

# **Housing and Development (Amendment) Bill**

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**Bill No. 14/2010 [Urgent Bill].**

*Read the first time on 19th July 2010.*

A BILL

*intituled*

An Act to amend the Housing and Development Act (Chapter 129 of the 2004 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

### Short title and commencement

1. This Act may be cited as the Housing and Development (Amendment) Act 2010 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 Amendment of section 13

2. Section 13 of the Housing and Development Act (referred to in this Act as the principal Act) is amended by inserting, immediately after paragraph (d), the following paragraph:

10 “(da) to provide technical and consultancy services within or outside Singapore, in respect of matters within its expertise acquired in the exercise of its functions under this Act, and to act as an agent for the Government or, with the approval of the Minister, as an agent for another public authority in the provision of such services;”.

### 15 New section 22A

3. The principal Act is amended by inserting, immediately after section 22, the following section:

#### “Power in respect of intellectual property rights

20 **22A.** The Board may create, develop, apply for, acquire and hold intellectual property rights and enter into agreements (whether in Singapore or elsewhere) for the sale, licensing or commercial application of such rights, on its own or in conjunction with other persons.”.

### Amendment of section 27

25 **4.** Section 27(2) of the principal Act is amended —

(a) by deleting the word “and” at the end of paragraph (c); and

(b) by deleting the full-stop at the end of paragraph (d) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

30 “(e) prescribing the penalty (such penalty, if unpaid, to constitute a debt due to the Board and be recoverable as such) to be paid by the person who leases a flat from the Board, for non-observance or non-

compliance with any of the restrictions, conditions or requirements of the lease.”.

### **Repeal and re-enactment of section 51**

5 **5.** Section 51 of the principal Act is repealed and the following section substituted therefor:

**“Property not to be used as security or attached, etc., and no trust in respect thereof to be created without approval of Board**

10 **51.**—(1) Subject to subsection (4), any contract or agreement to directly or indirectly use protected property (or the proceeds of sale of protected property) as security or collateral for any debt, obligation or claim shall be null and void.

15 (2) Any act (including the deposit of title deeds), deed, instrument or document that purports to protect rights under or give effect to any contract or agreement that is null and void under subsection (1) shall be of no effect and shall not result in or create any interest in land or be capable of being registered under the provisions of the Registration of Deeds Act (Cap. 269) or the Land Titles Act (Cap. 157).

20 (3) Where any deed, instrument or document referred to in subsection (2) is registered under the provisions of the Registration of Deeds Act or the Land Titles Act —

25 (a) the Board may, by an instrument lodged with the Registrar of Deeds or the Registrar of Titles, as the case may be, declare such deed, instrument or document to be null and void; and

30 (b) the Registrar of Deeds or the Registrar of Titles shall register the instrument lodged by the Board under paragraph (a) without being concerned to inquire into its regularity or validity, and upon registration thereof shall cancel the registration of such deed, instrument or document declared by the Board to be null and void.

(4) Subsection (1) does not apply if the security or collateral is to be created or granted in favour of —

(a) the Board;

(b) an approved financial institution; or

(c) any person or person belonging to a class of persons prescribed by the Minister as a person to whom, or a class of persons to which, subsection (1) will not apply.

5 (5) No protected property shall vest in the Official Assignee on the bankruptcy of the owner thereof.

(6) No protected property shall be attached in execution of an order of any court unless the order of the court is obtained by —

10 (a) a mortgagee in exercise of his rights under a mortgage created with the prior written consent of the Board over that property; or

(b) a chargee in exercise of his rights under a charge under any written law over that property.

15 (7) Subsections (5) and (6) shall not apply if the sole owner of any protected property is not a citizen of Singapore or, where there is more than one owner, all the owners are not citizens of Singapore.

(8) No trust in respect of any protected property shall be created by the owner thereof without the prior written approval of the Board.

20 (9) Every trust which purports to be created in respect of any protected property without the prior written approval of the Board shall be null and void.

(10) No person shall become entitled to any protected property (or any interest in such property) under any resulting trust or constructive trust whensoever created or arising.

25 (11) In this section —

“approved financial institution” means —

(a) any bank licensed under the Banking Act (Cap. 19);

(b) any finance company licensed under the Finance Companies Act (Cap. 108);

30 (c) any direct insurer registered under the Insurance Act (Cap. 142); and

(d) any merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

“proceeds of sale”, in relation to any property, means the proceeds from any transaction involving the sale, transfer, conveyance, assignment, mortgage, charge or the disposal in any manner of the property or an estate or interest in the property;

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“protected property” means any flat, house or other building that has been sold by the Board under the provisions of this Part;

“Registrar of Deeds” means the Registrar of Deeds appointed under the Registration of Deeds Act (Cap. 269) and includes any Deputy Registrar of Deeds;

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“Registrar of Titles” means the Registrar of Titles appointed under the Land Titles Act (Cap. 157) and includes any Deputy Registrar of Titles and Assistant Registrar of Titles.”.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Housing and Development Act (Cap. 129) to strengthen the protection of flats, houses and buildings sold by the Housing and Development Board (the Board) under Part IV of the Act, in particular, to prevent the use of such property as security or collateral for any debt, obligation or claim, except in favour of specified or approved parties; and to make several other unrelated amendments.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 13 to include a new function for the Board, to allow it to provide technical and consultancy services in respect of matters within its expertise.

Clause 3 inserts a new section to make it clear that the Board has the power to develop and acquire intellectual property rights, and to sell and deal with them on a commercial basis anywhere in the world.

Clause 4 amends section 27 to allow penalties to be prescribed for the breach of restrictions, conditions or requirements in leases for the rental of flats directly from the Board, e.g. penalties for subletting rental flats meant only for those who are in need.

Clause 5 repeals and re-enacts section 51 that —

- (a) implements a new rule that voids any contract or agreement to use property sold under Part IV of the Act (including the proceeds of transactions involving such property) as security or collateral, except in favour of the Board, specified financial institutions and persons prescribed by the Minister. The exception ensures that the use of such property to secure financing for the purchase of the property from the Board or specified

lenders (under the Housing and Development (Mortgage to Lender) Rules (Cap. 129, R 10)) will not be affected;

- (b) prevents any deed, instrument or document that purports to protect rights under or give effect to such contracts or agreements that are voided from having any effect and from being registered under the provisions of the Registration of Deeds Act (Cap. 269) or the Land Titles Act (Cap. 157). An owner may, for his own reasons, decide to execute documents to give effect to a voided contract or agreement. Such documents will also be of no effect, and consequently, no instruments (including caveats) can be filed at the relevant registries on the basis of the purported execution of such void contracts or agreements;
- (c) provides a procedure for the relevant land registries to cancel the registration of any deed, instrument or document that is of no effect; and
- (d) includes all the existing protection in section 51 for property sold under Part IV of the Act, with drafting refinements.

#### EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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