CHAPTER 140

INTERNATIONAL PERSONS LANDHOLDING

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CHAPTER 140

INTERNATIONAL PERSONS LANDHOLDING

An Act to repeal the Immovable Property (Acquisition by Foreign Persons) Act, 3 of 1981, and to facilitate the holding of land by non-Bahamians and by companies under their control.

41 of 1993
12 of 1995
32 of 1995
S.I. 36/2005
S.I. 61/2007
26 of 2009
31 of 2009
9 of 2011

[Assent 31st December, 1993]
[Commencement 1st January, 1994]

Short title.

1. This Act may be cited as the International Persons Landholding Act.

No permit required for certain purchases by non-Bahamians of property.
26 of 2009, s. 2, 3(a).

9 of 2011, s. 2.

2. (1) A non-Bahamian, (other than a permanent resident or a non-Bahamian acquiring land or an interest in land under a devise or by inheritance), who purchases or acquires an interest in a condominium, or property vacant or otherwise to be used as an owner-occupied property or for the construction of premises to be used as an owner-occupied property, shall apply to the Secretary to the Board to register the purchase or acquisition and upon receipt of evidence that the appropriate fee specified in the Schedule has been paid to the Public Treasury, the Secretary to the Board shall register that purchase or acquisition in the register and issue a certificate to the applicant unless the property being acquired is undeveloped land and the non-Bahamian would by virtue of the acquisition become the holder of two or more contiguous acres of land in The Bahamas.

26 of 2009, s. 3(b).

9 of 2011, s. 2.

(2) A permanent resident who acquires land or an interest in land shall apply to the Secretary to the Board to have the acquisition registered with the Board and upon receipt of evidence that the appropriate fee specified in the Schedule has been paid to the Public Treasury, the Secretary to the Board shall register that purchase or acquisition in the register and issue a certificate to the applicant.

26 of 2009, s. 2.

9 of 2011, s. 2.

(3) A non-Bahamian who acquires land or an interest in land under a devise or by inheritance shall apply to the Secretary to the Board to have the acquisition registered with the Board and upon receipt of evidence that the appropriate fee specified in the Schedule has been paid to the Public Treasury, the Secretary to the Board shall register the acquisition in the register and issue a certificate to the applicant.

26 of 2009, s. 2.

(4) An application to the Board to have a purchase or acquisition registered under this section shall be in writing signed by the non-Bahamian who made the purchase or acquisition or his attorney and shall be in the appropriate form in the Schedule.

Permit required for certain purchases of property by non-Bahamians.

3. (1) A non-Bahamian (other than a permanent resident or non-Bahamian acquiring land or an interest in land under a devise or by inheritance) who intends to acquire land or an interest in land either by way of freehold or leasehold and which acquisition is not within section 2(1) shall obtain a permit from the Board to make the acquisition by making the requisite application and producing to the Secretary to the Board evidence that the appropriate fee specified in the Schedule has been paid to the Public Treasury otherwise any acquisition shall be null and void and be without effect for all purpose of law in the absence of such a permit; but the non-Bahamian making the acquisition shall be entitled to recover with such legitimate deductions as may be justified in law any and all monies paid by him as consideration for the acquisition.

26 of 2009, s. 4.

(2) The Board may with respect to an application for a permit in its absolute discretion grant or refuse to grant a permit.

(3) An application to the Board for the grant of a permit shall be in writing signed by the non-Bahamian seeking the permit or his attorney and shall be in the form in the Schedule.

32 of 1995, s. 2.

(4) Notwithstanding anything contained in subsection (1) the Board may in its absolute discretion and on such terms and conditions as it may think fit validate any purported conveyance, mortgage, transfer of mortgage or other acquisition of an interest in land made contrary to subsection (1) by issuing a permit to the non-Bahamian; and the exercise of the power by the Board under this subsection shall have the effect of causing the conveyance, mortgage, transfer of mortgage or other acquisition which by subsection (1) is to be null and void to be valid and of full effect as if it were made subsequent to the grant of a permit.

Recording of registration certificate or permit with acquisition documents in Registrar General's Department.

4. (1) The documents whereby any acquisition by a non-Bahamian of an interest in land is made and to which section 2 applies together with the respective certificate issued by the Secretary to the Board shall be recorded in the Registrar General's Department and where the acquisition is recorded in that Department without requisite certificate that registration shall be null and void and be without effect for all purposes of law.

