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THE PROPERTY (MISCELLANEOUS PROVISIONS) LAW (7 of 1994)

(1999 Revision)

Revised under the authority of the Law Revision Law (19 of 1975).

Originally enacted-

Law 7 of 1994-23rd September, 1994.

Revised this 5th day of January, 1999.

PROPERTY (MISCELLANEOUS PROVISIONS) LAW

(1999 Revision)

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PROPERTY (MISCELLANEOUS PROVISIONS) LAW

(1999 Revision)

1. This Law may be cited as the Property (Miscellaneous Provisions) Law (1999 Revision). Short title
2. (1) A debt or thing in action may be the subject of a fixed or floating charge (and is not thereby extinguished, released or merged) notwithstanding that the chargee is the obligor. Charges over debts and other obligations
- (2) If, and for so long as, a mortgage, legal or equitable, of a debt or thing in action cannot take effect as such by reason that the intended mortgagee is the obligor, it takes effect as a charge.
3. A trust may be validly created of an existing debt notwithstanding that the debtor is the trustee of the trust, and the effect of so doing is that he has an equitable obligation to the beneficiaries on the same terms as the debt to make payment to the trust fund. Trusts over debts
4. There is hereby abolished as respects dispositions made after 23rd November, 1994, any rule of law that a disposition in favour of illegitimate issue not in being when the disposition takes effect is void as contrary to public policy. Dispositions in favour of illegitimate issue not void
5. (1) Subject to subsection (2), any absolute assignment by writing under the hand of the assignor (not purporting to be by way of charge only) of any debt or thing in action, of which express notice in writing has been given to the person from whom the assignor would have been entitled to claim such debt or thing in action, is effectual in law (subject to equities having priority over the right of the assignee) to pass and transfer from the date of such notice-
- (a) the legal right to such debt or thing in action;
 - (b) all legal and other remedies for the same; and
 - (c) the power to give a good discharge for the same without the concurrence of the assignor.
- (2) If the person liable in respect of such debt or thing in action has notice-
- (a) that the assignment is disputed by the assignor or any person claiming under him; or
 - (b) of any other opposing or conflicting claims to such debt or thing in action, he may, if he thinks fit, either call upon the person making claim thereto to interplead concerning the same, or pay the debt or other thing in action into court under the Trusts Law

~~1998 Revision~~
represented by bearer
instruments
1998 Revision

(1998 Revision) or any statutory modification or successor thereto.

6. Except as provided by any other law, a legal or equitable thing in action, other than shares in an ordinary company incorporated under the Companies Law (1998 Revision) or interests in land in the Islands, is capable of being evidenced or represented by a bearer instrument such that a disposition thereof may, subject to the terms of the instrument, be effected by delivery of the instrument; but unless so provided by the terms of the instrument the disponent is not relieved of any obligation or liability thereunder.

Bodies corporate holding
as joint tenants

7. (1) A body corporate shall be capable of acquiring and holding any real or personal property in joint tenancy in the same manner as if it were an individual; and where a body corporate and an individual, or two or more bodies corporate, become entitled to any such property under circumstances or by virtue of any instrument which would, if the body corporate had been an individual, have created a joint tenancy, they shall be entitled to the property as joint tenants:

Provided that the acquisition and holding of property by a body corporate in joint tenancy shall be subject to the like conditions and restrictions as attached to the acquisition and holding of property by a body corporate in severalty.

(2) Where a body corporate is joint tenant of any property, then, on its dissolution, the property shall devolve on the other joint tenant.

Deeds and certain other
instruments no longer
required to be executed
under seal

8. (1) Subject to subsection (5), an instrument is validly executed by an individual as a deed or an instrument under seal if it satisfies the requirements of this section.

(2) A deed or instrument under seal satisfies the requirements of this section if -

- (a) it is signed in accordance with subsection (3); and
- (b) it is either -
 - (i) sealed; or
 - (ii) expressed to be, or is expressed to be executed as, or otherwise makes clear on its face it is intended to be, a deed.

(3) For the purpose of this section, a deed or instrument is signed if it is signed -

- (a) by the individual in the presence of a witness who attests his signature; or

- (b) at the direction of the individual and in his presence and the presence of two witnesses who each attest the signature of the individual.

- (4) In subsections (2) and (3)(a)-

“sign” in relation to the instrument, includes an individual making his mark on the instrument, and “signature” is to be construed accordingly.

(5) The provisions of subsections (1) to (4) are, without prejudice to the validity of any instrument under seal, validly executed as such, whether before or after 23rd November, 1994, as the case may be.

9. Except where expressly provided to the contrary herein, this Law applies to any charge, mortgage, trust, assignment, bearer instrument or joint tenancy created, given or executed or purportedly created, given or executed before or after 23rd November, 1994 and no such charge, mortgage, trust, assignment, bearer instrument or joint tenancy shall be invalid by reason only of the fact that it was created or purportedly created, given or executed or purportedly created, given or executed prior to 23rd November, 1994. Application

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Carmena H. Parsons
Clerk of Executive Council