

THE VALUATION OF LAND (AMENDMENT) 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 amend the Valuation of Land Act, Chap. 58:03 to make provision for the new paradigm for the calculation of the value of land by the Commissioner of Valuations and to validate certain actions of the Commissioner of Valuations.

The Bill contains seventeen clauses.

Clauses 1 and 2 of the Bill would provide for the short title of the Bill and the commencement of the Bill on January 1, 2010.

Clause 3 of the Bill would provide for the interpretation of certain terms used in the Bill.

Clause 4 of the Bill would amend section 2 of the Bill to insert new definitions of “agricultural land”, “annual rental value”, “commercial land”, “industrial land” and “residential land”. The clause would also amend a number of definitions to ensure consistency with the Property Tax Bill, 2009.

Clause 5 of the Bill would repeal section 4 of the Act to remove the references to the valuation districts given that it would no longer be necessary to have Municipal Corporations divide Trinidad and Tobago into districts for the purpose of valuations.

Clause 6 of the Bill would amend section 5 of the Act to remove references to “district” and introduce a requirement on the Commissioner to also conduct valuations based on the annual rental value and capital value of the land. Further, the clause would provide that the Commissioner should, where the owner of land does not file a return, notify the owner that he is so required to do and that he may be liable to punishment under this Act. The clause would also provide that in calculating the annual rental value of land or part thereof, the Commissioner would use the percentages or any combination of the percentages set out in Schedule I.

Clause 7 of the Bill would repeal sections 6 and 7 of the Act as it would no longer be necessary to complete valuations by a specific date thus rendering any necessity for a “base

date”, otiose. The new clause 6 would be similar to the obligation that exists under the Lands and Buildings Taxes Act for the owner of land to file a return. The requirement to file is by April 1, 2010 and failure to file a return or the filing of a false or defective return results in the commission of an offence for which a person is liable on summary conviction to a fine of \$500.00

Clause 8 of the Bill would amend section 8 of the Act to include a reference to the Municipal Corporations Act, Chap. 25:04.

Clause 9 of the Bill would amend section 9 of the Act to provide for the period of time for fresh valuations and to extend the time in which new valuations are to be conducted. Further the clause expands the power of the Commissioner to conduct valuations for calculation for purposes of ascertaining the annual rental value or capital value. The clause would also remove references to districts consequent on the repeal of section 4 of the Act.

Clause 10 of the Bill would repeal section 13 of the Act as a consequence of the repeal of section 4 and will introduce a new clause that would allow the Commissioner to revalue land where it appears to him that the land has been over-valued.

Clause 11 of the Bill would repeal section 14(2) of the Act as it would no longer be necessary for local authorities to furnish the Commissioner with returns, rate books or such other documents.

Clause 12 of the Bill would amend section 16 of the Act to remove references to “districts” and to include other items that should be included in the Valuation Roll.

Clause 13 of the Bill would amend section 21 of the Act to allow an objector to appeal directly to the Tax Appeal Board without the Commissioner having to refer the matter. The requirement for a security would also be removed. The clause would also introduce a new subsection that would allow the Tax Appeal Board to refer to the value at which other lands are valued in making a determination as to the amount at which the land under consideration should be valued.

Clause 14 of the Bill would amend section 23 of the Act to include the annual rental value and capital value for the purpose of valuing land.

Clause 15 of the Bill would amend section 24 of the Act to include the annual rental value and capital value for the purpose of valuing land.

Clause 16 of the Bill would amend section 25 of the Act to remove the references to “district” and the requirement for a supplementary roll.

Clause 17 of the Bill would amend section 32(1) of the Act which creates the offence of obstructing or hindering the Commissioner or refusing or neglecting to attend and give evidence or produce any book, document or other paper when required by the Commissioner to increase the fine from one thousand five hundred dollars to five thousand dollars to be consistent with the penalties proposed under the Property Tax Bill, 2009.

A BILL

An Act to amend the Valuation of Land Act, Chap. 58:03 and to validate certain actions of the Commissioner of Valuations

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

- Short title. 1. This Act may be cited as the Valuation of Land (Amendment) Act, 2009.
- Commencement. 2. This Act shall come into operation on January 1, 2010.
- Interpretation. 3. In this Act, “the Act” means the Valuation of Land Act.
Chap 58:03
- Section 2 amended. 4. The Act is amended in section 2(1) -
- (a) by inserting before the definition of “appeal” the following new definitions:
- “ “agricultural land” means land used for, or vacant arable land where the sole use may be for the following purposes:
- (a) the cultivation of crops or the rearing of livestock;
- (b) the cultivation and processing of food or food products or rearing of livestock; or
- (c) horticultural use,
- but does not include land used-
- (d) for ornamental or recreational purposes or as accommodation lands for non-agricultural purposes; or
- (e) kitchen gardens;
- “annual rental value” means the annual rent which particular land is likely to attract having regard to the purpose for which the land is actually used, occupied or tenanted, or where it is not actually used, occupied or tenanted, having regard to the purpose for which it is reasonably suitable;”;

