

THE PROPERTY TAX BILL, 2009

EXPLANATORY NOTES

(These Notes form no part of the Bill but are intended only to indicate its general purport)

The Bill seeks to create a new paradigm in Trinidad and Tobago for the assessment of property for the purposes of taxation.

The Bill contains seven Parts and 60 clauses.

Part I of the Bill would contain four clauses and provide for preliminary provisions.

Clause 1 of the Bill provides for the short title of the Act for which this is the Bill.

Clause 2 of the Bill provides for the commencement of the Act on January 1, 2010.

Clause 3 of the Bill provides for the interpretation of certain words and phrases used in the Bill.

Clause 4 of the Bill provides that the Act would bind the State.

PART II of the Bill would contain five clauses and speaks to the Assessment Roll.

Clause 5 of the Bill would provide for the establishment of a roll to be known as the “Assessment Roll” by the Board which would be used for the purposes of assessment of tax under the Act.

Clause 6 of the Bill would provide for the contents of the Assessment Roll. It recognizes the nexus between the Assessment Roll under this Act and the Valuation Roll under the Valuation of Land Act and provides for the application of deductions and allowances.

Clause 7 of the Bill would provide that production of an extract of the Assessment Roll may be used as sufficient evidence of the making and validity of valuations and annual tax therein.

Clause 8 of the Bill would allow for errors on the Assessment Roll not to be vitiated by any assessment of tax.

Clause 9 of the Bill would prescribe that land not on the Assessment Roll would still be liable to assessment.

PART III of the Bill would contain twelve clauses and provide for the assessment of land under the Act.

Clause 10 of the Bill would provide for the raising, levying and collection of tax on all land.

Clause 11 of the Bill would provide that the annual taxable value of land should be payable in accordance with the First Schedule.

Clause 12 of the Bill would require that the Valuation Roll to be used for the purpose of assessment of taxes under this Act on land.

Clause 13 of the Bill would provide for the calculation of the Annual Taxable Value.

Clause 14 of the Bill would empower the Board to make deductions and allowances in respect of voids and loss of rent equivalent to 10% of the rental value. The clause goes on to empower the Minister to amend the percentage by Order, such order being subject to affirmative resolution of Parliament.

Clause 15 of the Bill would deem the owner of land liable to taxes assessed under this Act.

Clause 16 of the Bill would set out the category of land which is exempted from taxation under this Act.

Clause 17 of the Bill would require the Board to cause a notice of assessment to be served on, or delivered to, the owner or occupier of land. The clause goes on to provide for the method of service of the notice and the contents thereof.

Clause 18 of the Bill would provide that the liability to pay tax under this Act is not affected by inaccurate or incomplete assessments, absence of assessments, errors of form or description.

Clause 19 of the Bill would provide for where there is an omission from the Assessment Roll and for where construction is completed after the completion of an Assessment Roll. The clause would make provision in such circumstances for the proration of the taxes assessed under this Act.

Clause 20 of the Bill would require the Board to notify the Commissioner of Valuations of any alterations in respect of land so that such changes could be entered accordingly in the Assessment Roll by the Board and in the Valuation Roll by the Commissioner.

Part IV of the Bill would contain ten clauses and set out the procedure for objections, relief, revaluations and appeals under the Act.

Clause 21 of the Bill prescribes the procedure for filing objections to assessments.

Clause 22 of the Bill would detail the grounds for objections to an assessment.

Clause 23 of the Bill would allow for persons who are in receipt of certain public grants or who the Ministry of Social Development has identified as being unable to pay the tax to apply for a deferral from taxes assessed under this Act.

Clause 24 of the Bill would require an applicant to adduce proof of necessity for relief.

Clause 25 of the Bill would empower the Board to set out conditions in respect of any grant of relief.

Clause 26 of the Bill would empower the Board to vary or revoke authorization for a deferral of the payment of taxes assessed under this Act.

Clause 27 of the Bill would provide for any period of deferment of the payment of taxes assessed and owing under the Act to cease on death of the owner where the successor in title is unable to pay the tax.

Clause 28 of the Bill would create an offence for false statements in applications for relief which is punishable on summary conviction by a fine of five thousand dollars.

Clause 29 of the Bill would entitle a person aggrieved from a decision of the Board to appeal to the Tax Appeal Board.

Clause 30 of the Bill would require that where any variation or alteration to land is made that such variation or alteration is entered in the Assessment Roll.

PART V of the Bill would contain 16 clauses and provide for the recovery of taxes.

Clause 31 of the Bill would require that rented land and land with machinery and plant be taken into account in the assessment of tax and would allow the owner to recover from the tenant as a civil debt, any increase in tax which he may have incurred as a result of the presence of machinery or plant.

Clause 32 of the Bill would provide that any unpaid taxes assessed under this Act, would become a charge on the land to which it relates.

Clause 33 of the Bill would provide for when assessed taxes become due for payment.

Clause 34 of the Bill would require the Board to send a Notice by registered post to the owner of land who fails to pay the tax assessed and due under this Act by September 15, 2009 informing him that from that day penalties for non-payment of taxes would apply and failure to pay the tax and interest may result in his property being distrained against or forfeited. The clause goes on to provide for the amount of the interest according to certain time frames, and for the application of interest in respect of owed sums and in certain instances for the forfeiture of land.

