

FOUNDATIONS (AMENDMENT) BILL, 2011

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FOUNDATIONS (AMENDMENT) BILL, 2011

**A BILL FOR AN ACT TO AMEND THE FOUNDATIONS ACT TO
PROVIDE FOR THE MAINTENANCE OF ACCOUNTING RECORDS
AND FOR CONNECTED MATTERS**

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Foundations Act¹, may be cited as the Foundations (Amendment) Act, 2011.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

2. Amendment of section 42 of the principal Act.

Section 42 of the principal Act is amended by —

- (a) the deletion of subsection (1) and the substitution of the following subsections —
 - “(1) A foundation shall cause reliable accounting records to be kept in relation to —
 - (a) all sums of money received and expended by the foundation and the matter in respect of which such receipt and expenditure takes place, inclusive of all sales, purchases and other transactions;
 - (b) the assets and liabilities of the foundation.
 - (2) For the purposes of subsection (1), accounting records shall —
 - (a) correctly explain all transactions;

¹(Ch. 369D)

- (b) enable the financial position of the foundation to be determined with reasonable accuracy at any time;
 - (c) allow financial statements to be prepared; and
 - (d) include the underlying documentation, including invoices, contracts and receipts, necessary to facilitate (a), (b) and (c).
- (3) Accounting records maintained pursuant to this section shall be kept for a minimum period of five years from the date of the transaction to which such records relate.”; and
- (b) the re-numbering of the existing subsections (2) and (3) as subsections (4) and (5) respectively.

3. Amendment of section 71 of the principal Act.

Section 71 of the principal Act is amended by —

- (a) the re-numbering of the section as subsection (1) of section 71; and
- (b) the insertion immediately after subsection (1) of the following new subsection —
 - “(2) A person who without reasonable cause contravenes section 42, or fails to comply with any other provision of this Act for which no other penalty is provided, commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars.”.

OBJECTS AND REASONS

The purpose of the Bill is to remedy the deficiencies identified in the OECD Phase I Peer Review of The Bahamas by imposing express obligations on a foundation to maintain reliable accounting records for a minimum period of five years as well as sanctions for a failure to maintain such records.