

AS AMENDED IN THE H.O.R.

No. 2 of 2020

Fifth Session Eleventh Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to provide for the registration and regulation of
real estate agents in order to promote transparency,
accountability and integrity in the real estate
profession, to protect and assist persons engaged in
transactions with real estate agents and to assist in
the detection and prevention of money laundering
and terrorist financing, and other related matters

THE REAL ESTATE AGENTS BILL, 2020

Explanatory Notes

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

The purpose of the Real Estate Agents Bill, 2020 is to provide for the registration and regulation of real estate agents and other related matters.

Part I of the Bill would provide for certain preliminary matters.

Clause 1 provides for the short title.

Clause 2 would provide for the Act to come into operation upon Proclamation by the President.

Clause 3 defines certain terms used in the Bill.

Clause 4 would provide that the Act would not apply to persons who are acting for or on behalf of the State.

Part II of the Bill provides for the interpretation of the practice of real estate business.

Clause 5 sets out the circumstance in which a person would be considered to be engaging in real estate business.

Clause 6 imposes an obligation on developers to register before they proceed to sell their land.

Clause 7 makes it an offence to engage in real estate business or pretend to be a real estate agent without being registered under the Act.

Part III of the Bill sets out the registration process of persons who wish to engage in real estate business.

Clause 8 provides for the application process for registration.

Clause 9 sets out the qualifications that are to be satisfied in order to be registered.

Clause 10 stipulates the circumstances under which a person would not be registered.

Clause 11 sets out an objection procedure for persons who wish to object to the registration of another person.

Clause 12 sets out the steps to be followed when an application for registration is approved.

Clause 13 imposes an obligation on the Registrar General to establish and maintain a Register of Real Estate Agents and a Register of Developers and sets out the information that is to be kept in the Register of Real Estate Agents.

Clause 14 provides for the establishment and maintenance of a private register which is to contain additional information not contained in the public registers.

Clause 15 sets out the information that is to be kept in the Register of Developers and what information is to be kept private.

Clause 16 provides that the Registrar General is to have custody of the registers and the related documents and that persons may have access to the registers upon payment of the prescribed fee.

Clause 17 imposes an obligation on persons who are registered to inform the Registrar General of any changes in their particulars.

Clause 18 provides that registration is valid for three years and that it may be renewed.

Clause 19 provides for the renewal process of a registration.

Clause 20 provides for the process for cancellation or surrender of a Certificate of Registration.

Part IV of the Bill provides for the Real Estate Agents Association.

Clause 21 establishes a body corporate to be known as the Association of Real Estate Agents of Trinidad and Tobago, hereinafter referred to as “the Association”.

Clause 22 provides for the composition of the Board which is to manage the affairs of the Association.

Clause 23 provides that the Board may make rules to govern its procedure.

Clause 24 sets out the purpose of the Association.

Clause 25 provides for the use of a common seal by the Association.

Clause 26 requires the Association to have a fixed address in Trinidad and Tobago for service of documents on the Association.

Clause 27 provides that all real estate agents would be members of the Association.

Clause 28 requires the Association to maintain a policy of professional indemnity insurance as approved by the Central Bank.

Clause 29 imposes an obligation on members of the Association to pay an annual fee to the Association.

Part V of the Bill provides for the Real Estate Agents Licensing Committee.

Clause 30 establishes the Real Estate Agents Licensing Committee, hereinafter referred to as “the Committee”, and sets out the membership of the Committee.

Clause 31 sets the circumstances in which a person is disqualified from being appointed as a member of the Committee.

Clause 32 sets out the functions of the Committee.

Clause 33 provides for the tenure and remuneration of members of the Committee.

Clause 34 sets out the manner in which a member may resign from the Committee.

Clause 35 sets out the circumstances in which the appointment of a member may be terminated.

Clause 36 provides for the procedure for meetings of the Committee and the quorum.

Clause 37 requires a member of the Committee to declare his interest in any matter in which there may be a conflict with his functions as a member of the Committee.

Clause 38 provides for the Secretary and staff of the Committee.

Clause 39 requires the Committee to submit an annual report to the Minister at the end of each financial year.

Part VI provides for the Licensing of Brokers.

Clause 40 sets out the application process for a licence.

Clause 41 sets out an objection process for persons who wish to object to the grant of a licence.

Clause 42 sets out the procedure to be followed when an application for a licence is approved.

Clause 43 states that a licence is valid for three years and may be renewed.

Clause 44 provides for the renewal of a licence.

Clause 45 requires a broker to display his licence at his principal place of business and a copy of same at his other office locations.

