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PUBLIC RECORDER LAW

(2010 Revision)

Cap. 143 of the Revised Edition of the Laws (1963 Edition) consolidated with Laws 41 of 1967, 21 of 1971 (part), 23 of 1991 (part), 11 of 2006 and 31 of 2009.

Revised under the authority of the Law Revision Law (1999 Revision).

Originally enacted-

Cap 143-1st January, 1964
Law 41 of 1967-7th December, 1967
Law 21 of 1971-28th September, 1971
Law 23 of 1991-12th December, 1991
Law 11 of 2006-1st June, 2006
Law 31 of 2009-2nd December, 2009.

Consolidated and revised this 2nd day of November, 2010.

Note (not forming part of the Law): This revision replaces the 2007 Revision which should now be discarded.

PUBLIC RECORDER LAW

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PUBLIC RECORDER LAW

(2010 Revision)

1. This Law may be cited as the Public Recorder Law (2010 Revision). Short title

2. In this Law- Definitions
 - “indices” includes all indices, abstract books and catalogues relating to public records, registered deeds and writings or registers in any of the offices;
 - “offices” means the offices listed in the Schedule;
 - “public records” includes all rolls, writs, books, proceedings, laws, decrees, wills, warrants, accounts, papers and documents of any kind of a public nature, deposited in any of the offices;
 - “records” includes both public records and registered deeds and writings, and also transcripts of the same contained in any register book;
 - “register book” includes any book or volume in any of the offices containing records, as well as any transcript made or to be made of any such book;
 - “registered deeds and writings” includes all deeds, wills, conveyances, charters, bonds, bills of sale, patents, certificates, letters patent, specifications, petitions, disclaimers, memoranda, powers of attorney, accounts, inventories, maps, plans and all other instruments and writings whatever, which before or after the 2nd January, 1968 in any of the offices are recorded, registered or otherwise on record;
 - “registers” includes all records and enrolments of registered deeds and writings in any of the offices; and
 - “transcribe” and “transcript” include print and printed or photographic copy.

3. (1) The Governor shall appoint a fit and proper person to be the Public Recorder for the purpose of recording wills, deeds and other documents. Public Recorder and Deputy

 - (2) The Public Recorder may, by writing under his hand, appoint a person approved by the Governor to be his Deputy, and whenever the Public Recorder is absent from the Islands or unable to perform his duties for a period not exceeding six months, all the duties and privileges of the office of Public Recorder shall devolve upon the Deputy in like manner as if he were himself the Public Recorder.

4. (1) Every person desirous of having recorded any document which may be recorded by the Public Recorder shall present the same to the Public Recorder Documents for recording

with one record copy which shall be printed, typewritten, photographed or reproduced in such other visible form as may be approved by the Public Recorder.

(2) The Public Recorder shall not be required to record any document unless -

- (a) a record copy is presented to him with the original in accordance with subsection (1); and
- (b) there is paid to him in respect of a document containing one or more pages, a fee of one hundred dollars.

(3) The Public Recorder shall diligently compare the record copy of any document with the original and shall certify every page thereof to be a true copy of the original after making any emendation that may be necessary to correct any discrepancies therein. He shall then bind the record copy and retain and number the same, and it shall thereupon become the legally recorded copy of the original, and shall be sufficient evidence of the contents of the original as recorded.

Copies of documents

5. (1) The Public Recorder, on the request of any person who pays to him the fees specified in subsection (2), shall make a copy of any recorded document in his possession and deliver the same duly certified to such person.

(2) The fee payable for a copy of a document containing one or more pages is fifty dollars with an additional fee of fifty dollars being payable in respect of each copy certified by the Public Recorder.

(3) The Public Recorder shall not be required to complete the copying of any document in less than seventy-two hours from the time when the request for a copy is made to him, but he may, at the request of the person requiring the copy and on payment to him of a waiver of notice fee equivalent to fifty per cent of the fee payable under subsection (2), prepare the required copy in less than seventy-two hours. For the purposes of this subsection, Sundays and public holidays shall not be counted in computing the period of seventy-two hours.

Search

6. Any person wishing to have a search made for a recorded copy of any document shall pay to the Public Recorder a fee of five dollars for each year in respect of which search is required to be made.

