



**COUNTRY  
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## **Bahamas REAL ESTATE**

### **Contributor**

Lennox Paton



**Nateisha L. Anderson-Bain**

Partner | [nbain@lennoxpaton.com](mailto:nbain@lennoxpaton.com)

This country-specific Q&A provides an overview of real estate laws and regulations applicable in Bahamas.

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# BAHAMAS REAL ESTATE



## 1. Overview

The Bahamas is a country with a stable economy and robust real estate and investment market. It has an unregistered land system which is based on the conveyancing laws of England and Wales prior to 1925 and the English common law system.

## 2. What is the main legislation relating to real estate ownership?

In The Bahamas, the following legislations are key to real estate ownership:

- a. The Conveyancing and Law of Property Act, 1909 governs the sale of land, leases and forfeitures, mortgages including actions relating to powers of sale, receivership, foreclosure and redemption and the construction and effect of deeds and other instruments.
- b. The Law of Property and Conveyancing (Condominium) Act, 1965 governs the creation and management of condominium property and the title to condominium units.
- c. The Bahamas Vacation Plan and Time-Sharing Act, 1999 governs the creation, regulation and management of time-share interest.

## 3. Have any significant new laws which materially impact real estate investors and lenders come into force since December 2022 or are there any major anticipated new laws which are expected to materially impact them in the near future?

There have been no significant laws that have come into force since December 2022 that may materially impact investors and lenders. However, real property reform legislations have been drafted and are being actively discussed. The main goal of this reform legislation is to establish a registered land system in The Bahamas. At the time of writing, the Bahamian government is requesting recommendations from practitioners on the draft bills. If these laws are passed, it would likely take a

number of years to codify the title deeds, cause list registries and establish a land registry, however, once completed, the title review process would be less onerous. There is also a proposal to amend the Law of Property and Conveyancing (Condominium) Act following a recent ruling of the Court of Appeal.

## 4. How is ownership of real estate proved?

Although The Bahamas has an unregistered land system, at the closing of a sale transaction, the conveyance deed is lodged for recording in the Registry of Records of Deeds and Documents. This is important to establish priority under the Registration of Records Act, 1928 and put the world on notice as to the ownership and interest in the property and secure priority against the subsequent recording of any mortgage, charge or agreement in the Registry which can potentially affect title to the property.

## 5. Are there any restrictions on who can own real estate?

Generally, there are no restrictions on who can own real estate. However, non-Bahamians must obtain regulatory approvals to acquire land. These approvals vary based on a number of factors, including, whether the purchaser will be a first-time owner of Bahamian real property or a subsequent owner, the intended use for the acquisition of the land, the amount of land being acquired, whether financing is necessary and whether the purchaser is a Permanent Resident of The Bahamas.

The acquisition of land by non-Bahamians is mainly regulated by the International Persons Landholding Act, 1993.

The non-Bahamian may obtain a "Certificate of Registration" after closing of the transaction where the non-Bahamian is (i) a Permanent Resident of The Bahamas or (ii) purchasing real estate in The Bahamas for the first time and intends to use the property for residential purposes, provided that the property is not

undeveloped land and the non-Bahamian would not become the owner of two or more contiguous acres of land. In either of these situations, the Certificate of Registration will be issued by the Investments Board of the Bahamas Investment Authority in the name of the non-Bahamian purchaser and will be annexed to the conveyance of the property and recorded in the Registry of Records. The fee for the Certificate of Registration is \$250 in Bahamian dollars or United States dollars.

Where (i) a non-Bahamian holds real estate in The Bahamas and the acquisition would be their second or subsequent purchase or (ii) the purchase is for investment or commercial purposes, then the non-Bahamian would be required to obtain a "Permit" issued by the Investments Board of the Bahamas Investment Authority. A Permit must be obtained prior to the closing of the sale transaction and annexed to the conveyance prior to its recording in the Registry of Records, otherwise, the acquisition of the property by the non-Bahamian would be deemed null and void. This may be rectified by applying to the Investments Board of the Bahamas Investment Authority for a validation Permit which once issued would need to be annexed to the Conveyance and re-recorded in the Registry of Records which would have the effect of validating the acquisition of the property by the non-Bahamian. The fee for the Permit is \$1,000 in Bahamian dollars or United States dollars.