(2) The documents whereby an acquisition of an interest in land is made and to which section 3 applies shall on being recorded in the Registrar General's Department be accompanied by the requisite permit otherwise the recording in that Department without the permit shall be null and void and be without effect for all purposes of law.

(3) The priority of the transactions relating to the acquisition of land by non-Bahamians shall be no different from that which relates to the acquisition of real property not affected by this Act.

Mortgagee or debenture holder does not require a permit.
Ch. 316.

Ch. 347.

5. Sections 2 and 3 shall not apply where the non-Bahamian acquiring or going into possession of the property is a bank or trust company licensed under the provisions of the Banks and Trust Companies Regulation Act, or any other Act replacing it or an insurer registered under the provisions of the Insurance Act, or any other Act replacing it where the acquisition or going into possession is under a mortgage or debenture.

Holding of land acquired by a non-Bahamian under order of a court or by going into possession as a mortgagee.

31 of 2009, s. 2.

6. Where a non-Bahamian acquires any land or an interest in land by reason of that property becoming vested in him by virtue of any order of a court or where a non-Bahamian goes into possession of property as a mortgagee, then he shall make application to the Board to have the acquisition or going into possession registered with the Board and upon receipt of evidence that the appropriate fee specified in the Schedule has been paid to the Public Treasury, the Secretary to the Board shall register that acquisition or going into possession and issue a certificate of registration to the applicant.

Exemption of religious organisations.
12 of 1995, s. 2.

Ch. 308.

7. Nothing in sections 2 and 3 shall be construed so as to require a certificate of registration or the grant of a permit in respect of the acquisition of immovable property by any religious organisation incorporated as a non-profit company in accordance with Part VI of the Companies Act, or incorporated by Act of Parliament either in its own

name or in the name of any of its functionaries including trustees.

Only Registration with Board required in certain cases.

8. Nothing in section 3 shall be construed so as to require the grant of a permit —

(a) in respect of the acquisition of a non-Bahamian of any immovable property by way of judgment for foreclosure under a mortgage; or

(b) in respect of a foreign state upon which there has been conferred by agreement or treaty the right to acquire immovable property in The Bahamas,

save however the non-Bahamian or the foreign state, as the case may be, shall make application to the Board to have that acquisition of interest in immovable property registered with the Board and upon receipt of evidence that the appropriate fee (if any) specified in the Schedule has been paid to the Public Treasury, the Secretary to the Board shall register that acquisition and issue a certificate of registration to the applicant.

31 of 2009, s. 3.

Requirement to register certain business leases.

9. (1) Nothing in this Act shall be construed so as to require the registration with, or the grant of a permit by, the Board of the acquisition of an interest in immovable property under a lease or letting agreement unless the lease or letting agreement is for the purpose of trade or business and enables the lessee or tenant to prolong the term beyond twenty-one (21) years in which case the lessee or tenant shall register the lease or letting agreement with the Board by making application and producing to the Secretary to the Board evidence that the appropriate fee specified in the Schedule has been paid to the Public Treasury.

26 of 2009, s. 5.

(2) A lease or letting agreement to which subsection (1) applies shall in the absence of registration with the Board be null and void and be without effect for all purposes of law.

Non-Bahamian to pay same stamp duty as Bahamian.

10. (1) The rate of stamp duty payable by a non-Bahamian in respect of a transaction relating to the acquisition of an interest in land shall be the same as that which would be payable by a Bahamian.

26 of 2009, s. 6.

26 of 2009, s. 6.

(2) Every permit granted by the Board under this Act shall be subject to the payment of stamp duty payable at the rate applicable on the date on which the permit is granted.

Issue of an annual residence card to a non-Bahamian.

Ch. 191.

11. A non-Bahamian who owns a home in The Bahamas shall be entitled to make application to the Director of Immigration for an annual home owner resident card and the Director shall, notwithstanding anything to the contrary in the Immigration Act upon being satisfied of that ownership and that such person is not a member of a prohibitive class of persons within the meaning of the Immigration Act or is not otherwise undesirable and is able to maintain himself and his dependants in The Bahamas issue the card to the applicant upon payment by him of the specified fee in the Schedule entitling him, his spouse and minor children (if any) to enter and remain in The Bahamas for the duration of the card unless any of them is otherwise prohibited under the provisions of that Act from entry into The Bahamas.