Clause 46 provides for the surrender and cancellation of a licence.

Part VII provides for professional misconduct.

Clause 47 seeks to define what would be considered professional misconduct by a real estate agent.

Part VIII deals with the duties and obligations of a real estate agent.

Clause 48 requires a sales associate to keep proper records of his transactions for a minimum period of six years from the date of completion of the transaction.

Clause 49 imposes an obligation on brokers to supervise their sales associate.

Clause 50 requires a broker to keep proper records of his transactions for a minimum period of six years from the date of completion of the transaction.

Clause 51 requires brokers to maintain a client account in order to keep his client's money separate from his personal account.

Clause 52 sets out the circumstances in which client's money is held in trust.

Clause 53 imposes an obligation on brokers to submit to the Committee an annual declaration in respect of the keeping of his books and accounts.

Part IX provides for a Disciplinary Committee.

Clause 54 establishes a Disciplinary Committee.

Clause 55 sets out the functions of the Disciplinary Committee.

Clause 56 provides that the Association is responsible for providing the Disciplinary Committee with the services of a secretary and other office staff.

Clause 57 provides that a member of the Disciplinary Committee shall hold office for not more than three years and may be reappointed.

Clause 58 sets out the procedure for resignation by a member.

Clause 59 sets out the circumstances in which the appointment of a member of the Disciplinary Committee may be terminated.

Clause 60 provides for the quorum of a meeting of the Disciplinary Committee.

Clause 61 requires a member of the Disciplinary Committee to declare his interest in any matter in which there may be a conflict with his functions as a member of the Disciplinary Committee.

Clause 62 provides that the Disciplinary Committee may make rules to regulate its procedure.

Part X provides for the procedures for a disciplinary proceeding.

Clause 63 provides for the procedure to be followed when a person makes a complaint against a real estate agent.

Clause 64 provides for the hearing to be held by the Disciplinary Committee.

Clause 65 sets out the powers of the Disciplinary Committee upon the determination of a complaint.

Clause 66 provides that the Disciplinary Committee may recommend the cancellation of a Certificate of Registration or the revocation of a licence where a broker is convicted of an offence listed in Schedule 2.

Clause 67 requires a real estate agent to surrender his Certificate of Registration, and licence where applicable, upon the recommendation of the Disciplinary Committee.

Clause 68 requires the Registrar General to make the relevant entry in the Register where a Certificate of Registration or licence is suspended, revoked or reinstated.

Clause 69 requires the Registrar General to cause to be published in the “*Gazette*” and the newspapers a notice of every suspension, revocation or reinstatement of a Certificate or Registration or licence.

Clause 70 imposes an obligation on the Disciplinary Committee to inform the Commissioner of Police, Director of Public Prosecutions, Registrar General and Supervisory Authority where it discovers evidence of a criminal offence.

Clause 71 provides for appeals of a decision of the Disciplinary Committee to be made to the High Court.

Part XI deals with certain offences and penalties.

Clause 72 provides that a prosecution for a summary offence shall be instituted within two years of the date of discovery of the breach.

Clause 73 makes it an offence to make a false statement or provide false information on an application form.

Clause 74 makes it an offence to employ a person who is not a real estate agent to engage in real estate business.

Clause 75 makes it an offence for a person who is not a broker to receive or handle client’s money.

Clause 76 makes it an offence for a person concerned with the administration of the Act to disclose confidential information except where authorized to do so.

Clause 77 sets out general penalties for other offences created in the Act.

Part XII provides for certain miscellaneous matters.

Clause 78 empowers the Minister to make Regulations to give effect to the Act.

Clause 79 empowers the Registrar General to make Rules, subject to the approval of the Minister, prescribing forms, fees and other matters relating to registration.

Clause 80 empowers the Minister to establish, by Order, a Code of Ethics for real estate agents.

Clause 81 empowers the Minister to amend Schedule 2 by Order.

Clause 82 provides for certain consequential amendments to be made to the Forgery Act and the Proceeds of Crime Act.

Clause 83 would provide that a person who is conducting real estate business upon the commencement of the Act may continue to do so for a period of eighteen months, or longer as the Minister may determine.