Additional approval is required for non-Bahamians who intend to acquire property for major development projects or who seek a major investment in real estate. A project proposal application must be submitted to the National Economic Council which is a committee within the Bahamas Investment Authority. This committee is usually comprised of the prime minister, other cabinet ministers and senior government and policy officials. There is a general format for the project proposal application which requires information with respect to the beneficial owners, the description of the project, the location, start date, management and personnel requirements, capital investment, employment projection, financial arrangements, environmental impact and economic impact and business plan.

Depending on the nature of the real estate investment, it may also be necessary to obtain approvals from the Exchange Control Department of the Central Bank of the Bahamas prior to completion.

## **6. What types of proprietary interests in real estate can be created?**

Real property may be held as:

a. freehold estate or fee simple title – held beneficially by the owner of record indefinitely with unrestricted right to alienate or if an individual the fee simple title may pass through his or her estate; b. leasehold – held beneficially by the owner of record as landlord and lessor but leased to the tenant (as lessee) for the term of the lease; c. life interest in freehold estate; and d. co-ownership in freehold estate (tenants-in-common or joint tenancy)

## **7. Is ownership of real estate and the buildings on it separate?**

No. Ownership of real property includes land, buildings and all immovable, permanent fixtures to the land.

## **8. What are common ownership structures for ownership of commercial real estate?**

Commercial real estate is commonly held in corporate structures. There are three overarching entities commonly used:

a. A company incorporated under the Companies Act, 1992, which is usually used by Bahamians; b. An International Business Company incorporated under the International Business Company Act, 2000, which is usually incorporated in The Bahamas for use by non-Bahamians; and c. A foreign entity, which is usually used by non-Bahamians who have companies registered or incorporated in other jurisdictions and wish for that entity to be registered as a foreign entity under the Companies Act, 1992 (eg. foreign corporation, limited liability company or limited partnerships).

Currently, The Bahamas has no direct corporation taxation, therefore, there is generally no benefit or disadvantage from a Bahamian tax perspective for foreign investors as it relates to purchasing real estate through any of these entities.

## **9. What is the usual legal due diligence process that is undertaken when acquiring commercial real estate?**

As The Bahamas operates on an unregistered land system, physical title, cause list and company searches need to be conducted at the relevant registries to ensure that title is good and marketable. Therefore, when acting for a purchaser or lender in the acquisition of, or security over, real property, an attorney must investigate the title to the property. This is to ensure that the title is free and clear from all encumbrances. This investigation requires that the attorney search the Registry of Deeds and

Documents, the Supreme Court Civil Registry and the Companies Registry among other registries, if necessary.

A seller of land must deduce title going back to a "good root" which is title that is good and marketable for a period of at least thirty years or title must otherwise commence with a grant or lease by the Crown or a certificate of title granted by the court pursuant to the Quieting Titles Act, whichever is shorter. The title deeds going to a good root must be in an unbroken chain from the good root title deed to the seller's title deed and deeds after 1<sup>st</sup> November, 1983 must also have proper regulatory approvals annexed to the deeds. This is expounded on more in number 5 above.

The purchaser's attorney must conduct these searches and review the title to ensure the purchaser is protected and that title is good and marketable prior to the completion of the sale. The purchaser's attorney may raise requisitions or queries on title with the seller's attorney where any ambiguity arises as a result of the searches and reviews. The seller's attorney is required to answer these requisitions to the satisfaction of the purchaser's attorney and in accordance with legislation or common law to allow the sale to proceed.

Once the purchaser's attorney has conducted title, cause list and company searches and is satisfied that there are no title issues, the attorney will provide the purchaser with an opinion on title confirming that title is good and marketable or may otherwise advise of any deficiencies, liens, or encumbrances that exist with respect to the title. The firm's opinion on title is usually limited to the purchase price of the property or the firm's professional indemnity insurance, whichever is less.

It should be noted that title insurance is also offered in The Bahamas by title insurance agents who offer policies on behalf of international title insurance underwriters. In these cases, the attorneys will review title and confirm to the title agent that title to the property is good and marketable and the underwriter will issue a title insurance policy in favour of the purchaser insuring the property from any title defects not excepted in the title insurance policy up to the purchase price.

#### **10. What legal issues (if any) cannot be covered by usual legal due diligence?**

Legal issues can generally be covered by usual legal due diligence provided a competent lawyer is engaged. However, as The Bahamas does not have a registered land system, certain issues may exist that would not be ascertained from usual due diligence and would therefore, be qualified in the attorney's title opinion. Some of these matters are:

a. accuracy or veracity of the indices of the Registry of Records or the records of the Supreme Court or of the searches produced by any title research company.