Clause 35 of the Bill would provide for liquidation of any arrears.

Clause 36 of the Bill would require the Board to send a Notice of Demand by registered post to the owner of land who fails to pay the tax assessed and due under this Act within six months of it becoming due and owing.

Clause 37 of the Bill would provide for the distraint of the goods or chattels of the owner, occupier or tenant of the land for failure to pay sums due and owing under this Act.

Clause 38 of the Bill would provide that where goods or chattels are distrained under the Act, such distraint would be at the cost of the owner.

Clause 39 of the Bill would prescribe the procedure for distress of goods.

Clause 40 of the Bill would preclude a landowner from levying distress in respect of lands on which arrears of taxes are owed.

Clause 41 of the Bill would provide for the circumstances in which the President may issue a warrant for forfeiture.

Clause 42 of the Bill would require the Board to register with the Registrar General any warrant of forfeiture.

Clause 43 of the Bill would provide for the registered warrant to be used as conclusive evidence in proceedings regarding title to the lands.

Clause 44 of the Bill would treat forfeited land as vacant, waste or State lands.

Clause 45 of the Bill would render land unoccupied for 5 years liable to forfeiture.

Clause 46 of the Bill would provide for a re-grant of land forfeited where the President thinks fit.

Clause 47 of the Bill would provide for the prosecution for offences under this Act.

Clause 48 of the Bill would provide for the vesting of estates, rights and powers of the Commissioner of State Lands upon his death to his successor in office.

Clause 49 of the Bill would prescribe the penalty for obstructing an authorized officer.

PART VI of the Bill would contain two clauses and provide for third party payments to the Board.

Clause 50 of the Bill would authorize persons to make payments of sums due and owing under this Act to the Board through a third party payment agency prescribed by Order of the Minister. The third party payment agencies are then required to forward the sum paid to the Board on behalf of the owner of the land.

Clause 51 of the Bill would empower the Board to, notwithstanding any other law, accept payments, by any means, from third party payment agencies.

PART VII of the Bill would contain five clauses and provide for miscellaneous provisions of the Bill.

Clause 52 of the Bill would empower the Minister to extend the time-frames prescribed by the Act.

Clause 53 of the Bill would empower the Minister to make Regulations.

Clause 54 of the Bill would require that upon the coming into force of the Act, that all payments due and owing for property taxes under the Lands and Buildings Taxes Act and Part 5 of the Municipal Corporations Act shall remain due and owing and be treated as if it were due and owing under this Act.

Clause 55 of the Bill would repeal Part V of the Municipal Corporations Act, Chap. 25:04.

Clauses 56 and 57 of the Bill would repeal the Lands and Buildings Taxes Act, Chap. 76:04 and the Tax Exemption Act, Chap. 76:50, respectively.

Schedule I of the Bill would prescribe the calculation for determining the percentages for Annual Taxable Value.

Schedule II of the Bill would set out the form to be used for the issue of a Distress Warrant.

Schedule III of the Bill would set out the form to be used for a Warrant of Possession.

THE PROPERTY TAX BILL, 2009

ARRANGEMENT OF CLAUSES

Clause

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PART VI

THIRD PARTY PAYMENTS

- 50. Payments may be made through third parties.
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PART VII

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- 52. Minister may extend times prescribed by the Act.
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- 56. Repeal of Chap. 76:04.
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Schedule I- Percentages for Annual Taxable Value
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A BILL

An Act to make provision for the assessment, rating and taxation of land and for matters incidental thereto.

Enactment **ENACTED** by the Parliament of Trinidad and Tobago as follows:

PART I PRELIMINARY

- | | | |
|-----------------|----|--|
| Short title. | 1. | This Act may be cited as the Property Tax Act, 2009. |
| Commencement. | 2. | This Act shall come into operation on January 1, 2010. |
| Interpretation. | 3. | For the purposes of this Act-
“agricultural land” has the meaning assigned to it by the Valuation of Land Act;
“annual rental value” means the annual rental value of land as determined by the Commissioner of Valuations under the Valuation of Land Act;
“annual taxable value” means the annual rental value subject only to the deductions and allowances mentioned in section 14;
“appeal” means an appeal to the Tax Appeal Board from a decision of the Commissioner upon an objection by the owner of land to a valuation or assessment of tax;
“assessment” includes re-assessment and “assess” shall be construed accordingly; |
| Chap. 58:03 | | “Board” means the Board of Inland Revenue created under the Income Tax Act; |
| Chap. 75:01 | | “capital value” means the capital sum which the fee simple might be expected to realise if |

offered for sale on such reasonable terms and conditions as a *bona fide* seller would require;

“commercial land” has the meaning assigned to it by the Valuation of Land Act;

“Commissioner” means the Commissioner of Valuations appointed under section 3 of the Valuation of Land Act;

“industrial land” has the meaning assigned to it by the Valuation of Land Act;

“land” means-

- (a) all land, messuages, tenements and hereditaments, corporeal and incorporeal, of every kind and description, or any estate or interest therein, together with all paths, passages, ways, watercourses, liberties and privileges;
- (b) land covered with water; and
- (c) all buildings, or any part of any building, and all structures, machinery, plant, pipelines, cables and fixtures erected or placed upon, in, over, under or affixed to land;