THE REAL ESTATE AGENTS BILL, 2020

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BILL

AN ACT to provide for the registration and regulation of real estate agents in order to promote transparency, accountability and integrity in the real estate profession, to protect and assist persons engaged in transactions with real estate agents and to assist in the detection and prevention of money laundering and terrorist financing, and other related matters

[, 2020]

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

PART I
PRELIMINARY

- | | |
|----------------|---|
| Short title | 1. This Act may be cited as the Real Estate Agents Act, 2020. |
| Commencement | 2. This Act comes into operation on such date as is fixed by the President by Proclamation. |
| Interpretation | <p>3. In this Act, unless the context otherwise requires –</p> <p>“Association” means the Association of Real Estate Agents of Trinidad and Tobago established under section 21;</p> <p>“Board” means the Board of the Association;</p> <p>“broker” means a person who is the holder of a licence and includes, unless otherwise expressly provided, a brokerage;</p> <p>“business of a broker” shall be construed in accordance with section 5(3);</p> <p>“business of a sales associate” shall be construed in accordance with section 5(5);</p> <p>“Certificate of Registration” means the Certificate of Registration issued under section 12(1)(c);</p> <p>“Chairman” means the Chairman of the Committee appointed under section 30(2)(a);</p> <p>“client” means a person who employs a real estate agent to conduct real estate business;</p> <p>“client account” means an account at a financial institution held by a broker in which money is deposited on behalf of a named client of the broker;</p> <p>“client’s money” means money paid by a client to a broker to facilitate the conduct of real estate business on his behalf and does not include a commission;</p> |

“Code of Ethics” means the Code of Ethics established under section 80;

“commission” means the payment earned by a real estate agent for the conduct of real estate business;

“Committee” means the Real Estate Agents Licensing Committee established under section 30;

“complainant” means a person who makes a complaint under section 63;

“conveyance” has the meaning assigned to it under the Conveyancing and Law of Property Act and includes a grant, Chap. 56:01 certificate of title, assurance, deed, or any other document relating to the transfer or other dealing with land or evidencing title thereto;

“Deputy Chairman” means the Deputy Chairman of the Committee appointed under section 30(2)(b);

“developer” means a person who—

(a) erects buildings or structures upon land for sale;

(b) causes infrastructure to be built or installed upon land for sale; or

(c) causes the subdivision of large parcels of land into smaller lots for sale;

“Disciplinary Committee” means the Disciplinary Committee established under section 54;

“financial institution” has the meaning assigned to it under the Financial Institutions Act;

Act No. 33 of 1970

“ICATT” means the Institute of Chartered Accountants of Trinidad and Tobago incorporated by the Institute of Chartered Accountants of Trinidad and Tobago (Incorporation) Act, 1970;

“IFRS” means International Financial Reporting Standards issued by the International Accounting Standards Board;

“Judicial and Legal Service Commission” means the Judicial and Legal Service Commission established under section 110 of the Constitution;

“licence” means a licence issued under section 42(1)(b);

“member” means a member of the Committee or his alternate;

“Minister” means the Minister with responsibility for legal affairs;

“non-financial nature of real estate business” means the carrying on of all aspects of real estate business with the exception of receiving or otherwise handling client’s money;

Chap. 81:02

“partnership” has the meaning assigned to it under the Partnership Act;

“prospect” means a person who is a potential client of a real estate agent;

“property management” means the overseeing of real property owned by another person, by ensuring the proper administration of the real property and the preservation of its value, including—

(a) offering to lease or license the real property;

- (b) negotiating or approving the lease or license of the real property;
- (c) leasing or licensing the real property;
- (d) collecting or offering money payable for the use of the real property;
- (e) holding money received in connection with the lease or license of the real property;
- (f) managing and maintaining the real property; and
- (g) advertising, or engaging in any other activity, directly or indirectly, for the purpose of furthering an activity described in paragraphs (a) to (f);

“public body” means any department or division of—

- (a) a Ministry;
- (b) the Tobago House of Assembly, established by section 141A of the Constitution;
- (c) a Municipal Corporation established under the Municipal Corporations Chap. 25:04 Act;
- (d) a Regional Health Authority established under the Regional Health Authorities Act; Chap. 29:05
- (e) a statutory body, responsibility for which is assigned to a Minister of Government;
- (f) a State-controlled enterprise;
- (g) a Service Commission established under the Constitution or other written law;
- (h) the Parliament;
- (i) the Judiciary; or
- (j) the Office of the President.