Accordingly, there may be judgments or orders outstanding and which affect the title to the property where the same cannot be found by inspection of the Cause List Books and in the indices of such Books.

b. any document or documents relating to the title to the property which may have been lodged for record at the Registry of Records, thus obtaining priority, but which were not available for inspection or otherwise made known to the public at the time of the searches.

c. opinions on title are based strictly on the documentary title to the property and do not include a physical inspection of the property, and therefore, no opinions are expressed as to whether or not the property is occupied by tenants; there are trespassers on the property; there are boundary encroachments on the property; there are easements existing otherwise than by grant that are not visible on title searches; and surveyor markers are in place.

d. attorneys do not conduct appraisals of the value of the property and therefore provide no opinion thereon.

e. no opinion is provided on whether the property is suitable for the purpose for which it was acquired.

#### **11. What is the usual process for transfer of commercial real estate?**

After the Agreement for Sale has been executed by the seller and purchaser and title, cause list and company searches have been reviewed and title has been deemed good and marketable by the purchaser's attorney, the seller's attorney will prepare a draft deed of conveyance to be reviewed and approved by the purchaser's attorney. Once approved by the purchaser's attorney, the seller's attorney will have the conveyance duly executed by the seller and the original duly executed deed in favour of the purchaser together with the back title deeds and documents going back to a good root will be delivered to the purchaser's attorney either in escrow pending receipt by the seller's attorney of the sales proceeds or in person at the seller's chambers to be exchanged simultaneously with the closing proceeds either initiated by wire transfer or delivered by cheque.

Once the transaction is closed and any escrow is released, the purchaser's attorney will submit the deed of conveyance to the Department of Inland Revenue together with the applicable payment of Value Added Tax levied on the transaction (as discussed further in number 17 below) for stamping. Once the payment has

been accepted by the Department of Inland Revenue, the conveyance will be duly stamped and the original returned to the purchaser's attorney. Once returned (and once the relevant Investments Board Certificate of Registration or Permit has been obtained as it relates to non-Bahamian purchasers), the purchaser's attorney will lodge the conveyance in the Registry of Records for recording. Presently, the cost for recording is \$4.50 (in Bahamian or United States dollars) per page. Once the deed is recorded in the Registry of Records, the original is returned to the purchaser's attorney, which may either be retained by the law firm in a fireproof safe or delivered to the purchaser.

## **12. Is it common for real estate transfers to be effected by way of share transfer as well as asset transfer?**

A purchaser may decide to acquire an asset by way of share transfer, however, it is not common as a purchaser would generally wish to acquire the property by way of asset transfer to avoid any potential liabilities that may be known or unknown with respect to the corporate entity. It should be noted that the transfer taxes are the same with respect to an asset transfer and a share transfer.

## **13. On the sale of freehold interests in land does the benefit of any occupational leases and income automatically transfer?**

Yes. Generally, unless the lease states that upon the disposition of the property by the landlord the lease would terminate, once the conveyance of the transfer of land is completed (signed, sealed and delivered) the benefit of any existing occupational leases and income would automatically transfer to the new owner. It is common however, that the vendor would formally assign the leases to the purchaser on closing by way of an Assignment of Lease and the tenants would be issued a notice to advise of the new landlord/owner of the property and provide details regarding the payment of rent.

## **14. What common rights, interests and burdens can be created or attach over real estate and how are these protected?**

All rights, interests and burdens may be protected either by legislation or by registering the same in the Registry of Records. Transfers of title by sale and purchase or by mortgage recorded in the Registry of Records create priority over subsequent transfers, encumbrances,

mortgages, charges and liens. Encumbrances or burdens on real estate may also be created by virtue of legislation. For instance:

a. unpaid real property taxes create a first charge on the property in priority to all other encumbrances for so long as they remain due in accordance with section 25 of the Real Property Tax Act, 1969;

b. actions, orders or judgments entered up in the Supreme Court of The Bahamas create a charge on property in accordance with section 63 of the Supreme Court Act, 1996; and

c. unpaid homeowner's association fees create a lien on property in accordance with the Law of Property and Conveyancing (Condominium) Act, 1965.

## **15. Are split legal and beneficial ownership of real estate (i.e. trust structures) recognised**

Yes. As it relates to trust structures in The Bahamas, the settlor conveys the trust assets to the trustees to administer the assets for the benefit of the beneficiaries and in accordance with the trust deed. Therefore, the trustees become the legal owner of the assets of the trust and the beneficiaries under the trust deed are the beneficial owners of the trust assets. However, it should be noted that only the legal ownership of the trust asset is recorded in the Registry of Records.