Establishment of the Board.
26 of 2009, s. 7.
31 of 2009, s. 4.

12. (1) There is established for the purposes of this Act, an Investments Board which shall consist of —

(a) the Prime Minister, who shall be the Chairman of the Board; and

(b) such other Ministers as may be appointed by the Prime Minister.

(2) Subject to the provisions of this Act the Board may regulate its own proceedings.

(3) The Secretary to the Board shall maintain a register in such form and containing such particulars as the Board may direct for the purpose of effecting the registrations required by section 2.

(4) Notwithstanding anything to the contrary in any law a permit issued under the repealed Act shall be of the same effect as if it were issued by the Board under this Act and in that behalf the Board may extend the duration of or vary or delete any conditions to which that permit was issued as the Board sees fit upon application by the holder of the permit.

(5) The Board may in its absolute discretion and on such terms and conditions as it may think fit validate any purported acquisition or conveyance made contrary to the provisions of the repealed Act before the coming into operation of this Act by issuing such permit as was necessary as if those provisions had not been repealed and the exercise of this power by the Board shall have the effect of causing the acquisition or conveyance to be full effect as if it were made subsequent to the grant of the permit.

(6) Where a non-Bahamian pursuant to an application has obtained a permit and in which application the intended usage of the property acquired has been stated and there is subsequent to the issue of the permit a change in that usage the non-Bahamian shall make application to the Board for a variation of the permit, otherwise the permit shall cease to be valid:

26 of 2009, s. 7.
31 of 2009, s. 4.

Provided that no variation is required where the change in usage of the property is from an exclusive dwelling house to property that is leased or rented on a seasonal basis.

Amendment of Schedule.

13. The Governor-General may, on the advice of the Board, by order amend the Schedule.

Interpretation
26 of 2009, s. 8.

14. (1) In this Act —

"Bahamian company" means a company incorporated and registered in The Bahamas where all its shares or other capital is beneficially owned by one or more citizens of The Bahamas directly or through another Bahamian company and it is not in any manner, whether directly or indirectly controlled by any non-Bahamians;

"the Board" means the Investments Board that is established under section 12;

"certificate" means a certificate of registration issued by the Secretary to the Board under section 3 certifying that an acquisition by a non-Bahamian to which that section applies has been duly registered;

"debenture" includes every mortgage or charge by a company, whether floating or otherwise, on any of the company's property or on its undertaking or on its uncalled capital, and also every obligation by the company (not being a bill of exchange or promissory note) for payment of a debt or the repayment of monies lent or to be lent, and also debenture stock;

"non-Bahamian" means —

(a) a person who is not a citizen of The Bahamas; or

(b) a company incorporated in The Bahamas under the Companies Act where any of its shares or other capital is beneficially owned by a person

Ch. 308.

who is not a citizen or where it is in any manner, whether directly or indirectly, controlled by one or more of those persons; or

(c) a company formed and incorporated at any place outside The Bahamas; or

(d) an international organisation;

"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; *26 of 2009, s. 8.*

"permanent resident" means a person to whom a valid and subsisting permanent residence certificate granted under section 13 of the Immigration Act relates, and a wife or dependent child of such a person whose name is endorsed on the certificate under section 14 of that Act; Ch. 191.

"permit" means a permit granted under section 3 by the Board for the purposes of this Act authorising the acquisition, or as the case may be, the holding of land by a non-Bahamian;

"register" means the register kept by the Secretary to the Board under section 12;

"Secretary to the Board" means the person designated by the Prime Minister by notice in the *Gazette* as performing the functions of Secretary to the Board for the purposes of this Act;

"share" includes stock, and, in the case of a company not having a share capital, the interest or equity of a member in the assets of the company.

(2) No share shall be deemed to be beneficially owned by a citizen of The Bahamas or a Bahamian company if —

(a) the citizen of The Bahamas or the Bahamian company owning that share is in any way under any obligation, other than by way of a *bona fide* mortgage or debenture, to, or otherwise may exercise any right attaching to that share at the instance of, or for, the benefit of any non-Bahamian; or

(b) that share is held by the citizen of The Bahamas or the Bahamian company jointly or severally with a non-Bahamian.

