



Local Government Act 1986

1986 CHAPTER 10

PART III

TRANSFER OF LOCAL AUTHORITY MORTGAGES

7 Transfer requires mortgagor's consent

- (1) A local authority shall not dispose of their interest as mortgagee of land without the prior written consent of the mortgagor (or, if there is more than one mortgagor, of all of them) specifying the name of the person to whom the interest is to be transferred.
- (2) Consent given for the purposes of this section—
 - (a) may be withdrawn by notice in writing to the authority at any time before the disposal is made, and
 - (b) ceases to have effect if the disposal is not made within six months after it is given ;and if consent is withdrawn or ceases to have effect the authority shall return to the mortgagor any document in their possession by which he gave his consent.
- (3) A disposal made without the consent required by this section is void, subject to subsection (4).
- (4) If consent has been given and the local authority certify in the instrument effecting the disposal that it has not been withdrawn or ceased to have effect, the disposal is valid notwithstanding that consent has in fact been withdrawn or ceased to have effect.
- (5) In such a case any person interested in the equity of redemption may, within six months of the disposal, by notice in writing served on the local authority, require the authority, the transferee and any person claiming under the transferee to undo the disposal, on such terms as may be agreed between them or determined by the court, and execute any documents and take any other steps necessary to vest back in the local authority the interest disposed of by them to the transferee.
- (6) The Secretary of State may by regulations—

Status: This is the original version (as it was originally enacted).

- (a) require a local authority to give to a mortgagor whose consent is sought such information as may be prescribed,
 - (b) prescribe the form of the document by which a mortgagor's consent is given,
 - (c) require a local authority making a disposal to secure that notice of the fact that the disposal has been made is given to the mortgagor, and
 - (d) prescribe the form of that notice and the period within which it must be given.
- (7) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) This section applies—
- (a) to disposals on or after 24th July 1985 of a local authority's interest as mortgagee under a Housing Act mortgage, and
 - (b) to disposals on or after 1st April 1986 of a local authority's interest as mortgagee under any description of mortgage,
- except, in either case, where the disposal is carried out in pursuance of a contract entered into before that date.
- (9) For this purpose a "Housing Act mortgage" means a mortgage entered into (whether by the local authority in question or a predecessor in title) under—
- the Small Dwellings Acquisition Acts 1899 to 1923,
 - section 104 or 119 of the Housing Act 1957,
 - section 43 of the Housing (Financial Provisions) Act 1958,
 - section 100 of the Housing Act 1974, or
 - section 1(1)(c) of the Housing Act 1980.

8 Certain transfers treated as not giving rise to capital receipts

- (1) A disposal by a local authority of their interest as mortgagee of land shall not, in the following circumstances, be treated as giving rise to a capital receipt for the purposes of Part VIII of the Local Government, Planning and Land Act 1980 (controls on capital expenditure).
- (2) The circumstances are that, under the terms of the disposal or of any arrangement entered into in connection with the disposal—
- (a) any benefits or burdens of the mortgagee are retained by, or may be transferred to, the local authority, or
 - (b) the transferee can call on the local authority to re-acquire any interest transferred or to redeem the mortgage, or
 - (c) the consideration for the transfer is other than a cash sum determined at the date of the transfer, or
 - (d) the transfer is carried out in consideration of some other transaction or the local authority may be required to enter into an agreement with a third party.
- (3) The Secretary of State may by regulations amend subsection (2) or provide for other circumstances in which the disposal by a local authority of their interest as mortgagee of land is not to be treated as giving rise to a capital receipt for the purposes of Part VIII of the Local Government, Planning and Land Act 1980.
- (4) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

9 Interpretation and application of Part III

(1) In this Part—

(a) " local authority " means—

a county, district or London borough council,
the Common Council of the City of London,
the Inner London Education Authority,
a joint authority established by Part IV of the Local Government Act 1985,
the Council of the Isles of Scilly, or
any other authority prescribed for the purposes of this Part by regulations made by the Secretary of State,

and includes any authority, board or committee which discharges functions which would otherwise fall to be discharged by two or more such authorities,

(b) references to a local authority's interest as mortgagee of land include any interest of the authority in the land or in the debt secured, and

(c) references to the disposal of such an interest are to any transfer of the interest otherwise than by operation of law;

and for the purposes of this Part the disposal of an interest in registered land shall be taken to occur when the transfer is made and not when it is registered.

(2) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) At the end of Schedule 13 to the Local Government Act 1985 (provisions with respect to residuary bodies) add—

“25 A residuary body shall be treated as a local authority for the purposes of Part III of the Local Government Act 1986 (transfer of local authority mortgages).”.