## **16. Is public disclosure of the ultimate beneficial owners of real estate required?**

Public disclosure of the ultimate beneficial owner of real estate is not directly required, however, if a property is purchased in the individual's name, this may be uncovered through a search of the Deeds and Documents Registry which records deeds filed that relate to an interest in real property.

If property is purchased in the name of a company, and if the registers of members are not required to be filed with the Companies Registry or if the shares of a company are held by a nominee, the beneficial owner may not be apparent on a public registry.

However, international organisations have encouraged offshore tax jurisdictions like The Bahamas to implement legislation aimed at increasing transparency as it relates to beneficial ownership. As such, the Register of Beneficial Ownership Act, 2018 was implemented. This Act establishes a private search registry containing details of beneficial owners of domestic and international



business companies in The Bahamas, but it should be noted, that this register is not public.

While every registered agent is obligated to upload the beneficial owners for its companies (unless exempted under the Act) into a secure search system established by the Attorney-General's Office, only designated persons under the Act are allowed to access the system from a secured location.

## **17. What are the main taxes associated with commercial real estate ownership and transfer of commercial real estate?**

Generally, Value Added Tax ("VAT") is payable on all transfer of real property, whether direct or indirect, except in situations outlined in the VAT Act and VAT Rules for Real Estate where the transaction is either exempt or zero-rated for VAT purposes.

For transfers of land to Bahamian individuals or companies for owner-occupied, non-commercial purposes, VAT is charged at the rate of:

- 5% where the value does not exceed \$100,000
- 4% where the value is between \$100,000 and \$300,000
- 6% where the value exceeds \$300,000 but does not exceed \$500,000
- 8% where the value exceeds \$500,000 but does not exceed \$700,000
- 9% where the value exceeds \$700,000 but does not exceed \$1,000,000
- 10% where the value exceeds \$1,000,000

VAT is charged at the rate of 4% for the acquisition of a first home by a Bahamian where the value is between \$300,000 and \$500,000 and exempt where the value is under \$300,000.

For transfers of land to Bahamian companies for commercial purposes, VAT is charged at the rate of 2.5% where the value does not exceed \$100,000 and 10% where the value exceeds \$100,000.

For transfers of land to non-Bahamian individuals or companies, VAT is charged at the rate of 10%.

With respect to debentures or mortgages over real property, VAT is charged at the rate of 1% of the value of the amount secured by the property. However, in certain circumstances the transfer of residential mortgages from a recognized financial institution to another is zero-rated.

With respect to the transfer or sale of a business, VAT is charged at the rate of 6% of the value of the assets (other than cash, deposit accounts and real property) and stamp duty is charged at the rate of 6% on the value of the personality (other than cash and deposit accounts).

Transfers of real property are zero-rated where the transfer of real property relate to a transfer from (i) an individual to a company all of whose shares are beneficially owned by the transferor or the transferor's spouse, children or grandchildren; (ii) an individual to a trustee where the terms of the trust instrument permanent excludes every person, except for the transferor, transfer's spouse, parents, children or grandchildren; (iii) an individual to another individual who is their spouse, parents, children or grandchildren (iv) an individual to a foundation where the only beneficiaries are the transferor, or the transferor's spouse, children or grandchildren (v) a company to a trust or foundation where the only beneficiaries are the beneficial owner of all of the equity in the company, and/or the spouse, children or grandchildren of the beneficial owner or (vi) a trustee to another trustee where the terms of the trust, the beneficiaries and the trust assets remain the same and the change in trustee is purely for administrative purposes. These zero-rated transactions are for estate planning purposes therefore, the VAT on such transfers may become payable in the event of a transfer to a third party within seven years from the above-mentioned transfer.

Transfers of real property are also zero-rated in the following circumstances: (i) conveyance or deed by way of assent; (ii) transfers made pursuant to a consent order under a non-contentious divorce settlement; (iii) deeds of rectification or confirmatory conveyances; (iv) instruments relating to the vesting of real property pursuant to a statutory or common law entitlement; (v) the renunciation or release of dower; or (vi) gift or voluntary disposition of property from one company to another where there is no change in beneficial ownership.

Additional taxes payable include real property taxes and condo-hotel taxes.