“Minister” means the Minister with responsibility for the assessment and collection of taxes;

“owner” includes the owner or occupier of any land, and the receiver, attorney, agent, manager, guardian or committee of any such owner or occupier and any other person in charge or having the control or possession of any land in the right of the owner, or having the possession in his or her own right or as guardian of any person of any such land;

“parcel of land” or “parcel” means land which is separately held by an owner or a person in possession of land which the Commissioner directs should be valued as a separate parcel of land;

“Regulations” means regulations made under section 53;

“residential land” has the meaning assigned to it by the Valuation of Land Act;

“tax” includes any annual tax assessed under this Act and any tax, rate, charge, assessment or imposition to which the provisions of this Act may be declared by any Act to be applicable; and

“Tax Appeal Board” means the Appeal Board established under the Tax Appeal Board Act.

Act binds the State.

4. This Act binds the State.

PART II

THE ASSESSMENT ROLL

Preparation of Assessment Roll

5 The Board of Inland Revenue shall on the commencement of this Act, prepare a roll of all lands liable to tax under this Act, (hereinafter referred to as the “Assessment Roll”).

Contents of Assessment Roll.

6. The Assessment Roll shall comprise of all the information contained in the Valuation Roll created by the Commissioner under the Valuation of Land Act in respect of land and the deductions and allowances and the assessed tax in respect of the land.

Assessment Roll may be used as evidence.

7. The production of an extract of the Assessment Roll for the time being in force shall be received as sufficient evidence of the due making and validity of the valuations and annual tax therein contained.

Error on Assessment Roll

8. No error, misnomer or mis-description in any notice or the Assessment Roll and no omission to enter therein the names of owners or reputed owners, nor any error in the names of owners

or reputed owners, nor any error in the names entered therein as those of the owners or reputed owners of any land, shall in any way vitiate such notice or any valuation or assessment contained in the Assessment Roll or in any way affect the liability of any owner to any annual tax payable in respect of such land.

Land not on Assessment Roll liable to assessment.

9. The owner of land which has for any reason not been entered in the Assessment Roll or assessed shall not by reason of that fact be relieved from the liability to have the land valued and taxed and the Commissioner may at any time value such land in accordance with the Valuation of Land Act.

PART III

ASSESSMENT OF PROPERTY TAXES

Assessment of tax.

10. There shall be raised, levied, collected by and paid to the Board for the year beginning the January 1, 2010, an annual tax in respect of all land.

Amount of tax payable

11. The tax payable on land shall, in respect of the annual taxable value of the land, be based on the percentages set out in Schedule I

Schedule I.

Valuation Roll to be used for assessment.

12. The Valuation Roll created by the Commissioner under the Valuation of Land Act, shall be used to identify land for the purpose of assessment of tax under this Act and the Board of Inland Revenue shall assess taxes under this Act based on the valuations conducted by the Commissioner of Valuations under the Valuation of Land Act.

Calculation of Annual Taxable Value.

13. Where the Valuation Roll identifies the value of land for the purpose of assessment of tax on the land, that value minus the allowances and deductions allowed under section 14 shall be considered the annual taxable value for the purpose of section 11.

Power to make deductions

14.(1) The Board of Inland Revenue in assessing any land for the purposes of this Act may make deductions and allowances in respect of voids and loss of rent equivalent to ten per cent of the annual rental value given in respect of the land in the Valuation Roll.

(2) The Minister may by Order increase or decrease the percentage of the deductions and allowances under subsection (1).

(3) An Order under subsection (2), shall be subject to affirmative resolution of Parliament.

Owner of land liable to pay tax.

15. The owner of land shall be liable under this Act for the payment of tax.

Exemption from taxation.

16. All land in Trinidad and Tobago is liable to taxation under this Act, subject to the following exemptions:

- (a) land used exclusively as a church or churchyard, and every cemetery or burial-ground that is enclosed and actually required, used and occupied for the interment of the dead, but not land that is rented or leased by a church or religious organization to a person other than another church or religious organization;
- (b) school buildings, offices and playgrounds of schools within the meaning of the Education Act;
- (c) lands attached to, or otherwise actually used in connection with and for the purposes of a place of learning maintained for educational, philanthropic or religious purposes, the whole profits from which are devoted or applied to such purposes;
- (d) land owned, occupied and used exclusively by an incorporated charitable institution;
- (e) land of a designated class that is declared by the Minister to be exempt wholly or partially from taxation under this Act;
- (f) land belonging to and in occupation of the

Chap. 39:01

State or its servants for public purposes;

- (g) land used for the purposes of public hospitals, public asylums and all almshouses and institutions for the relief of the poor, whether publicly or privately administered;
- (h) land belonging to and occupied by the University of the West Indies or its servants;
- (i) land belonging to and occupied by the Council of Legal Education;
- (j) land owned or occupied by a foreign government or international organization of which Trinidad and Tobago is a member;
- (k) land belonging to a tertiary learning institution owned or managed by the State;
- (l) land belonging to the University of Trinidad and Tobago; and
- (m) land belonging to the College of Science, Technology and Applied Arts, (COSTAATT).

Notice of assessment.