- (b) by deleting the definition of “Appeal Board” and substituting the following definition:
- “ “Tax Appeal Board” means the Appeal Board established under the Tax Appeal Chap. 4:50 Board Act;”;
- (c) by deleting the definition of “base date” and substituting the following new definitions:
- “ “capital value” means the sum which the fee simple might be expected to realize if offered for sale on such reasonable terms and conditions as a *bona fide* seller would require;”;
- “ “commercial land” means land used for commercial purposes, whether wholesale, retail or service, carrying on a trade, business or profession, and includes land used or occupied by a non-profit organization which would, if the land were so used or occupied by a trade or business, be treated as commercial land, but does not include agricultural land;”;
- (d) by inserting after the definition of “improvements”, the following definition:
- “ “industrial land” means –
- (a) land used for; or
- (b) vacant lands where the sole use may be for,
- the purpose of manufacturing, processing, marine terminal and transportation areas and facilities, fabrication, assembly, treatment, or distribution of manufactured products or storage of bulk materials;”;
- (e) by deleting the definition of “land” and substituting the following definition:
- “ “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;”;
- (f) in the definition of “local authority” delete the words “the Council of a Municipal Corporation,”;
- (g) in the definition of “objection” by deleting the words “an objection” and substituting the words “a complaint”; and
- (h) by inserting after the definition “Regulations” the following new definition:

“ “residential land” means-

- (a) vacant or unoccupied lands with or without a building which is intended to be used or is capable of being used by reason of its location for residential purposes;
- (b) land that has affixed to a building or other dwelling which has the physical characteristics that enable it to be occupied or capable of occupation as a residence or for residential occupation and is used and occupied on a permanent basis as a single dwelling accommodation and includes complementary outbuildings; and
- (c) boat houses.”.

Section 4
repealed.

5. The Act is amended by repealing section 4.

Section 5
repealed and
substituted.

6. The Act is amended by repealing section 5 and substituting the following section:

“Commissioner to
make valuation.

5(1). The Commissioner shall
make a valuation of the –

- (a) site value and improved value; or
- (b) capital value and annual rental value,

of every parcel of land.

(2) For the purpose of the computation of the annual rental value of land or any part thereof under this Act, the Commissioner shall apply the percentages or any combination thereof set out in Schedule I.”.

Schedule I

Sections 6 and 7 amended.

7. The Act is amended by repealing sections 6 and 7 and substituting the following sections:

“Returns by owners.

6. (1) Every owner of land in Trinidad and Tobago shall, by April 1, 2010 make, with the Commissioner, a return of the land in the form set out in Schedule II.

Schedule II.

(2) Where the owner of land fails to file a return by April 1, 2010 the Commissioner shall by Notice inform the owner that he is required to file a return, failing which he may be liable to conviction under this section.

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

(4) A person who willfully-

- (a) fails to make a return within the prescribed time under subsection (1); or

- (b) makes a return which is defective or incomplete or which is to his knowledge false in any material particular,

commits an offence and is liable on summary conviction to a fine of five hundred dollars.

Section 8 amended

- 8. The Act is amended in section 8(1) by-
 - (a) deleting the words “or the Arima Corporation Ordinance” and substituting the words “, the Arima Corporation Ordinance or the Municipal Corporations Act,”; and
 - (b) deleting the words “and the Ordinances mentioned herein relating to the valuation of land or buildings in such district ” and substituting the words “, the Ordinances mentioned herein relating to the valuation of lands or buildings in such district and the Municipal Corporations Act,”.

Section 9 amended.

- 9. The Act is amended in section 9 -
 - (a) by repealing subsection (1) and substituting the following subsection:
 - “(1) A fresh valuation in respect of land shall commence as near as may be to five years from the date of the last valuation of the land as recorded in the Valuation Roll.”;
 - (b) in subsection (2), by deleting the words “in that district”; and
 - (c) in subsection (3)-
 - (i) by deleting the word “three” and substituting the word “five”;
 - (ii) in paragraph (e), by inserting after the words “site value” wherever they occur, the words “, annual rental value or capital value”;

(iii) in paragraph (g), by deleting the words “(which may include the re-constitution of the district)”; and

(iv) in paragraph (h), by deleting the words “improved value” and substituting the words “site, value, annual rental value or capital value”.

Section 13
repealed and
substituted.

