

Jersey Law 5/1994

BUILDING LOANS (AMENDMENT No. 12) (JERSEY) LAW 1994

A LAW to amend further the Building Loans (Jersey) Law 1950, sanctioned by Order of Her Majesty in Council of the

15th day of MARCH 1994

(Registered on the 22nd day of April 1994)

STATES OF JERSEY

The 12th day of October 1993

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

ARTICLE 1

In the long title to the Building Loans (Jersey) Law 1950, as amended¹ (hereinafter referred to as “the principal Law”), after the word “acquire” there shall be inserted the words “dwelling-houses and shares in companies which own dwellings and to”.

ARTICLE 2

In Article 1 of the principal Law² –

- (a) after the definition of “the Committee” there shall be inserted the following definitions –

¹ Tome VII, page 667.

² Tome VII, page 667, and Volume 1990–1991, page 1113.

“ ‘company’ means a company incorporated under the law of the Island;

‘company-owned dwelling’ means a building or a self contained part of a building used or to be used wholly or principally for human habitation and any outhouses, appurtenances and any other rights and interests belonging thereto or usually enjoyed therewith, which is in the ownership of a company;”;
and

- (b) after the definition of “loan” there shall be inserted the following definitions –

“ ‘security agreement’ and ‘security interest’ have the same meanings, respectively, as in the Security Interests (Jersey) Law 1983,³ as amended.”.

ARTICLE 3

In Article 3 of the principal Law ⁴–

- (a) for the full stop at the end of sub-paragraph (f) there shall be substituted a semi-colon; and
- (b) after sub-paragraph (f) there shall be inserted the following sub-paragraph –

“(g) acquiring shares in a company the ownership of which shares confers an exclusive right to occupy a company-owned dwelling.”.

³ Volume 1982–1983, page 105.

⁴ Tome VII, page 668.

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ARTICLE 4

In paragraph (1) of Article 5 of the principal Law⁴ for the word “Every” there shall be substituted the words “Except as provided by Article 5A of this Law, every”.

ARTICLE 5

After Article 5 of the principal Law there shall be inserted the following Article –

“ARTICLE 5A

Security for loans made under sub-paragraph (g) of Article 3 of this Law and interest thereon

(1) Every loan made for the purpose specified in sub-paragraph (g) of Article 3 of this Law shall be secured by a security interest in the shares in relation to which the loan is made in such form as the States may by Regulations prescribe.

(2) The provisions of Article 5 of this Law in relation to the rate of interest on a loan shall apply *mutatis mutandis* to a loan made for the purpose specified in sub-paragraph (g) of Article 3 of this Law.”.

ARTICLE 6

Article 7 of the principal Law⁵ shall be renumbered as paragraph (1) of that Article and –

(a) in that paragraph for the word “Save” there shall be substituted the words “Subject to paragraph (2) of this Article and save”;

⁵ Tome VII, page 670.

- (b) after that paragraph there shall be inserted the following paragraphs –

“(2) No loan shall be made for the purpose specified in sub-paragraph (g) of Article 3 of this Law where the shares in relation to which the loan is to be made are not or will not be in the sole ownership of the person to whom the loan is to be made or where the shares are subject to or charged with any security or other interest.

(3) Nothing in paragraph (2) of this Article shall prevent the securing of the loan by vesting the shares in relation to which the loan is made in the Committee.”.

ARTICLE 7

In Article 8 of the principal Law⁶ –

- (a) for the full stop at the end of sub-paragraph (d) there shall be substituted a comma; and
- (b) after sub-paragraph (d) there shall be inserted the following paragraph –

“(e) where the loan is required for the purpose specified in sub-paragraph (g) of that Article, the amount which, in the opinion of the Committee, is the value of the company-owned dwelling concerned.”.

ARTICLE 8

(1) In the heading to Article 9 of the principal Law⁷ after the word “HOUSE” there shall be inserted the words “OR DWELLING”.

(2) In Article 9 of the principal Law⁷ there shall be inserted

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⁶ Tome VII, page 670.

⁷ Tome VII, page 671.

- (a) after the words “sub-paragraph (a)” the words “or sub-paragraph (g)”; and
- (b) before the words “to be acquired” the words “or company-owned dwelling, as the case may be,”.

ARTICLE 9

(1) For Article 11 of the principal Law⁸ there shall be substituted the following Articles –

“ARTICLE 11

Insurance of property

(1) This Article applies to loans made for any of the purposes of sub-paragraphs (a) to (f) of Article 3 of this Law which are secured on a property other than a *lot*.

(2) Subject to paragraph (3) of this Article, in the case of a loan to which this Article applies which was made before the relevant date, until such time as the principal of the loan together with the interest thereon has been repaid, the property on which the loan is secured shall be kept insured against fire by the Committee in the name of the States, as holders of the hypothec, and the name of owner, and the premiums payable in respect of the insurance shall be refunded by the owner on demand therefor being made by or on behalf of the Committee.

(3) In the case of a loan to which this Article applies which was made before the relevant date, the owner of the property on which the loan is secured may agree with the Committee that he will insure the property on which the loan is secured, and in the event of such agreement, it shall be the responsibility of the owner, with effect from such date as may have been agreed and until the principal of the loan together with the interest thereon has been repaid, to keep the property

⁸ Tome VII, page 671, and Volume 1990–191, pages 1113 and 1114.

insured against fire in the name of the States as holders of the hypothec and in his own name.