“public money” means money that is—

- (a) received or receivable by a public body;
- (b) spent or committed as future public expenditure, by a public body;
- (c) distributed by a public body to a person for a public purpose;
- (d) raised in accordance with a written law, for a public purpose; or
- (e) appropriated by Parliament;

“real estate agent” means a sales associate or broker;

“real estate business” shall be construed in accordance with section 5;

“real property” 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, water-courses, 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;

“Registrar General” means the Registrar General established under the Registrar General Act;

“respondent” means a real estate agent against whom a complaint is made under section 63;

“Rules” means the Rules made under section 79;

“sales associate” means a person who is registered under section 12(1);

“Secretary” means the Secretary to the Committee provided for in section 38;

“State-controlled enterprise” means—

- (a) a company incorporated under the laws of Trinidad and Tobago which is owned or controlled by the State; or
- (b) a company incorporated under the laws of Trinidad and Tobago which is owned or controlled by a company referred to in paragraph (a);
- (c) a body corporate or unincorporated entity which is supported, directly or indirectly, by public money and over which the State, a statutory body or a company referred to in paragraph (a) or (b) is in a position to exercise control directly or indirectly; and

“Supervisory Authority” has the meaning assigned to it under section 18A of the Financial Intelligence Unit of Trinidad and Tobago Act.

Chap. 72:01

4. This Act does not apply to a person employed by the State, a State-controlled enterprise or a public body who conducts real estate business, in the course of their employment.

Disapplication of Act

PART II

PRACTICE OF REAL ESTATE BUSINESS

5.(1) A person engages in real estate business if he—

Real estate business

- (a) auctions or negotiates the sale, exchange, purchase, lease or licensing of real property;

- (b) advertises or holds himself out as being engaged in the business of auctioning or negotiating the sale, exchange, purchase, lease or licensing of real property;
- (c) engages in property management, either as a consultant or as an agent;
- (d) takes part in the procuring of vendors, purchasers, lessors, lessees, landlords or tenants of real property; or
- (e) directs or assists in the procuring of prospects, or the negotiation or closing of transactions which result in the sale, exchange, lease or licensing of real property.

(2) Notwithstanding subsection (1), a person shall not be regarded as engaging in real estate business by reason only of the fact that—

- (a) he acts for and on behalf of a client under a power of attorney for the purpose of negotiating or executing a contract, transfer or conveyance in respect of real property, provided always that he does not engage in these transactions in breach of his fiduciary duties or for personal profit;
- (b) he furnishes legal advice and services ancillary thereto in his capacity as an Attorney-at-law;
- (c) he is—
 - (i) an administrator, executor, receiver or trustee acting under or by virtue of an appointment by will or written instrument or by order of a court; or
 - (ii) an assignee, custodian, liquidator, receiver, or trustee acting under any written law;

- (d) he deals with real property of which he is an owner or a part owner;
- (e) he is a developer; or
- (f) he is employed as a salaried employee of a financial institution dealing with real estate transactions.

(3) A person engages in the business of a broker where he—

- (a) supervises a sales associate who represents a client;
- (b) receives client's money; or
- (c) manages the financial aspects of real estate business.

(4) Notwithstanding subsection (3), a broker may engage in the business of a sales associate.

(5) A person engages in the business of a sales associate where he engages in the non-financial nature of real estate business.

(6) Nothing in this Act shall affect the obligation of a real estate agent to comply with the Auctioneers Act.

Chap. 84:03

6. (1) A developer, prior to—

- (a) erecting buildings or structures upon land for sale;**
- (b) causing infrastructure to be built or installed upon land for sale; or**
- (c) causing the subdivision of large parcels of land into smaller lots for sale,**

Application for
registration by
developers

shall apply on the prescribed form to be registered in the Register of Developers.

(2) An application for registration under subsection (1) shall be submitted to the Registrar General together with—

- (a) a completed AML/CFT/PF risk assessment questionnaire; and**
- (b) the prescribed fee.**

(3) The questionnaire referred to in subsection (2)(a) shall be in such form as may be prescribed.

(4) In this section, “AML/CFT/PF” has the meaning assigned to it in section 8.

(5) A developer who fails to comply with this section commits an offence and is liable to the penalties under this Act.

Unlawful practice

7. (1) A person shall not—

- (a) practise as a real estate agent;**
- (b) pass off as or willfully pretend to be a real estate agent; or**
- (c) make use of any name, title or description implying that he is entitled to be recognized to act as a real estate agent,**

unless his name appears on the Register of Real Estate Agents.

(2) A person who contravenes this section commits an offence and is liable to the penalties set out under this Act.

PART III

REAL ESTATE BUSINESS REGISTRANTS

Application for registration by real estate agents

8. (1) A person who wishes to engage in real estate business shall apply to be registered under this Part.

(2) An application for registration under subsection (1) shall be made on the prescribed form and submitted to the Registrar General together with—

- (a) a completed AML/CFT/PF risk assessment questionnaire; and**

(b) the prescribed fee.

(3) The questionnaire referred to in subsection (2)(a) shall be in such form as may be prescribed.