17.(1) The Board shall, on or before the March 31 in each year, cause a notice of assessment specifying-

- (a) the unique land identification number or other number by which the land is identified;
- (b) the annual rental value of the land;
- (c) the annual taxable value of the land;
- (d) the annual tax payable in respect thereof;
- (e) any deductions and allowances applied to the tax on the land;
- (f) the time when and where such annual tax is to be paid;
- (g) penalties and consequences for failure to pay the tax; and
- (h) the right to object to such assessment made under this Act and the procedures to be utilized in making an objection,

to be served on or delivered to the owner or occupier of the land

personally or his agent or attorney or by being sent by post to his last known business or private address.

(2) Notwithstanding subsection (1), where a notice requires the attendance of any person or witness before the Board and the service of the notice is to be effected by post, the notice shall be by registered post.

(3) A notice sent by post shall be deemed to have been served, in the case of a person residing in Trinidad and Tobago, not later than the fifteenth day succeeding the day when posted and, in the case of persons not so resident, not later than the thirtieth day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

(5) Any default or failure to comply with the provisions of this section or the non-receipt of a notice of assessment by the owner of land shall not affect the liability of the owner to pay any tax in respect thereof nor shall it affect the validity of any action taken for the recovery of such tax.

Liability not affected by inaccurate or incomplete assessments, absence of assessments, errors of form or description.

18.(1) Liability for tax under this Act shall not be affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(2) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be quashed or deemed to be void or voidable for want of form, or be affected by reason of a mistake, defect or omission therein if the same is in substance and effect in conformity with or according to the intent and meaning of this Act or any written law amending the same, and if the person assessed or intended to be assessed or affected thereby is designated therein according to

common intent and understanding.

(3) An assessment shall not be impeached or affected -

- (a) by reason of a mistake therein as to -
 - (i) the name or surname of a person liable;
 - (ii) the description of any property; or
 - (iii) the amount of tax charged; or
- (b) by reason of any variance between the assessment and the notice thereof, provided that in cases of assessment, the notice thereof shall be duly served on the person intended to be charged, and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

Land omitted
from the
Assessment
Roll.

19.(1) Where land has been omitted from the Assessment Roll, it may at any time be added while the Assessment Roll is in operation and shall thereupon become liable for payment of the tax for the year within which such addition is made and also for the payment of any tax for the preceding period during which the Assessment Roll has been in operation.

(2) The Board of Inland Revenue shall give notice to the owner of the omitted land under subsection (1) of the amount of tax assessed thereon.

(3) The tax assessed under this section shall become due and payable on the expiration of thirty days from the date of such notice.

(4) Where, at any time after the completion of an Assessment Roll or amended Assessment Roll, a new building is erected, and the Commissioner of Valuations includes the land on the Valuation Roll, the taxes payable for such land shall be a proportion of the amount of the yearly rate corresponding to the period from the date of the completion of the building to the end of the said year.

(5) Where, the new building under this section stands on premises already assessed and entered in the Assessment Roll in force, the taxes payable in respect of the land for the unexpired portion of the year in which it was erected shall be calculated upon the difference between the taxes assessed before the erection of the new building and the taxes assessed after the erection of the new building.

(6) The difference under subsection (5), between the assessed taxes, as well as the taxes appearing in the Assessment Roll in force before the erection of the new building, shall be a charge upon the land and all necessary entries and alterations shall be made in the Assessment Roll in force.

Refund on tax paid.

20.(1) Where, as a result of any reduction in the valuation of land, there has been any over-payment of the annual tax due, the Board shall forthwith refund the amount of such over-payment to the owner of such land.

(2) Any amount of a refund under subsection (1) that remains outstanding for more than a period of six months after the date by which it became due, shall bear interest at the rate of one point two per cent per month or part of a month from the day after the expiration of that period until the amount outstanding is satisfied.

(3) All tax payable under this section in respect of any land shall until paid, be a charge upon such land.

(4) The Board shall amend the assessment roll as a consequence of any reduction in the valuation of land.

PART IV

OBJECTIONS, RELIEF, REVALUATIONS AND APPEALS

Objections to assessments.

21.(1) The owner of land who is dissatisfied with the assessment of the Board may, within twenty-one days next after the annual tax becomes due and payable, notify the Board in writing of his objection thereto.

(2) Where the objection received under subsection (1) in respect of an assessment by an owner of land, is on any of the grounds set out in section 22(a), (b), (c), (d), (e) or (g), the Board shall refer such objection to the Commissioner of Valuations who shall within nine months of receipt of the notice deal with the objection in accordance with the Valuation of Land Act.

(3) Where the Board is in receipt of an objection under this section in respect of an incorrect assessment of taxes it may, by notice in writing, require the owner of the land to furnish within a specified time such particulars as it may require for the purpose of dealing with the objection.

(4) Where in reconsidering an assessment for the purposes of an objection, the Board, under subsection (3), requires the owner of the land objecting to the assessment to furnish particulars within a specified time and the owner of the land refuses or neglects to furnish the particulars within the specified time, the notice of objection delivered by the owner of the land shall cease to have effect and the assessment shall be final and conclusive.

(5) The Board shall serve notice on the objector of its decision under subsection (4).