With respect to real property taxes, unless otherwise exempted by being a Bahamian who owns vacant land or who owns land on a "Family Island", that is, outside of the country's capital Nassau, New Providence, every owner of real property is obligated to pay real property taxes on an annual basis. Real Property Taxes are calculated based on the market value of the property, the use of the property and the nature of the owner. It should be noted that mortgagees may be held

responsible for outstanding real property taxes.

Additionally, all units within a condo-hotel or other properties that are rented in a hotel rental pool are subject to the payment of a condo-hotel tax. The condo-hotel tax applicable to any unit is calculated at 75% of the rate of tax applicable to residential property under the Real Property Tax Act (currently 5/8 of 1% which equates to 0.625%) on the market value of the unit, up to a maximum of \$150,000 per unit. The condo-hotel tax is applicable to units that do not report net VAT in excess of the condo-hotel tax. That is to say that if the net VAT received from the rental of the condo-hotel unit exceeds the condo-hotel tax applicable to that unit, the condo-hotel tax is not payable. If the net VAT paid is less than the amount of the condo-hotel tax due, the difference between the condo-hotel tax amount and the net VAT is payable. The hotel administrator has joint responsibility for payment.

Withholding tax, income tax and taxes on capital gains are not applicable in The Bahamas.

## 18. What are common terms of commercial leases and are there regulatory controls on the terms of leases?

While there are common terms that govern the provisions of a commercial lease, there is no specific precedent of a residential or commercial lease as the terms are generally negotiated between the parties. Certain common terms may include:

- The tenant shall pay the rent reserved on a monthly, quarterly or annual basis in advance;
- The tenant shall keep the demised premises in good and tenantable condition and repair;
- The tenant shall be responsible for payment of the utility bills as and when they become due;
- The landlord shall be responsible for the payment of real property taxes, homeowner's association fees, and property insurance; and
- The lease is forfeited or terminated for non-payment of rent or material breach of tenant covenants.

Should a situation arise that is not addressed in the lease, such situation would likely be governed by the Conveyancing and Law of Property Act, the Landlord and Tenant Act, or common law.

## 19. How are use, planning and zoning

### restrictions on real estate regulated?

Use, planning and zoning restrictions are mainly governed by Planning and Subdivision Act, 2010 which are regulated and managed by the Town Planning Committee, Department of Physical Planning, Referral Agencies and the Subdivisions and Development Appeal Board. The Act covers:

- Land use and development controls including land use plans, zoning orders, restrictive covenants and performance bonds;
- Applications and approvals required for subdivisions, severance of lots, and amendments to zoning bye-laws, land use and development;
- Subdivisions including all aspects of the approval and registration process, the impact on the sale of land in new subdivisions, conditions imposed on subdivision approvals relating to roads and open spaces;
- General matters including the impact on title to real property, enforcement, penalties and appeal processes.

The objects and purposes of this Act are to — (a) provide for a land use planning based development control system led by policy, land use designations and zoning; (b) control division and development of land; (c) ensure the efficient and orderly provision of infrastructure and services to the environment; (d) promote sustainable development in a healthy natural environment; (e) maintain and improve the quality of the physical and natural environment; (f) protect and conserve the natural and cultural heritage of The Bahamas; (g) provide for planning processes that are fair by making them open, accessible, timely and efficient; (h) recognise the decision making authority and accountability of the Government in land use planning; and (i) plan for the development and maintenance of safe and viable communities, within the policies, and by the means, provided under the Act.

Planning permission is required for any development of land or change of use. "Development" under the Act means the carrying out of any building operation, engineering or other operations in, on, over or under land; the clearing of land, the severance or subdivision of land into four or more lots; or the making of any material change in the use or otherwise of any land or building, structure or part thereof and includes outdoor uses, an addition to, or the constructing, erecting, placing, relocating, altering or replacing of, a building or structure or part thereof.

## 20. Who can be liable for environmental contamination on real estate?

The main legislation governing environmental contamination on real estate would be the Environmental Planning and Protection Act, 2019 which addresses the management, protection, enhancement and proper use of the Bahamian environment.

In accordance with section 55 of the EPPA, any person who intentionally or recklessly causes disaster that results in a loss of the use of the environment commits an offence and is liable on conviction to a fine of not less than \$25,000 and not exceeding thirty million dollars or to three times the assessed value of the damage caused, whichever is the greater, or a term of imprisonment not exceeding 10 years, or both.