(4) In this section “AML/CFT/PF” means Anti-Money Laundering/Countering the Financing of Terrorism/Financing the Proliferation of weapons of mass destruction.

9. (1) Subject to section 10, an individual may be registered as a real estate agent, upon satisfying the Registrar General that he—

- (a) is at least eighteen years of age; and
- (b) holds the prescribed qualifications.

(2) Subject to section 10, a company or a partnership may be registered as a real estate agent, upon satisfying the Registrar General that its directors or partners, as the case may be, hold the prescribed qualifications.

10. An individual is disqualified from being registered as a real estate agent where he, either as an individual, a director of a company or a partner in a partnership, as the case may be—

- (a) was convicted of an offence involving fraud, dishonesty or violence in the ten years immediately preceding the date of his application for registration, whether or not the conviction occurred in Trinidad and Tobago;
- (b) was convicted of an offence under the Anti-Terrorism Act, the Financial Intelligence Unit of Trinidad and Tobago Act or the Proceeds of Crime Act;
- (c) is the subject of an order or notice of a judicial authority of a country, other than Trinidad and Tobago, which prohibits him from performing the functions of a **real estate agent or a developer, or from being appointed as an attorney under a power of attorney;**

Qualification for registration

Disqualification for registration

Chap. 12:07

Chap. 72:01

Chap. 11:27

- (d) is the subject of extradition proceedings; or
- (e) is the subject of a bankruptcy order.

Objection to
registration

11. (1) Upon receipt of an application under section 8, the Registrar General shall cause notice of the application to be published in the *Gazette* and in at least two newspapers in daily circulation in Trinidad and Tobago and such notice shall specify a date by which a person may object to the registration of an applicant.

(2) A person may object to the registration of an applicant by writing to the Registrar General, stating reasonable grounds for their objection.

(3) The date specified in subsection (1) shall not be fewer than ten days after the publication of the notice in the newspapers.

(4) Where the Registrar General receives an objection, he shall, within seven days of the receipt of the objection, give the applicant written notice of the objection and provide the applicant with an opportunity, of not less than seven days from the date of the notice, to respond to the objection.

(5) The Registrar General shall, within twenty-one days of receipt of an objection, decide on the merit of the objection and inform the person who made the objection as well as the applicant for registration of his decision, giving reasons in writing.

Determination of
application for
registration

12. (1) Where the Registrar General approves an application for registration he shall within twenty-one days of his decision—

- (a) inform the applicant;
- (b) enter the applicant's name on the relevant register; and
- (c) issue a Certificate of Registration in the prescribed form.

(2) Where the Registrar General does not approve an application for registration he shall inform the applicant of his decision and give reasons in writing, within twenty-one days of the date of his decision.

(3) An applicant who is aggrieved by a decision of the Registrar General under subsection (2) may appeal to a Judge of the High Court.

13. (1) The Registrar General shall establish and maintain registers to be known as:

- (a) the “Register of Real Estate Agents”; and
- (b) the “Register of Developers”.

(2) The Register of Real Estate Agents shall be a public register and shall be divided into the following Parts:

- (a) Part 1, which shall list in relation to each sales associate, the particulars referred to in subsection (3);
- (b) Part 2, which shall list each broker, other than a brokerage, together with his licence number and the particulars referred to in subsection (3); and
- (c) Part 3, which shall list each brokerage, together with its licence number and the particulars referred to in subsection (4).

(3) Parts 1 and 2 of the Register of Real Estate Agents shall contain the following particulars of each sales associate and broker, other than a brokerage:

- (a) name;
- (b) registration number and date of registration;
- (c) date of issue of a licence, where applicable;
- (d) qualifications;
- (e) business address;
- (f) business telephone number;

- (g) date of renewal of registration and licence;
and
- (h) such other particulars as may be prescribed.

(4) Part 3 of the Register of Real Estate Agents shall contain the following particulars of each brokerage:

- (a) name;
- (b) registration number and date of registration;
- (c) date of issue of licence;
- (d) telephone number;
- (e) registered address;
- (f) name and address of each director or partner;
- (g) name, licence number and date of issue of licence of each director or partner who is a broker;
- (h) name and address of secretary;
- (i) date of renewal of registration and licence;
and
- (j) such other particulars as may be prescribed.

Private Register

14. The Registrar General shall also establish and maintain a private register containing **any information submitted in an AML/CFT/PF risk assessment questionnaire referred to in section 8 and any** additional information to that referred to under section 13.

Register of
Developers

15. (1) The Registrar General shall make an entry of the name and other particulars, in the Register of Developers, of a person who makes an application under section 6.