(6) The Board shall, within one year of receipt of any notice of objection in respect of an incorrect assessment of tax, consider the objection and may either confirm, reduce or increase the value or make such other adaptations thereto as it considers just.

(7) The owner of land who is dissatisfied with the assessment of the Board who fails to file an objection within the time frame specified in subsection (6) may apply to the Board for an extension of time in which to file an objection, and the Board on receipt thereof, may grant the extension.

(8) An application under subsection (6) may be made out of time where the Board is satisfied that there was a reasonable excuse for not making the application within the time limit, and that the application was made thereafter without unreasonable delay.

(9) Where the Board disallows an objection for the reason that it was not satisfied under subsection (8), an appeal shall lie to the Tax Appeal Board from such decision.

(10) Where the Board is in receipt of an objection under subsection (1) in respect of an incorrect assessment of tax, it shall notify the objector of its decision in writing.

(11) Where, upon the expiration of twelve months after the service of the notice of objection the Board fails to determine the objection, the person who has disputed his assessment, may, notwithstanding section 7(2) of the Tax Appeal Board Act, appeal to the Tax Appeal Board within twelve months of such expiration.

(12) Where as a result of any reduction in the assessment of land under this Act, there has been an overpayment by the owner of the land relative to the overpayment of the annual

tax due, the Board shall forthwith refund the amount of the overpayment to the owner thereof.

(13) Any amount of a refund under subsection (1) that remains outstanding for more than a period of six months after the date by which it became due, shall bear interest at the rate of one point two per cent per month or part of a month from the day after the expiration of that period until the amount outstanding is satisfied.

Grounds for objections.

22. Objections to assessments may be made on the following grounds:

- (a) that the annual rental value of any land appearing in the Valuation Roll is incorrect or unfair having regard to other annual rental values therein;
- (b) that land should not have been included in the Valuation Roll;
- (c) that land omitted from the Valuation Roll should be included therein;
- (d) that land included in a series or complex of land units as a single land on the Valuation Roll should be listed separately on the Valuation Roll or omitted therefrom;
- (e) that land listed separately in or omitted from the Valuation Roll should be combined with one or more of a series or complex of land units and listed as one single unit of land;
- (f) the assessed tax is incorrect; and
- (g) that the Valuation Roll is incorrect in some other material particular.

Deferral of tax.

23.(1) The Board may upon the application of the owner of land authorize the deferral of the payment of the assessed tax on the land on the grounds of the impoverished condition of the owner and his inability to improve his financial position significantly by reason of age, impaired health or other special circumstances, that

undue hardship to that owner would otherwise ensue.

(2) An application under subsection (1) shall be made in writing in the prescribed form and shall be accompanied by evidence that the applicant -

(a) is in receipt of –

- (i) a public assistance grant;
- (ii) a disability grant;
- (iii) a senior citizen's grant; or
- (iv) a Trinidad and Tobago conditional cash transfer card,

from the State; or

Chap. 32:02 (b) does not receive an annual income exceeding the maximum amount specified in section 3 of the Senior Citizen's Grant Act.

(3) A certificate under subsection (2) shall be conclusive of the owner's inability to pay tax assessed under this Act.

Proof of necessity for relief.

24. Before the Board authorizes a deferral under section 23, the applicant shall furnish such proof of eligibility under section 23 relevant to the determination of the application as the Board may require.

Conditions for relief.

25. An authorization issued under section 23 may be made subject to such conditions as the Board may think fit and any such conditions shall be specified in the authorization.

Board may vary or revoke authorization.

26.(1) The Board may at any time vary or revoke an authorization issued under section 23 if it is satisfied, having regard to any alteration in the circumstances of the owner, that it is appropriate so to do where there has been a breach of any condition specified in the authorization.

(2) Before exercising its powers under this section, the

Board shall afford to the owner a reasonable opportunity to show cause why the authorization should not be varied or revoked, as the case may be.

Any period of deferment to cease on death of the owner.

27.(1) Subject to subsection (2), any period of deferment specified in an authorization issued under section 23 shall determine on the death of the owner concerned and thereupon the tax in respect of which deferment was authorized shall become immediately due and payable out of the estate of the deceased owner.

(2) Where the Board is satisfied, having regard to the impoverished condition of the successors in title of the estate and his inability to improve his financial position significantly by reason of age, impaired health or other special circumstances, that undue hardship to that successor in title would otherwise ensue, the Board may recommend that the President authorize the total or partial exemption of the tax payable up to the death of the deceased owner.

False statements in applications for relief.

28. Any person who, in connection with any application for an authorization under section 23, makes any written or oral statement which he know or has reason to believe to be false in any material particular, commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Appeals.

29. Appeals to the Tax Appeal Board under this Act shall be done in accordance with the Tax Appeal Board Act.

Variation or alteration to be entered in the Valuation Roll.

30. Where the Tax Appeal Board or the Court of Appeal has varied a decision of the Board, or where the Board has, by virtue of the power conferred on it by this Act, altered the assessment of land, the Board shall cause the variation or alteration to be entered in the Assessment Roll.

PART V

RECOVERY OF TAXES

Payment of Tax

31.(1) The annual tax to be paid in respect of all land shall be paid by the owner of the land.