(3) Notwithstanding subsection (2), a share shall be deemed to be beneficially owned by a citizen of The Bahamas or a Bahamian company if —

(a) it is owned by a citizen of The Bahamas or a Bahamian company as trustee and every person having a beneficial interest in the trust is a citizen of The Bahamas or a Bahamian company;

(b) it is owned by a citizen of The Bahamas or a Bahamian company as a nominee for another who is also a citizen of The Bahamas or a Bahamian company and no one is in any way under an obligation, other than by way of a *bona fide* mortgage or debenture, to exercise any right attaching to that share at the instance of, or for the benefit of, any person who is a non-Bahamian.

(4) For the purpose of this Act, a body or owner association of persons, whether corporate or not shall be deemed to be controlled by a non-Bahamian, if the Board is satisfied that effective control is, either directly or indirectly, or by reason of any arrangement, artifice or device vested in, or permitted to pass to, persons who are not citizens of The Bahamas or Bahamian companies.

(5) The provisions of this Act shall not apply to any share held by a company registered under the provisions of the Banks and Trust Companies Regulation Act, or the Insurance Act, as a trustee of a settlement established by a citizen of The Bahamas.

Ch. 316.
Ch. 347.

SCHEDULE

FORMS (Part A)

INTERNATIONAL PERSONS LANDHOLDING ACT

S.I. 61/2007

FORM 1
APPLICATION FOR CERTIFICATE OF REGISTRATION

To: Secretary to the Board

Investments Board

P.O. Box CB-10980

Nassau, The Bahamas

Full Name of Applicant(s):

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Residential/Registered Address of Applicant(s):

.....

.....

Date of Birth: .....Place of Birth: .....

Dd/mm/yr:

Nationality of Applicant(s)[1]: .....

Occupation: .....

Bahamas Immigration Status (if any)

( ) Permanent Residence ( ) Residence Spouse

( ) Work Permit ( ) Annual Residence ( ) Other. .....

Description and location of property held/to be acquired by the Applicant

(exact size, i.e. acreage or dimensions, site plan)

[1] In the case of a foreign person who is a body corporate state the amount of shares or stock issued, the respective nationality of the beneficial owners thereof and the liens existing against such shares or stock on a separate sheet. Where needed further details may be submitted on an attached sheet and signed.

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Condition of Property: ( ) Developed ( ) Undeveloped

Intended use of property being acquired:

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A list of properties (if any) in The Bahamas presently held by the Applicant(s) (Provide conditions of property state whether vacant (size) or developed)

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Name, Address, Nationality of Vendor or (Beneficial Owners of Vendor Company)

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Purchase price and state how funded and whether by local or foreign source (Value where applicable)

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Purpose for which property is being or to be used - where land is to be used for development purposes, state the nature and extent of the development, the period of time within which such will be carried out and how the cost thereof will be funded

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Signature of Applicant or His Attorney

INTERNATIONAL PERSONS LANDHOLDING ACT

REQUIREMENTS FOR CERTIFICATE OF REGISTRATION

Applicants wishing to apply for a Certificate of Registration are required to complete the whole form overleaf and submit along with the following:

(A) Copy of National Photo Identification (Passport National Identification Card, Social Security Card or Driver's Licence, etc,)

(B) Written confirmation that due diligence has been completed to meet "Know Your Customer" requirements. pursuant to the Financial Transactions Reporting Act.

(C) Police Record/Certificate from Country of Residence or Sworn Affidavit where applicable

(D) Copy of site plan of land being acquired/purchased (please include size)

(E) Bahamas Immigration Status

(F) Real Property Tax Assessment Number

(G) Evidence of Payment of Real Property Tax (must be current)

(H) If applicant is a Bahamian Registered Company a copy of Certificate of Incorporation/Registration is required

(I) Financial Reference

(J) Source of Wealth of self employed. state in which field and provide proof thereon

(K) Copy of relevant conveyance evidencing payment of Stamp Duty thereon

Note:

In respect of Companies, due diligence documents are required for each of the beneficial owners.

Properties valued under $10,000 do not require due diligence.

Fee of $250.00 payable to the Public Treasury upon approval of application.