- (2) The Register of Developers shall comprise:
- (a) Part 1, a public register containing the following particulars:
 - (i) name; and
 - (ii) address; and
 - (b) Part 2, a private register containing **any information submitted in an AML/CFT/PF risk assessment questionnaire referred to in section 6 and** such other additional information as may be required by the Registrar General.

16. (1) The Registrar General shall have custody of ^{Custody and access to Register} the registers and all documents which relate to them.

(2) The Registrar General shall, upon payment of the prescribed fee, allow any person to inspect the public registers during normal business hours.

(3) The Registrar General shall, upon payment of the prescribed fee, provide a person with a certified copy of or an extract from the **public** registers.

(4) The Registrar General may, on his own motion, or when requested by the Supervisory Authority, provide a certified copy of or an extract from the registers to the Supervisory Authority.

(5) The Registrar General shall not disclose information provided in an application for registration or a licence **or in an AML/CFT/PF risk assessment questionnaire referred to in section 6 or 8,** except—

- (a) to the Supervisory Authority;
- (b) for the purposes of law enforcement or court proceedings;
- (c) pursuant to an order of the Court; or
- (d) where required under any written law.

Notification of
change in particulars

17. (1) Where there is any change in the particulars of a registrant under this Act, the registrant shall, within one month of the change, notify the Registrar General of the change in the prescribed form and pay the prescribed fee.

(2) Where a registrant fails to notify the Registrar General of a change in particulars within the period specified in subsection (1), the Registrar General shall be entitled to collect from that registrant a penalty of three hundred dollars for every month that he fails to notify the Registrar General of the change in particulars.

(3) Where the Registrar General is notified of a change under this section, he shall cause the change to be reflected in the relevant register.

Duration of
registration

18. All registration under this Act shall be valid for three years from the date of registration, unless it is cancelled, suspended or revoked, and may be renewed in accordance with section 19.

Renewal of
registration

19. (1) A registrant who wishes to renew his registration shall apply to the Registrar General no later than one month prior to the expiration of his registration.

(2) The Registrar General shall, within thirty days of the receipt of an application under subsection (1), make a determination regarding a renewal.

(3) An application for renewal under subsection (1) shall be in the prescribed form accompanied by the prescribed fee.

(4) An application for renewal under subsection (1) shall not be granted unless the Registrar General is satisfied that the applicant is of good character and is not disqualified under section 10.

(5) A person who is aggrieved by a decision of the Registrar General under subsection (2) may appeal to a Judge of the High Court.

20. (1) The Registrar General shall cancel the Certificate of Registration of a real estate agent and remove his name from the Register of Real Estate Agents where—

- (a) the real estate agent surrenders his Certificate of Registration to the Registrar General;
- (b) the real estate agent dies;
- (c) the Committee has given notification that a licence has been revoked; or**
- (d) the real estate agent no longer qualifies for registration under section 10.**

(2) Where a broker surrenders his Certificate of Registration under subsection (1)(a), he shall also surrender his licence to the Committee and the Committee shall cancel the licence.

(3) The Registrar General shall cause notice of the removal of the name of a real estate agent from the Register of Real Estate Agents and the cancellation of his Certificate of Registration and licence, where applicable, to be published in the *Gazette* and in at least two newspapers in daily circulation in Trinidad and Tobago.

PART IV

REAL ESTATE AGENTS ASSOCIATION

21. (1) There is hereby established a body corporate to be known as the “Association of Real Estate Agents of Trinidad and Tobago”.

(2) The affairs of the Association shall be conducted in accordance with Schedule 1.

Schedule 1

22. (1) The Association shall be managed by a Board consisting of a minimum of five members and a maximum of ten members, inclusive of a President, Vice President, Treasurer and Secretary.

- (2) The members of the Board shall comprise—
- (a) members of the Association, with at least—
- (i) one member who **is a broker and** has at least five years' experience in real estate business;
 - (ii) **one member who has at least five years' experience in real estate business; and**
 - (iii) one member who has at least five years' experience in finance;
- (b) one Attorney-at-law of at least five years' standing.

(3) The members of the Board shall be elected by an annual general meeting in accordance with the provisions of Schedule 1.

(4) The Board shall, at its first meeting after it is constituted, appoint from among its members, a Secretary.

(5) The President, Vice President, Treasurer and Secretary shall be officers of the Association.

(6) The Board shall, within seven days of being constituted, forward the names of the members of the Board to the Registrar General, who shall cause those names to be published in the *Gazette*.

Board to make rules **23.** The Board may make its own rules to govern its procedure.