(2) Notwithstanding subsection (1), the amount to be collected from the owner of land may be collected from the tenant or occupier of the land or any part thereof and the tenant or occupier may deduct the amount paid from the rent payable by him in respect of the land.

(3) Nothing in subsection (1) shall be construed as affecting any contract between the landlord and tenant with respect to the payment of such tax.

(4) Where the owner of land has contracted to let the same to a tenant at a stated rent and the annual taxable value of the land is subsequently increased by reason of the fact that account is taken of machinery and plant therein, then if-

- (a) the machinery and plant belong to the tenant; and
- (b) the contract was made without reference to the possibility that the machinery and plant might be taken into account for the purpose of determining the annual taxable value of the land,

the owner is entitled to recover from the tenant, as a civil debt the amount by which the tax payable by him has been increased by reason of the fact that the machinery and plant had been taken into account.

Unpaid tax a charge on the land.

32.(1) Any annual tax due under this Act together with any statutory increase which may have accrued under this Act shall, until paid, be a charge on the land in respect of which the annual tax is due and payable on and without prejudice to such charge and

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to the power of sale conferred by the Rates and Charges Recovery Act on the annual tax and the statutory increase, if any, may be recovered from the owner of the land by action in any Court of competent jurisdiction or by distress on any goods and chattels including any moveable tenement standing on land forming part of the land which may be found in or upon the land.

(2) Where the land consists of a moveable tenement and the tenement is removed before the annual tax due in respect thereof is paid, the annual tax shall remain a charge on the land and may, without prejudice to the charge and to the statutory power of sale for the enforcement thereof, be recovered from the owner of the land by action in any Court of competent jurisdiction.

(3) For the purpose of this section, “moveable tenement” means a residential unit which is not permanently affixed to the ground or any other structure.

Date when tax due and payable.

33. The annual tax due and payable in respect of every land shall be paid to the Board on or before the March 31 in every year ending on the next ensuing December 31.

Notice of penalties for non-payment interest and forfeiture.

34.(1) Where any amount of tax is not paid on or before the 15th September the Board shall cause a Notice of non-payment to be sent to the owner of the land notifying him -

(i) of the non-payment of the assessed tax which is due to be paid and that interest on the amount due shall be added at the rates set out in subsection (4); and

(ii) the liability of his land to be distrained against or forfeited if the amount due is not paid.

(2) A Notice under subsection (2) shall be sent by registered post.

(3) Where any amount of tax is not paid on or before the September 15-

- (a) a further sum of 10% on the amount of tax shall be added thereto by way of an increased tax; and
- (b) interest at the rate of 15% per annum on the amount of tax is to be applied to the tax as increased from September 16 to the date of payment,

unless the Board is satisfied that the failure to pay the taxes did not result from the default of the taxpayer.

Liquidation of any arrears.

35. Where arrears of annual tax payable in respect of land are outstanding, the Board shall, on receipt of moneys paid for annual tax or any statutory increases in respect of such land for any year, apply such moneys towards the liquidation of any arrears of annual tax in respect of that land in the order in which they become due for every previous year.

Notice of where tax assessed not paid

36. Where arrears of annual tax payable on land are outstanding, or part thereof is unpaid, and six months have elapsed since the same became due and owing, the Board shall cause a Notice of Demand to be sent to the owner of the land by registered post.

Power to distrain

37.(1) Where any tax assessed under this Act or part thereof is unpaid, the Board has served Notice under section 36 and twelve months have elapsed since the same became due and owing, the Comptroller of Accounts, District Revenue Officer or other person to whom the same ought to be paid may at anytime before actual forfeiture under section 41 authorize the levying of a distress-

- (a) upon the goods, chattels, and effects of the owner;
or

(b) upon the goods, chattels and effects, being upon the lands so charged with such tax of the tenant or occupier of the lands or any part thereof charged with such tax.

Schedule II

(2) The authority to distrain under this section may be made in the form set out in Schedule II, and such authority shall be a sufficient warrant and authority to levy by distress the amount of taxes unpaid and in arrears and penalties and interests thereon.

(3) For the purpose of levying any distress under this section, any person may, if expressly authorized in writing by the Board, execute any warrant of distress, and if necessary, break open any building in the daytime for the purpose of levying such distress.

(4) An officer of the Board executing a warrant of distress under this section may call to his assistance any police officer and it shall be the duty of every police officer when so required, to aid and assist in the execution of any warrant of distress and in levying the distress.

Distress at the cost of the owner.

38.(1) The distress taken under section 37 may, at the cost of the owner thereof, be kept for four days, at the end of which time if the actual costs and charges of and incidental to the distress are not paid, the same may be sold.

(2) Out of the proceeds of such sale, there shall first be paid the costs and charges of and incident to the sale and keeping of the distress, and subsequently the amount due in respect of the tax with such increase as aforesaid, and the residue if any, shall be payable on demand to the owner of the goods distrained upon.

Goods for distress.

39. In exercise of the powers of distress conferred by this Act upon the goods, chattels and effects of the owner, it is hereby declared that the Board may distrain upon all such goods,

chattels and effects wherever the same may be found, and although the same may be elsewhere and not upon lands actually charged with and liable for the payment of any tax.

Distress other than
by the Board.

