

In this document underlining indicates new text and striking through indicates deleted text.



DIFC

REAL PROPERTY LAW AMENDMENT LAW

DIFC LAW NO. 4 OF 2012



**A LAW TO GUARANTEE TITLE TO REAL PROPERTY AND INTERESTS IN REAL
PROPERTY IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE, AND FOR
RELATED PURPOSES**

PART 1 — PRELIMINARY

1. Title

This Law is the Real Property Law.

2. Legislative authority

This Law is made by the Ruler of Dubai.

3. Application of this Law

This Law applies to real property within the jurisdiction of the DIFC.

4. Background to this Law

(1) On 17 March 2003 His Highness Sheikh Mohamed Bin Rashid Al Maktoum, Vice President and Prime Minister of the United Arab Emirates and Ruler of Dubai, transferred to the DIFC certain real property on which the DIFC was to be situated in accordance with the Federal and Dubai laws to be later enacted to establish the DIFC as a financial free zone within Dubai.

(2) Pursuant to the terms of that transfer, the Authority has sold, or intends to sell or lease, parts of that real property.

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PART 2 — AMENDMENTS TO THE REAL PROPERTY LAW 2007

In the Real Property Law 2007 insert the underlined text and delete the struck through text as follows:

Chapter 1 — Appointment of Registrar

12. Appointment of Registrar and other officers

- (1) The office of Registrar of Real Property (in this Law called "the Registrar") is created as a corporation sole.
- ~~(2)~~ The Board of Directors of the DIFCA shall appoint a person to serve as Registrar and may dismiss a such person from the office of Registrar.
- ~~(3)~~ The Board of Directors of the DIFCA shall consult with the President prior to the appointment of or dismissing the Registrar.
- ~~(2)~~ ~~The President is to appoint the Registrar.~~
- ~~(3)~~(4) The Registrar ~~must~~ shall administer this Law.
- ~~(4)~~ ~~The President may also appoint one or more Deputy Registrars, Assistant Registrars, and other officers, to assist the Registrar.~~
- ~~(5)~~ ~~Anything that may lawfully be done by the Registrar may lawfully be done by a Deputy Registrar or an Assistant Registrar.~~
- (5) The Registrar may, where he considers it appropriate to do so, delegate such of his functions and powers as may more efficiently and effectively be performed by his officers or employees and, with the approval of the Board of Directors of the DIFCA either generally or in relation to any particular matter, to any other person.
- (6) A person dealing with the Registrar's office may assume that acts done or records made have been done or made within authority.

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18. Registrar's duty to register instruments

(1) Subject to Article 19(2), if a person lodges for registration an instrument that affects real property and that is in registrable form, the Registrar ~~must~~ shall register it.

~~(a)~~(2) ~~However, No~~ instrument of title or other real property interest may be recorded unless and until the Registrar has been satisfied that the entire purchase price transfer from Purchaser to Seller, directly or indirectly, has been effected with the involvement of at least one duly licensed UAE or DIFC bank or bank that is duly licenced in a Recognised Jurisdiction.

~~(2)~~(3) An instrument is in registrable form if it relates to one or more lots and complies with the requirements of this Law for registration.

~~(3)~~(4) Paragraph (1) does not prevent a person from withdrawing an instrument before it is registered.

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PART 8 — LEASES

54. Unregistered lease

- (1) A lessor ~~must~~ shall, within ~~7~~ 28 days of the date on which the lease is entered into, notify the Registrar of the identity of the lessee and provide any other details the Registrar requires.
- (2) If the lessor fails to comply with paragraph (1), then:
 - (a) ~~the lessor commits an offence against this Law;~~
 - (b) ~~the lessee may terminate the lease at any time after the 7 days without the need for prior notice;~~
 - (c) ~~the lessee may recover from the lessor any loss the lessee suffers from the lease not remaining in force; and~~
 - (d) ~~the lessee is not liable to the lessor for any loss suffered by the lessor as a result of the termination, but remains liable for rent for the period before the termination and for any breach of the lease committed before the termination.~~

- 55.** A lessor complies with paragraph (1) if the lease is lodged for registration, in registrable form, within ~~7~~ 28 days of the date on which the lease was signed by all parties to it.