10. The Act is amended by repealing section 13 and substituting the following section:

“Revaluation of
land at
Commissioner’s
initiative.

13.(1) Where it appears to the Commissioner that any land has been over valued, the Commissioner shall revalue the land.

(2) The annual rental value or capital value arising from a revaluation under subsection (1), in respect of the current valuation period shall be-

- (a) the annual rental value for that period; or
- (b) the capital value.

(3) Notice of every valuation of land made under this section shall be given to the owner of such land in a form approved by the Commissioner by registered post.”.

Section 14
amended.

11. The Act is amended in section 14, by repealing subsection (2).

Section 16
amended.

12. The Act is amended in section 16(1)-

- (a) by deleting the words “for each district”; and
- (b) by deleting paragraph (f) and substituting the following paragraphs:

- “
- (f) the annual rental value of the land;
 - (g) the capital value of the land;
 - (h) the address of the land;
 - (i) the reference to the Real Property Register and the Register of Deeds kept by the Registrar General;
 - (j) the unique land identification number or other number by which the land is identified;
 - (k) where the land is rented, the amount of rent paid on the land and the number of tenants;
 - (l) the current value of plant, machinery, pipelines, cables and fixtures erected or placed upon, in, over, under or affixed to land; and
 - (m) any other information that the Commissioner may, from time to time, determine as necessary for the administration of this Act.”

Section 21 amended.

13. The Act is amended in section 21 –

- (a) in subsection (1), by deleting all the words after the words “in writing” and substituting the words “appeal to the Tax Appeal Board for a review of the valuation.”; and
- (b) by deleting subsection (3).

Section 23 amended.

14. The Act is amended in section 23, by deleting the words “site value or improved value” and substituting the words “site value, improved value, annual rental value or capital value”.

Section 24 amended

15. The Act is amended in section 24, by deleting the words “site value or improved value” wherever they occur and substituting the words “site value, improved value, annual rental value or capital value”.

Section 25 amended.

16. The Act is amended in section 25 -

(a) in subsection (1) –

(i) by deleting the words “in respect of any district”;
and

(ii) in paragraph (b), by deleting the words
“providing services in the district”; and

(b) by repealing subsection (2).

Section 32
amended.

17. The Act is amended in section 32(1), by deleting the words
“one thousand five hundred” and substituting the words “five thousand”.

Validation of
acts of the
Commissioner
of Valuations.

18. Where prior to the coming into force of this Act valuations
were conducted by the Commissioner of Valuations based on any other
value other than site value or improved value, such valuations and all acts
or things done pursuant to such valuations, are deemed to have been as
valid and effectual as if the Valuation of Land Act empowered him to
conduct valuations based on any other value other than site value.

SCHEDULE I

[Section 5]

PERCENTAGES TO BE APPLIED TO LAND IN COMING TO A DETERMINATION OF THE ANNUAL RENTAL VALUE

USE OF LAND	PERCENTAGE TO BE APPLIED	
Agricultural:	2% of the capital value of the lands and any buildings thereon.	
Residential:	Vacant land-	3.5% of its capital value.
Commercial:	Vacant land-	5% of its capital value.
Industrial:	Vacant land-	5% of its capital value less 10% multiplied by the tax rate (6%).
	Land and buildings-	90% of the Annual Rental Value.
Plant and Machinery:	Without buildings-	6% of its current value.
	With specialized buildings-	6% of the current value of the plant, machinery and buildings.

SCHEDULE II

(Section 6)

RETURN REQUIRED UNDER SECTION 6 OF THE VALUATIONS OF LAND ACT,
CHAP: 58:03

I HEREBY DECLARE that I am the owner or agent of the premises mentioned hereunder and that the several particulars stated in this return are to the best of my knowledge and belief true and correct.

1. Premises.....
2. Name of Owner(s).....
3. For what purpose used.....
4. Whether rented, leased or occupied by owner
- (a) If rented-
 - (i) Number of rooms occupied by tenant;
 - (ii) Name of tenant(s), with monthly rent payable by each:
.....
 - (iii) Number of rooms untenanted, with rental value of each
.....
 - (iv) Rent paid
 - (v) Whether tenant pays land rent of site; if so how much?
- (b) If leased- name of lessee
- Rent reserve under lease.....per year
- Whether lessee pays the taxes
- Whether lessee pays premiums of insurance and if so how much?
.....
- (c) If occupied by owner or relatives – rental value thereof \$.....
- If occupied by owner or relatives – part thereof \$.....

5. Additions or alternations to building (if any) since date of last return

.....

Dated this day of , 20.....

Signature and Address of Owner or Agent

.....

(If space provided is not sufficient, details must be given on the back hereof or on a separate sheet)

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.