40. No goods or chattels whatever belonging to any owner at the time and tax payable by him is in arrears shall be liable to be taken by virtue of any warrant of distress issued by any landlord, or by virtue of any assignment, on account or pretence whatever, unless the party at whose suit any such warrant of distress, execution or seizure shall be sued or made, or to whom such assignment shall be made, shall before sale or removal of such goods or chattels, pay or cause to be paid to the Board, or to anyone authorized to levy a distress under section 37 any tax due at the time of seizing such goods or chattels.

Warrant for
forfeiture.

41.(1) Where any tax or any part thereof due in respect of any land remains in arrears and unpaid for the period of five years from the day when it became due and payable, the President may, by warrant under his hand, reciting that a sum specified in such warrant, due on account of the tax and for the year specified in such warrant, is and has for the full period of one year been in arrears and unpaid, order that such lands be forfeited to the State, and immediately upon the registration of such warrant as hereinafter provided, such land shall be forfeited, and shall vest in the State, in absolute dominion, free and discharged from all rights, estates, interests, equities and claims of any other person.

(2) The President shall not sign a warrant under subsection (1), unless the Board has previously caused a notice to be published in the *Gazette* and in one newspaper in daily circulation in Trinidad and Tobago and posted up in a conspicuous place at its office and sub-offices for a period of one month, notifying the owners of the lands, and all persons interested in

them, that unless a sum specified in such notice, being the sum which at the expiration of a specified period of one year or some longer period, became or would become due in respect of the tax in arrears, increasing according to the Act, is paid before the expiration of the specified period, together with all sums which at the time of payment may be due in respect of any tax, the said lands will be liable to forfeiture to the State.

(3) In order to obtain possession of any lands forfeited under this section, the Commissioner of State Land shall issue a warrant under his hand directed to the Board, Marshal, police officer, or other person authorizing him to take possession on behalf of the State and to evict all other persons occupying the land.

(4) A warrant issued under subsection (3), shall be in the form set out in Schedule III.

Schedule III

Registration of warrant for forfeiture.

42.(1) The Board shall register every warrant of forfeiture issued under this Act in the office of the Registrar General and until the warrant is so registered, it shall be of no effect.

(2) The Registrar General shall receive no fee in respect of the registration of a warrant of forfeiture under subsection (1).

Registered warrant as evidence.

43. Where any warrant of forfeiture under this Act is registered in the office of the Registrar General, any recital therein required by this Act shall, in any proceedings relating to the title to the lands thereby ordered to be forfeited, be conclusive evidence of the facts stated in such recital.

Forfeited land.

44.(1) Any land forfeited under this Act may be dealt with as vacant or waste State lands.

(2) The President may fix any higher price than the upset price of State lands for any such forfeited land as may be

wholly or in part cultivated or built upon.

(3) The President may, upon the petition of any person being owner of or having any right to or interest in any land forfeited under this Act, re-grant the same land or such right or interest therein as he may deem just.

(4) The President, if he thinks fit, may, out of the moneys arising from the sale, give to any person deprived of any right or interest in such land such sum of money by way of compensation as he thinks just.

Land unoccupied
for 5 years.

45.(1) Any land which for a period of sixteen years has been unoccupied and un-assessed, and upon which during such period, no taxes have been paid, shall be liable to be forfeited to the State.

(2) The President may, by warrant under his hand, reciting that such land has been unoccupied and un-assessed for a period of sixteen years, and that no taxes have been paid thereon during such period, order that such land be forfeited to the State, and thereupon such land and building shall be forfeited accordingly and shall vest in the State in absolute dominion, free and discharged from all rights, estates, interests, equities, and claims of any other person.

(3) The President shall not issue or sign a warrant under this section unless the Board has first certified under its hand that such land has, for the full period of sixteen years next preceding the date of such certificate, been unoccupied and un-assessed and that no taxes have been paid thereon during such period and unless the Commissioner of State Lands on such certificate has caused a notice to be published in the *Gazette* and in one newspaper published on at least three occasions and circulating in Trinidad

and Tobago that unless any person can show good cause to the contrary before a date to be mentioned in such notice, and which shall not be earlier than twenty-eight days after the issue of such notice, such land will be forfeited.

(4) The President may decide upon any claim which may be made to any land which may be advertised as so liable to forfeiture, and may make such order in relation thereto as he may think fit.

Re-grant of land
forfeited.

46. (1) Any petition for the re-grant of any land forfeited under this Act, or of any interest therein, or for any allowance in respect of any right or interest in any such forfeited land sold, shall be addressed to the President and shall be delivered to the office of the Commissioner of State Lands.

(2) The President may, where he thinks fit, refer a petition under subsection (1), to the Commissioner of State Lands or the Board, Appeal Board or other person with directions to report thereon.

(3) The person to whom any such petition is referred may take such evidence as he may think proper in order to enable him to make his report.

(4) Evidence under subsection (3) may be given either *viva voce* or by statutory declaration.

(5) In the case of evidence given *viva voce* the witness before giving evidence shall make the following declaration:

“ I declare that the evidence which I have given in this matter shall be the truth, the whole truth and nothing but the truth.”.