Waiver of fees for Government

7. No fee shall be payable by the Government for any service rendered to it by the Public Recorder.

8. (1) A deed made in due form of law and within three months after the date thereof acknowledged by the party or parties that grant the same or proved by the oath of one sufficient witness or more in accordance with law, and recorded at length in any of the offices within the said three months, shall be valid to pass the freehold without livery, seisin, attornment or other act or ceremony in the law whatsoever.

Deeds recorded within three months after execution valid to pass freehold without delivery, etc.

(2) No deed made from and after the passing of this law without such acknowledgement or proof and recording shall be sufficient to pass away any freehold or inheritance or to grant any lease for above the space of three years.

9. Every deed which shall be made or executed within these Islands, for any estate or interest in land whatsoever shall be duly proved or acknowledged and recorded within ninety days after the date thereof, otherwise to stand void and of no effect against all other purchasers or mortgagees *bona fide* for valuable consideration as aforesaid:

Deeds to be recorded within ninety days

Provided always that in the case of every deed, whether made or executed in or out of these Islands, if a purchaser or mortgagee of any estate or interest in land shall omit to prove and record his deed within the time and pursuant to the manner prescribed by this Law, but shall at any time afterwards do the same, no subsequent conveyance or mortgage being made by the first vendor or mortgagor, his personal representatives or assigns, the same shall nevertheless be good to the said purchaser, mortgagee or personal representatives, and a perpetual bar against the first vendor or mortgagor and his personal representatives, notwithstanding anything to the contrary in this or any other law.

10. All patents granted after the year 1681 and enrolled within six months after the sealing of such patents, as likewise all such patents as are already there enrolled shall be good and valid in law notwithstanding any clause inserted in the said patent directing the contrary.

Sealing

11. Subject to this Law, the records of any letters patent enrolled and the records of any deed duly executed and proved or acknowledged and recorded in accordance with this Law, and the record of any last will and testament duly executed according to law and proved shall at all times be deemed sufficient evidence of the several persons' titles to any estate or interest in land claimed thereunder, and the same shall be read and allowed in every court within these Islands as if the original patent, deed, conveyance or will were actually produced, proved and read in such court.

Records to be sufficient evidence

12. Any mortgagee of any lands, tenements, real or personal estates whatsoever within these Islands, having received full satisfaction and payment of all such

Mortgagees having been paid to enter satisfaction

sum and sums of money as are really due to him by such mortgagor shall, at the request of the mortgagor, enter satisfaction upon the margin of such mortgage, recorded or to be recorded in the office of the Public Recorder which shall forever hereafter discharge, defeat and release the same, and shall likewise perpetually bar all actions brought or to be brought thereupon in any court of record within these Islands; and if such mortgagee shall not, within three months after request and tender made for his reasonable charges, repair to the office of the Public Recorder or other proper office and there make such acknowledgement as aforesaid, he, she, or they so refusing shall, for every such offence, forfeit and pay unto the party or parties aggrieved the sum of one hundred dollars, to be recovered in any court of record within these Islands.

Penalty on persons selling, etc., the same land twice over

13. If any vendor or mortgagor of lands, tenements, or hereditaments within these Islands shall presume to execute a second or other deed of conveyance or sale of the same lands, tenements or hereditaments other than to the first vendee of such lands, tenements or hereditaments, or a second or other deed of mortgage without having taken notice in the said deed of mortgage of the first or prior mortgage or mortgages with which the said land, tenements or hereditaments stand charged at the time of executing the said deed, all and every person and persons so offending shall be tried and punished and subject to like forfeitures and penalties as by the laws of England is provided against all such persons as shall execute deeds of mortgage without taking notice of all prior mortgages made.

Searches in office of Public Recorder

14. All persons interested in making searches in the office of the Public Recorder shall be at liberty to search and examine at such times as may be notified in the Gazette, the public records, registers and indices in the office, and to take abstracts or other short notes of any matters in the same, and to inspect in the presence of some person belonging to the office any original registered deed or writing to which reference is obtained in such searches.

Non-application to certain documents
2004 Revision

15. This Law has no application in respect of any document evidencing any transaction registerable under the Registered Land Law (2004 Revision) in respect of any parcel of land, lease or charge registered under that law.

SCHEDULE

section 2

1. Office of the Governor
2. Office of the Public Recorder
3. Office of the Clerk of the Court
4. Office of the Coroner
5. Office of the Registrar of Lands.

Publication in consolidated and revised form authorised by the Governor in Cabinet this 2nd day of November, 2010.

Kim Bullings
Clerk of Cabinet

(Price \$2.40)