall supply to the Registrar of Lands such information and produce to him such documents as he may require for the purpose of enabling him to deal with the application.

(5) Any person registered in the place of the Corporation as proprietor of a charge shall hold the charge in respect of which he is registered subject to any liabilities, rights or interests which are unregistered (but nevertheless enforceable) and subject to which the Corporation held the charge; but, for the purpose of any dealing, that person shall be in the same position as if he had taken the charge under a transfer for valuable consideration which did not have effect under section 17A above.

(6) No application under subsection (3) above (in respect of a transfer under section 17A above) shall give rise to any liability to pay fees to the Registrar of Lands; and no such fees shall be charged.

Restrictions on ceasing to carry on business.

17D. (1) Any provision which imposes a prohibition (whether absolute or qualified) on the transfer of any property or rights of the Corporation, shall be treated as not applying in the case of –

CAYMAN ISLANDS

Law 11 of 1994

I Assent

MICHAEL J GORE
Governor

1st November, 1994

A LAW TO AMEND THE HOUSING DEVELOPMENT CORPORATION LAW, 1981

ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Law may be cited as the Housing Development Corporation (Amendment) Law, 1994.

Amendment of the Housing Development Corporation Law, 1981.

2. The Housing Development Corporation Law, 1981, shall have effect as specified in the Schedule to this Law.

THE SCHEDULE

Section 2

Amendment of the Housing Development Corporation Law, 1981

1. The Housing Development Corporation Law, 1981, shall be amended by inserting after section 17 the following –

***PART IIIA**

POWERS OF THE CORPORATION

Powers of the Corporation to make transfer schemes.

17A. (1) The Corporation shall have power to make a scheme for the transfer of the whole or any part of the property, rights or liabilities of the Corporation to –

- (a) any company registered under the Companies Law (Revised); or
- (b) any person (including any body corporate, or body incorporate) carrying on business in the Islands in connection with the provision of financial services to individuals.

(2) The powers conferred on the Corporation by subsection (1) above shall only be exercisable for the purpose of effecting or facilitating the transfer of such property, rights or liabilities of the Corporation as the Governor may direct.

(3) The Governor may, after consultation with the Corporation, direct the Corporation to exercise any power conferred by subsection (1) above, and, if he does so, the Governor may also give the Corporation directions with respect to –

- (a) the manner in which, and period within which, the power is to be exercised;
- (b) the property, rights or liabilities to be transferred;
- (c) the company or person (including any body corporate, or body unincorporate) to whom the transfer is to be made.

(4) The Corporation shall not exercise the power conferred by subsection (1) above except pursuant to a direction given under subsection (3) above by the Governor.

(5) If the Governor gives a direction under subsection (3) above, the Corporation shall be required to make a scheme for the transfer of the whole of the property, rights or liabilities of the Corporation specified in the direction.

(6) Subject to the following provisions of this Part, on the day on which a scheme under subsection

(1) comes into force ("the transfer date") any transfer of property, rights and liabilities under the scheme shall, subject to section 17B below, have effect by virtue of this Law.

Transfer schemes.

17B. (1) A transfer scheme shall define the property, rights and liabilities to be transferred to the transferee.

(2) A transfer scheme may –

- (a) provide that any rights or liabilities specified or described in the scheme shall be enforceable by the Corporation against the transferee;
- (b) impose on the Corporation or transferee an obligation to enter into such written agreements with, or execute such other instruments in favour of, the Corporation or transferee or such other person as may be specified in the scheme;
- (c) make such supplemental, incidental, consequential or transitional provisions as the Corporation considers appropriate.

(3) An obligation imposed on the transferee by a provision included in a transfer scheme by virtue of paragraph (b) of subsection (2) above shall be enforceable by civil proceedings by the Corporation for an injunction or for any other appropriate relief or remedy.

(4) A transfer scheme made by the Corporation shall not come into force unless it, and any transfer proposed under it, has been approved by the Governor.

(5) It shall be the duty of the Corporation to provide the Governor with all such information and other assistance as he may require for the purposes of or in connection with the exercise, in relation to a transfer scheme, of an approval of the Scheme and of a transfer under the scheme.

Transfers and Registration of charges.

17C. (1) This section applies where any registered charge is transferred under section 17A above.

(2) A deed executed by the Corporation purporting to transfer its charge or the benefit thereof shall, unless a contrary intention is therein expressed, and subject to any provisions therein contained,