Section 36 of the EPPA states that the Director of Environmental Planning and Protection may in respect of a matter relating to the management of the environment issue and serve an environmental restoration order on a person which shall require the person to restore the environment as near as he can to the state it was in before the action which is the subject of the order; prevent the person from taking any action which would or would reasonably likely cause harm to the environment and award compensation to a person whose environment, property or livelihood has been harmed by the action which is the subject of the order. The order may contain terms and conditions and impose obligations on the persons on whom it is served and if the said person fails to comply with the order, the Director may recover from that person all costs incurred to restore the environment.

Section 18 of the EPPA states that there is also liability for historical pollution, that is, the Director of Environmental Planning and Protection may require any person who is found to have polluted any part of the environment before the coming into force of the Act (20<sup>th</sup> January, 2020) to take measures to rehabilitate the environment and failure to do so, the Director may undertake the necessary rehabilitation measures and recover costs of doing so as a civil debt in the courts.

## 21. Are buildings legally required to have their energy performance assessed and in what (if any) situations do minimum energy performance levels need to be met?

Although there have been discussions surrounding solar energy and environmental sustainability, currently, there are no legal requirements with respect to energy performance in The Bahamas.

## 22. Is expropriation of real estate possible?

Yes, pursuant to various Acts, the Bahamian government has the right to expropriate or compulsorily acquire real estate in The Bahamas in certain circumstances and subject to various processes as detailed in the respective legislation:

- land may be acquired for public purposes for example, road widening (section 6, the Acquisition of Land Act, 1913);
- orders may be issued to designate closed areas preventing persons from entering that area within or outside an environmentally sensitive area for the survival of any biological resource, genetic material, ecosystem or endangered species (section 24, Environmental Planning and Protection Act, 2019);
- with respect to any property other than owner-occupied property beneficially owned by a Bahamian, the Treasurer may issue a warrant for sale and sell property where real property taxes are in arrears and remain unpaid for a specific period of time in order to recover such outstanding real property tax (section 25A, Real Property Tax Act);
- an order may be made by the minister responsible for building regulation to demolish any building or structure deemed to be dangerous due to its ruinous or dilapidated condition or that is seriously detrimental to the amenities of the neighbourhood (section 10, Building Regulation Act, 1971); and
- confiscation orders may be issued where property was determined to be acquired with the proceeds from criminal conduct (Proceeds of Crime Act, 2018).

It should however be noted that Article 27 of The Bahamian Constitution protects property rights by prohibiting the deprivation of property without prompt and adequate compensation, unless otherwise excepted.

## 23. Is it possible to create mortgages over real estate and how are these protected and enforced?

Yes. The most common forms of security with respect to financing real property include:

- a. Legal mortgage or charge which conveys the legal title in the property to the lender as security for the loan. The borrower retains the equity of redemption;
- b. Debenture which includes fixed and floating charges



over present and future tangible and intangible assets. Floating charges crystallize in the event of a default; c. Equitable mortgage or charge; d. Pledge of shares in a company that holds the real property; e. Assignment of rental income; f. Assignment of insurance proceeds; g. Guarantees from shareholders, related companies or individuals; and h. Promissory notes

Legal mortgages, debentures and charges over real property must be registered in the Registry of Records in order to have priority over subsequent liens, charges, mortgages or Supreme Court orders capable of creating liens on title.

In the event of default, the lender is empowered to exercise various rights and remedies under the mortgage deed or pursuant to the Conveyancing and Law of Property Act, 1909 which includes exercising the lender's power of sale remedies, seeking foreclosure through the courts, or appointing a receiver.

#### **24. Are there material registration costs**

#### **associated with the creation of mortgages over real estate?**

Recording mortgages (or any deed) in the Registry of Records for Deeds and Documents cost \$4.50 per page. All deeds must be stamped with the appropriate payment of VAT (or transfer tax) prior to recording, unless otherwise exempted.

#### **25. Is it possible to create a trust structure for mortgage security over real estate?**

Yes, it is possible. A security trustee or a security agent may hold real property as security on trust for a lender. In an event of default by the borrower, the security trustee can enforce the mortgagee remedies on behalf of the lender. A non-Bahamian security trustee or agent (unless a licensed financial institution) will be required to obtain a Permit from the Investments Board of the Bahamas Investment Authority to hold the property as security for the loan.

### **Contributors**

**Nateisha L. Anderson-Bain**  
Partner

[nbain@lennoxpaton.com](mailto:nbain@lennoxpaton.com)