Purpose of the Association **24.** The purpose of the Association is—

- (a) to improve the standards of conduct and proficiency of real estate agents in Trinidad and Tobago;
- (b) to promote compliance of real estate agents with the Code of Ethics;
- (c) to represent, advance and protect the interests of real estate agents in Trinidad and Tobago;

- (d) to promote the exchange of views among real estate agents;
- (e) to develop initiatives for the efficient and effective delivery of real estate services to the public;
- (f) to protect and assist the public in Trinidad and Tobago in all matters relating to real estate business;
- (g) to promote good relations between real estate agents and build better relations with the public in general;
- (h) to promote good relations between real estate agents and other professional bodies in other countries, to participate in the activities of any international association of real estate agents and to become a member thereof; and
- (i) to do such other things as are incidental or conducive to the achievement of the purposes set out in paragraphs (a) to (h).

25. (1) The Association shall have a common seal. Seal of the
Association

(2) Every document requiring the seal of the Association shall be sealed with the common seal of the Association in the presence of the President and the Secretary who shall both sign the document.

(3) The signing of a document in accordance with subsection (2) shall be *prima facie* evidence that the common seal of the Association was duly affixed.

26. The Association shall at all times have a fixed Service of documents address in Trinidad and Tobago for the service of documents on the Association and that address shall be registered with the Registrar General within twenty-eight days of the election of the first Board and any change to that address shall be registered with the Registrar General within twenty-eight days of the date of the change.

Membership in
Association

27. All real estate agents registered under this Act shall be members of the Association.

Professional
indemnity insurance

28. The Association shall maintain with an insurer such policy of professional indemnity insurance as the Central Bank approves.

Fees to the
Association

29. (1) Each member of the Association shall be liable to pay an annual subscription to the Association.

(2) The amount of the annual subscription payable under subsection (1) shall be fixed by the Board.

(3) In fixing the annual subscription, the Board may divide the members into classes and provide that different amounts shall be paid by different classes of members.

PART V

THE REAL ESTATE AGENTS LICENSING COMMITTEE

Establishment and
composition of
Committee

30. (1) There is established a committee to be known as the “Real Estate Agents Licensing Committee”.

(2) The President shall appoint the Committee comprising seven members as follows:

- (a) a Chairman, being an Attorney-at-law of at least ten years’ standing, who shall be appointed on the advice of the Judicial and Legal Service Commission;
- (b) a Deputy Chairman, being an Attorney-at-law of at least ten years’ standing, who shall be appointed on the advice of the Judicial and Legal Service Commission;
- (c) an Attorney-at-law of at least seven years’ standing, who shall be appointed on the advice of the Judicial and Legal Service Commission;
- (d) a person with experience in accounting, business or finance, nominated by the Minister;

- (e) two persons, each having at least five years' experience in real estate business, nominated by the Minister; and
- (f) a representative of the Tobago House of Assembly, nominated by the Chief Secretary of the Tobago House of Assembly.

(3) The President may, on the advice of the Judicial and Legal Service Commission, designate an Attorney-at-law who meets the criteria specified in subsection (2)(b) or (c) as an alternate member in respect of the member appointed under the respective paragraph, and the alternate member may act in the stead of that member at a meeting of the Committee.

(4) The President may designate a person who meets the criteria specified in subsection (2)(d), (e) or (f) as an alternate member in respect of the member appointed under the respective paragraph, and the alternate member may act in the stead of that member at a meeting of the Committee.

(5) The appointment of a member of the Committee shall be made by instrument in writing and published in the *Gazette*.

31. No person is qualified to be appointed as a member of the Committee if he— Disqualification of a member

- (a) is an undischarged bankrupt;
- (b) is of unsound mind; or
- (c) was convicted for an offence which carries a term of imprisonment of at least twelve months.

32. (1) The Committee shall be responsible for— Functions of the Committee

- (a) the issue, renewal, **revocation** or cancellation of licences; and
- (b) informing the Registrar General and the Supervisory Authority of the issue, renewal, **revocation** or cancellation of a licence.

(2) In the performance of its functions, the Committee shall not be subject to the control or direction of any person.

Tenure and remuneration of members

33. (1) A member of the Committee shall hold office for a term not exceeding three years and is eligible for reappointment.

(2) The members of the Committee shall be paid such remuneration and allowances as the President may determine.

Resignation of member

34. (1) The Chairman may resign his office by letter addressed to the President.

(2) A member of the Committee, other than the Chairman, may resign his office by letter addressed to the Chairman who shall immediately cause it to be forwarded to the President.