FOR OFFICIAL USE ONLY

( ) Copies of Photo Identification

( ) Copy of Proof of Immigration Status

( ) Source of Wealth

( ) Police Record/Certificate

( ) Evidence of payment of Real Property Tax

( ) Financial and Character References

( ) Copy of Site Plan

( ) Copy of Certificate of Incorporation/Registration in The Bahamas on Behalf of Applicant Company

FORM 2
CERTIFICATE OF REGISTRATION
ISSUED BY THE INVESTMENTS BOARD

INTERNATIONAL PERSONS LANDHOLDING ACT

This is to certify that the acquisition of the following property to wit:

has been registered with the Investments Board on the ..... day of ..... 20 ..... in the name of: ..... for use as .....

.....
Secretary to the Board
Investments Board

.....
DATE

FORM 3
APPLICATION FOR PERMIT

S.I. 61/2007

INTERNATIONAL PERSONS LANDHOLDING ACT

To: Secretary to the Board
Investments Board
P.O. Box CB-10980
Nassau, The Bahamas

Full Name of Applicant(s):
.....
.....
.....

Residential/Registered Address of Applicant(s):
.....

Date of Birth: .....Place of Birth: .....
Dd/mm/yr:

Nationality of Applicant(s)[1] .....
Occupation: .....

Bahamas Immigration Status (if any)

( ) Permanent Residence ( ) Residence Spouse
( ) Work Permit ( ) Annual Residence ( ) Other .....

Description and location of property held/to be acquired by the Applicant

(exact size, i.e. acreage or dimensions, site plan)
.....
.....
.....

Condition of Property: ( ) Developed ( ) Undeveloped

[1] In the case of a foreign person who is a body corporate state the amount or shares or stock issued, the respective nationality of the beneficial owners thereof and the liens existing against such shares or stock on a separate sheet. Where needed further details may be submitted on an attached sheet and signed

Intended use of property being acquired:

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.....

A list of properties (if any) in The Bahamas presently held by the Applicant(s) (Provide conditions of property; state whether vacant (size) or developed)

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Name, Address, Nationality of Vendor or (Beneficial Owners of Vendor Company)

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Purchase price and state how funded and whether by local or foreign source (Value where applicable)

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Purpose for which property is being or to be used; where land is to be used for development purposes, state the nature and extent of the development, the period of time within which such will be carried out and how the cost thereof will be funded

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Signature of Applicant or His Attorney

INTERNATIONAL PERSONS LANDHOLDING ACT

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REQUIREMENTS FOR PERMIT

Applicants wishing to apply for a Permit are required to complete the whole form overleaf and submit along with the following:

(A) Copy of National Photo Identification (Passport, National Identification Card, Social Security Card or Driver's Licence, etc.)

(B) Written confirmation that due diligence has been completed to meet "Know Your Customer" requirements, pursuant to the Financial Transactions Reporting Act

(C) Police Record/Certificate from Country of Residence or Sworn Affidavit where applicable

(D) Copy of site plan of land being acquired/purchased (please include size)

(E) Bahamas Immigration Status

(F) Real Property Tax Assessment Number

(G) Evidence of Payment of Real Property Tax (must be current)

(H) If applicant is a Bahamian Registered Company a copy of Certificate of Incorporation/Registration is required

(I) Financial Reference

(J) Source of Wealth (If self employed, state in which field and provide proof thereof)

(K) Copy of relevant conveyance evidencing payment of Stamp Duty thereon

Note:

In respect of Companies, due diligence documents are required for each of the beneficial owners.

Properties valued under $10,000 do not require due diligence.

Fee of $500.00 payable to the Public Treasury.

FOR OFFICIAL USE ONLY

( ) Copies of Photo Identification

( ) Copy of Proof of Immigration Status

( ) Source of Wealth

( ) Police Record Certificate

( ) Evidence or payment or Real Property Tax

( ) Financial and Character References

( ) Copy of Site Plan

( ) Copy of Certificate of Incorporation/Registration in The Bahamas on behalf of Applicant Company

FORM 4
PERMIT ISSUED BY THE INVESTMENTS BOARD

INTERNATIONAL PERSONS LANDHOLDING ACT

To:

Permission is hereby granted you to acquire/hold the following property to wit —

for use.....

.....
Secretary to the Board
Investments Board

.....
DATE

S.I. 61/2007

FEES (Part B)

	$
Fee for certificate of registration	250
Fee for permit	500
Fee for home owner's annual resident card	250