(4) In the case of a loan to which this Article applies which is made after the relevant date, the owner of the property on which the loan is secured shall, until such time as the principal of the loan together with the interest thereon has been repaid, keep the property insured against fire in the name of the States as holders of the hypothec, and in his own name.

(5) In this Article –

‘lot’ means a ‘lot’ within the meaning of Article 1 of the ‘Loi (1991) sur la copropriété des immeubles bâtis’⁹; and

‘relevant date’ means the date on which the Building Loans (Amendment No. 12) (Jersey) Law 1994 comes into force.

ARTICLE 11A

Insurance of lots

(1) This Article applies to a loan which is secured on a *lot*.

(2) In the case of a loan to which this Article applies, until such time as the principal of the loan together with the interest thereon has been repaid, the property comprising the *lot* shall be kept insured against fire by the *association des copropriétaires* in relation to that property and the interest of the States, as holders of the hypothec, shall be endorsed on the policy.

(3) In this Article –

⁹ Volume 1990–1991, page 1095.

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‘*Lot*’ has the same meaning as in Article 11 of this Law; and

‘*association des copropriétaires*’ means an *association* constituted under Article 5 of the ‘Loi (1991) sur la copropriété des immeubles bâtis’.¹⁰

ARTICLE 11B

Insurance of company-owned dwellings

(1) This Article applies to loans made for the purpose of sub-paragraph (g) of Article 3 of this Law.

(2) In the case of a loan to which this Article applies, until such time as the principal of the loan, together with the interest thereon, has been repaid, the company-owned dwelling which the person to whom the loan was made is entitled to occupy shall be insured against fire by the company which owns the dwelling and the interest of the States, as holders of the security interest in the shares in relation to which the loan was made, shall be endorsed on the policy.”

(2) Sub-paragraph (b) of paragraph (7) of Article 16 of the “Loi (1991) sur la copropriété des immeubles bâtis”¹¹ shall be deleted.

ARTICLE 10

In Article 12 of the principal Law¹² –

(a) in paragraph (1) for the word “Until” there shall be substituted the words “Except where a loan is made for the purpose specified in sub-paragraph (g) of Article 3 of this Law, until”; and

¹⁰ Volume 1990–1991, page 1100.

¹¹ Volume 1990–1991, page 1113.

¹² Tome VII, page 671.

- (b) after paragraph (2) there shall be inserted the following paragraph –

“(3) Where a loan is made for the purpose specified in sub-paragraph (g) of Article 3 of this Law, until such time as the principal of the loan, together with the interest thereon has been repaid, the following conditions, which shall be included in the security agreement establishing the security interest on which the loan is secured, shall be observed with respect to the shares on which the loan is secured –

- (a) the shares, if title to them is not vested in the Committee, shall not be sold or otherwise disposed of *inter vivos* except with the consent of the Committee which shall not grant such consent where the person to whom the shares would be transferred is, by virtue of any Regulations made under Article 15 of this Law, a person to whom a loan may not be made;
- (b) the owner of the shares, if title to them is not vested in the Committee, shall not, by act or omission on his part, except with the consent in writing of the Committee, and subject to any conditions attached to such consent, suffer any security interest or other interest to become charged on the shares other than that held by the Committee;
- (c) every sum due in respect of principal and interest of the loan and the insurance of the dwelling shall be punctually paid;
- (d) the owner of the shares shall both occupy and reside in the dwelling and shall not part with possession of the same except with the consent in writing of the Committee;

- (e) all reasonable steps shall be taken to secure the maintenance of the dwelling and any common parts of the building in which the dwelling is situated to the extent to which the owner of the shares is responsible therefor;
- (f) the dwelling shall not be used for any purposes other than those of a private dwelling except with the consent in writing of the Committee and then only for such further purposes and to such extent as may be specified in that consent;
- (g) the Committee and its agents or servants shall be permitted to enter the dwelling at all reasonable times for the purpose of ascertaining whether the foregoing conditions and any other conditions of the security agreement are being complied with;
- (h) if and to the extent that ownership of the shares acquired with or with the aid of a loan confers on the owner of those shares any rights including rights to vote at any meeting of the company those rights shall not be exercised without the prior consent in writing of the Committee.”.

ARTICLE 11

After paragraph (7) of Article 13 of the principal Law¹³ there shall be inserted the following paragraph –

“(8) In the event of a breach of any of the conditions mentioned in paragraph (3) of Article 12 of this Law or any other provision of the security agreement which is by virtue thereof made an event of default, the Committee shall without prejudice to any other rights of the Committee under the security

¹³ Tome VII, page 674.

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agreement, have the power of sale given by Article 8 of the Security Interests (Jersey) Law 1983,¹⁴ as amended, and may exercise that power in accordance with the provisions of that Article.”.

ARTICLE 12

In Article 15 of the principal Law¹⁵ after the words “to secure a loan” there shall be inserted the words “or the costs of creating a security interest to secure a loan”.

ARTICLE 13

This Law may be cited as the Building Loans (Amendment No. 12) (Jersey) Law 1994 and shall come into force on such day as the States may by Act appoint.

G.H.C. COPPOCK

Greffier of the States.

¹⁴ Volume 1982–1983, page 111.

¹⁵ Tome VII, page 675.