(6) Any witness who, having made such declaration, makes as part of his evidence any assertion as to any matter of fact,

opinion, or belief which is false and which he knows or believes to be false or does not believe to be true, commits an offence and is liable on conviction on indictment to a fine of five thousand dollars.

Prosecution for offences under this Act.

47.(1) Subject to this Act, an offence under this Act may be prosecuted and any penalty or forfeiture imposed by this Act may be sued for, prosecuted and recovered summarily, and all sums whatsoever payable may be recovered and enforced in the manner prescribed by the Summary Courts Act, or as near thereto as the circumstances of the case will permit, on the complaint of the Board.

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(2) A person authorized in writing by the Board may prosecute and conduct any complaint or other proceedings under this Act in respect of any offence or penalty.

Succession of Commissioner of State Lands.

48. Upon the death, removal or resignation of any Commissioner of State Lands, all estates, rights and powers vested in him by this Act shall vest in his successor in office, and all actions by his predecessor for carrying out the duties imposed upon him by this Act may be continued by such successor.

Penalty for obstructing authorized agent.

49. Anyone who prevents any person authorized by warrant under this Act from taking possession of any land, or who molests, obstructs or hinders any such person in taking such possession, or who assaults, obstructs, molests or hinders any person whomsoever in the execution of his duty or in doing anything which he is empowered to do by any regulation made under this Act, commits an offence and shall be liable on summary conviction to a fine of five thousand dollars.

PART VI

THIRD PARTY AGENCIES PAYMENTS

Payments may be made through third parties.

50.(1) The owner of land whose land has been assessed under this Act may, in making payments to the Board in respect of the assessed sum which is due and owing to the Board, utilize any of the third party payment agencies prescribed by the Minister by Order.

(2) A third party payment agency in receiving a payment on behalf of the owner of land under subsection (1) shall-

- (a) forward such payment and a record of such payment, by any means, to the Board; and
- (b) issue a receipt of the payment to the owner of the land.

Board may receive third party payment agencies payments.

51. Notwithstanding any other written law, the Board may receive, by any means, payments from the owner of land for sums due and owing under this Act, through a third party payment agency subject to general or specific directions of the Minister.

PART VII

MISCELLANEOUS

Minister may extend times prescribed by the Act.

52. The Minister may extend the time prescribed by this Act for the payment of any tax, or the doing of any act or thing, or the performance of any duty under this Act.

Regulations.

53.(1) The Minister may make Regulations for the better carrying out of the purposes of this Act.

(2) Notwithstanding the generality of subsection (1), the Minister may make regulations prescribing forms and other instruments as may be required under this Act.

Transitional.

54. On the coming into force of this Act all payments due and owing for land and building taxes under the Lands and Buildings Taxes Act and Part V of the Municipal Corporations Act shall remain due and owing and be treated as if they were due and owing under this Act .

Repeal of Part V
of Chap 25:04.

55. The Municipal Corporations Act is amended by repealing Part V.

Repeal of
Chap. 76:04.

56. The Lands and Buildings Taxes Act is repealed.

Repeal of
Chap 76:50.

57. The Tax Exemption Act is repealed.

SCHEDULE I

(Section 11)

Percentages for Annual Taxable Value

Type of property	Rate of Tax payable (% ATV)
Residential	3
Commercial	5
Industrial	6
Agricultural	1

SCHEDULE II

[Section 37(2)]

THE PROPERTY TAXES ACT, 2009

DISTRESS WARRANT

Ward of

To..... (person authorized) and to all Constables:

I, (post) of.....
(or as the case may be) by virtue of the power vested in me by section 37 of the Property Taxes Act, do hereby authorize you to hereby collect and recover the several amounts respectively due for taxes assessed under this Act in respect of the land specified in the list attached hereto together with the increase of 10% and interest of 15% incurring under section 34(3) of the said Act; and for the recovery thereof I further authorize you, that you, with the aid, if necessary, of your assistants and calling to your assistance any constable, if necessary, which assistance they are hereby required to give, do forthwith levy by distress the said sums, together with the said increase of 10% and interest of 15% and also the cost and charges of and incident to the taking and keeping of such distress, on the goods, chattels, or other distrainable things of the tenant or occupier of the lands or any part thereof charged with such tax or sum of the tenant or occupier of any building being upon the land so charged with such sum or upon the goods, chattels, and effects of the owner being upon such land or wherever else the same may be found.

And for the purpose of levying such distress you are hereby authorize, if necessary, with such assistance as aforesaid, to break open any building in the daytime.

Given under my hand atthis....day of....., 20...

SCHEDULE III

(Section 41)

THE PROPERTY TAXES ACT, 2009

WARRANT OF POSSESSION

To.....

I, Commissioner of State Lands, hereby authorize and require you in the name and on behalf of the State to take possession of all that [describe the land], which land has become forfeited to the State by virtue of the Property Taxes Act, 2009, and by virtue of a warrant under the hand of the President dated the.....day of....., 20...., in consequence of the taxes assessed under this Act for the year being one year and more in arrears, which said warrant was registered on theday of....., 20...., in the office of the Registrar General, and to evict all persons therefrom. And for so doing this shall be your warrant.

Witness my hand thisday of....., 20.....

Passed in the House of Representatives this day of , 2009.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2009.

Clerk of the Senate

I confirm the above.

President of the Senate