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122. Lapsing of caveat

- (1) This Article applies to a caveat unless:
 - ~~(a) it is lodged by the registered freehold owner;~~
 - ~~(b) the consent of the registered freehold owner is deposited when the caveat is lodged;~~
 - ~~(c)~~(a) it is lodged by the Registrar under Article 150; or
 - ~~(d)~~(b) it is lodged other than under this Part.
- (2) A caveatee may serve on the caveator a notice requiring the caveator to start proceedings in the Court to establish the interest claimed under the caveat.
- (3) The caveatee ~~must~~ shall notify the Registrar of the service on the caveator, within 14 days of the service of the notice.
- (4) If the caveatee has complied with paragraph (3), the caveat lapses 30 days after notice is served on the caveator.
- (5) Despite paragraph (4), the caveat does not lapse:
 - (a) if the caveator has started appropriate proceedings and the Registrar has been notified of the proceedings; or
 - (b) if the caveator notifies the Registrar within 30 days of being served with the notice under paragraph (3) that the caveator does not want the caveat to lapse and that the caveator has started, or will start, proceedings to establish the interest claimed under the caveat.
- (6) If a caveator has notified the Registrar under paragraph (5)(b) that the caveator will start proceedings, the caveat lapses 3 months after the notice under paragraph (2) was served on the caveator unless, within that time, the caveator provides the Registrar with evidence that the proceedings have been started.
- (7) The Registrar may record in the folio of the Register that a caveat has lapsed.

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157. Compensation from assurance fund

- (1) A person who is deprived of, or suffers loss or damage in relation to, real property because of the circumstances in paragraph (2), may make a claim against the assurance fund.
- (2) The circumstances are:
 - ~~(a) the fraud of another person;~~
 - ~~(b) (a) an error in the Register;~~
 - ~~(c) (b) tampering with the Register;~~
 - ~~(d) (c) loss, destruction or improper use of a document lodged or deposited with the Registrar or held by the Registrar;~~
 - ~~(e) (d) an omission, mistake, breach of duty, negligence or misfeasance of or by the Registrar or a member of the Registrar's staff; or~~
 - ~~(f) (e) the Registrar's exercise of a power in relation to an application or dealing with which the person had no connection.~~
- (3) Despite paragraphs (1) and (2), a claim against the assurance fund may not be made by a person who is able to recoup their loss or damage by an action for the recovery of:
 - (a) real property;
 - (b) the proceeds of sale of real property;
 - (c) moneys secured by a registered mortgage;
 - (d) interests protected by a caveat recorded in the folio of the Register.

158. Time limit on claims against assurance fund

- ~~(1) Where a claim or a series of related claims against the assurance fund does not exceed in the aggregate \$5,000 or other prescribed amount, the Registrar may authorise payment from the fund, if satisfied that the claim is justified.~~

~~(2) — The Registrar may not authorise the payment from the fund of a claim or a series of related claims exceeding in the aggregate \$5,000 or other prescribed amount, except on written authority of the President or by Court order.~~

Any claims pursuant to the terms of Article 157 shall be made before the expiry of the earlier of:

- (a) two years from the date of the cause; or
- (b) six months from the date of the claimant becoming aware of the cause of the claim.

159. Court order about deprivation, loss or damage

- (1) A person may apply to the Court for an order:
 - (a) determining whether compensation is payable from the assurance fund under Article 157, and the amount of the compensation; or
 - (b) directing the Registrar to take action in relation to the deprivation, loss or damage.
- (2) The Court may make the order it considers appropriate.
- (3) In considering the amount of compensation to be paid from the assurance fund, the Court ~~must~~ shall take into account any contributory neglect, default or lack of caution by or on behalf of the claimant. Compensation shall be calculated on the basis of the lesser of:
 - (a) actual direct loss; and
 - (b) the current value of the property.

Any compensation payable shall not take into account any consequential or indirect loss.
- (4) Without limiting paragraph (2), the Court may direct the Registrar to:
 - (a) cancel or correct a folio of the Register or other information in the Register;
 - (b) create a new folio of the Register; or

- (c) do anything else.

160. Matters for which there is no compensation

A person is not entitled to compensation from the assurance fund for deprivation, loss or damage occasioned by:

- (a) a breach of a trust or fiduciary duty (whether express, implied or constructive), including a breach of duty arising in the administration of the estate of a deceased person;
- (b) any incorrect description of boundaries;
- (c) any incorrect description of parcels or the dimensions of any lot, ~~where no survey has been carried out; or~~
- (d) the Registrar's act in lodging a caveat under Article 150.

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162. ~~Time limit for claims against assurance fund~~ (Not in use)

- ~~(1) — No action lies against the assurance fund unless it is commenced within 12 years from the date of the deprivation, loss or damage.~~
- ~~(2) — However, the President may waive the 12-year limitation period.~~

PART 22 — SEARCHES

163. Entitlement to search Register

- (1) During normal business hours, the Registrar ~~must~~ shall provide adequate access:
 - (a) to the Register; and
 - (b) to registered instruments or copies of them.
- (2) Access may be provided by way of certificate, statement, computer print-out or any other means the Registrar considers appropriate.
- (3) The Registrar shall provide access to the Register by way of an official search certificate Register where the request is in writing and accompanied by the prescribed fee.

SCHEDULE

1. Rules of Interpretation

- (1) In this Law, unless the context requires otherwise, a reference to:
 - (a) a statutory provision includes a reference to the statutory provision as amended or re-enacted from time to time;
 - (b) a person includes any natural person, body corporate or body unincorporate, including a company, partnership, unincorporated association, government or state;
 - (c) an obligation to publish or cause to be published a particular document includes, unless expressly provided otherwise in this Law, publishing or causing to be published in printed or electronic form;
 - (d) a day means a calendar day, unless expressly stated otherwise. If an obligation falls on a calendar day which is either a Friday or Saturday, or an official UAE holiday in the DIFC, the obligation shall take place on the next calendar day which is a business day;
 - (e) a business day means a normal working day in the DIFC;
 - (f) a calendar year means a year of the Gregorian calendar;
 - (g) the masculine gender includes the feminine;
 - (h) \$ is a reference to United States Dollars;
 - (i) the singular includes the plural and vice versa.
- (2) Headings in this Law do not affect its interpretation.
- (3) In this Law, a reference to registering or recording an instrument or information in the folio of the Register is a reference to registering or recording it in (or in the case of a folio kept in paper form, on) the folio of the Register for the lot or lots concerned.

2. Defined terms

In this Law, unless the context indicates otherwise:

Term	Definition
approved form	means a form approved by the Registrar;
assurance fund	means the fund constituted under Article 156;
Authority	means the Dubai International Financial Centre Authority, established under Dubai Law No 9 of 2004;
bankruptcy	includes a proceeding under a bankruptcy law, an insolvency law, or a law relating to the liquidation of corporations;
caveatee	means the registered freehold owner of real property described in a caveat, or the registered owner of a registered interest in real property described in a caveat, as the case may require;
caveator	means the person by whom or on whose behalf a caveat is lodged;
Centre	means the DIFC;
correct	used as a verb, includes correct by addition, omission or substitution;
Court	means the DIFC Court <u>as established under Dubai Law</u> ;
deposit	means file with the Registrar other than for registration or recording;

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DIFC	means the Dubai International Financial Centre;
document	means paper or other material (including electronic material) containing writing, words, figures, drawings or symbols;
Dubai Property Law	means Dubai Law No 7 of 2006;
Dubai real property laws	means any Dubai laws relating to real property, including Dubai Law No 7 of 2006;
error	includes an error by omission;
fee	includes tax;
folio of the Register	means a folio of the Register created under this Law;
fraud	means a consciously dishonest act, and not mere constructive or equitable fraud;
instrument	includes: (a) a document that relates to or may be used to deal with a lot; (b) a map, survey or diagram; (c) an order of court;
interest	in relation to real property, means any interest in the real property, and any permanent structure or improvement (known in English law as a "fixture") on the real property;
law	includes legislation and subsidiary or delegated legislation;
lease	includes a sublease;

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lot	means a separate, distinct parcel of real property for which a Centre survey lot number has been allotted;
minor	means a person under the age of 18;
mortgage	includes a charge on a lot or an interest in a lot for securing a debt or any other obligation;
prescribed	means prescribed under the Regulations made by the Authority under Article 173;
President	means the President of the DIFC appointed under Law No 9 of 2004, and includes any delegate of the President authorised to act in the President's name or place;
primary application	means an application made under Article 38 or Article 39;
purchaser	means a person who acquires an interest in real property, and includes a mortgagee and lessee; and purchase has a corresponding meaning;
real property	see Article 11;
real property governed by this Law	means the real property referred to in Article 8;
receiver	includes a receiver appointed under the Insolvency Law (DIFC Law No. 7 of 2004), including an administrative receiver;
Recognised Jurisdiction	a Recognised Jurisdiction for the purposes of Article 19 (1) (a) is one where a state or territory has effective anti-money laundering and anti-terrorism legislation in place which conform to the Financial Action Task Force directives;

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register	in relation to a lot, interest, instrument or other thing, means record the particulars of the thing in the Register;
Register	means the Register established under Article 14;
registered real property	means real property for which a folio of the Register has been created;
registered owner	in relation to a lot, means a person recorded in the Register as owner of an interest in the lot, whether that interest is freehold or other than freehold;
Registrar	means the Registrar appointed under Article 12;
relevant authority	means the authority within the DIFC charged with the duty of implementing the policies and laws of the DIFC whose subject matter falls within its authority;
renew	in relation to a lease, includes extend;
rent	includes any amount due under a lease, whether or not described in the lease as rent;
transmission	means the passing of title to real property in any manner other than by transfer;
UAE	means the United Arab Emirates;
writ of execution	means a writ or warrant of execution after judgment in a court.