Removal of member

35. The appointment of a member of the Committee may be terminated—

(a) where the member—

- (i) is declared bankrupt;
- (ii) becomes of unsound mind;
- (iii) is, for whatever reason, incapable of performing or unable to perform his duties as a member;
- (iv) is convicted of an offence which carries a term of imprisonment of at least twelve months; or
- (v) misbehaves in office or brings his office into disrepute; or

(b) for any other reasonable cause.

Meetings and quorum

36. (1) The Committee shall meet at least once every month.

(2) A quorum for a meeting of the Committee is four members.

(3) The Chairman, or in his absence the Deputy Chairman, shall preside at meetings of the Committee.

(4) The Committee shall make its decisions by a majority vote of the members present and voting and the person presiding shall have a casting vote.

(5) Subject to the provisions of this Act, the Committee may make rules to regulate its own procedures.

37. (1) A member of the Committee who has a direct ^{Declaration of interest} or indirect interest in a matter under consideration by the Committee shall declare his interest at the earliest opportunity and shall not participate in the consideration of, or vote on, any question relating to the matter.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars and imprisonment for five years.

38. The Association shall provide the Committee ^{Secretary and staff of the Committee} with a Secretary, staff and services as may be required for the efficient performance of its functions.

39. (1) The Committee shall, not later than ninety ^{Annual report} days after the end of a financial year, submit to the Minister a report on the performance of its functions during that financial year.

(2) The Minister shall, within three months of receiving a report under subsection (1), cause the report to be laid in Parliament.

PART VI LICENSING OF BROKERS

40. (1) All brokers are required to be licenced under ^{Application for licence} this Act.

(2) Where a sales associate wishes to also operate as a broker, he is required to apply to the Committee for a licence.

(3) An application for a licence shall be made on the prescribed form and submitted to the Committee together with the prescribed fee.

(4) Where an application for a licence is being made on behalf of a company or partnership, that application must be signed by two directors or two partners, as the case may be, **one** of whom must be the holder of a valid licence as an individual broker.

(5) The Committee may issue a licence where the Committee is satisfied that the applicant—

(a) in the case of an individual—

- (i) is a sales associate;
- (ii) is a person of good character;
- (iii) is fit and proper to engage in the business of a broker;
- (iv) has satisfactorily completed such training in real estate business with an institution accredited by the Accreditation Council or such course in real estate business recognised by the Accreditation Council, as the Committee may approve;
- (v) has satisfactorily completed such additional training with an institution accredited by the Accreditation Council or such additional courses recognised by the Accreditation Council, as the Minister may approve, after consultation with the Association and Committee; and
- (vi) has a policy of professional indemnity insurance for the prescribed amount;

- (b) in the case of a company—
- (i) is incorporated or registered under the Companies Act;
 - (ii) has at least **one director who is a broker**; and
 - (iii) has a policy of professional indemnity insurance for the prescribed amount; or
- (c) in the case of a partnership—
- (i) is registered under the Registration of Business Names Chap. 82:85 Act, whether or not the partnership is required to be registered under that Act;
 - (ii) has at least **one partner who is a broker**; and
 - (iii) has a policy of professional indemnity insurance for the prescribed amount.

(6) In this section “Accreditation Council” means the Accreditation Council of Trinidad and Tobago established under section 3 of the Accreditation Council of Trinidad and Tobago Act.

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41. (1) Upon receipt of an application under section 40, the Committee shall cause notice of the application to be published in the *Gazette* and in at least two newspapers in daily circulation in Trinidad and Tobago and such notice shall specify a date by which a person may object to the licensing of an applicant.

Objection to issue of licence

(2) A person may object to the licensing of an applicant by writing to the Registrar General, stating reasonable grounds for their objection.

(3) The date specified in subsection (1) shall not be fewer than ten days after the publication of the notice in the newspapers.

(4) Where the Committee receives an objection it shall, within seven days of the receipt of the objection, give the applicant written notice of the objection and provide the applicant with an opportunity of not less than seven days from the date of the notice to respond to the objection.

(5) The Committee shall, within twenty-one days of the receipt of an objection, decide on the merit of the objection and inform the person who made the objection as well as the applicant for registration of its decision, giving reasons in writing.

Determination of
application for
licence

42. (1) Where the Committee approves an application made under section 40 it shall—

- (a) inform the applicant of the approval;
- (b) issue a licence and assign a licence number to the applicant; and
- (c) inform the Registrar General and the Supervisory Authority of the issuance of the licence,

within thirty days of the date of its decision.

(2) Where the Committee does not approve an application for registration, it shall inform the applicant of its decision and give reasons in writing, within twenty-one days of its decision.

(3) An applicant who is aggrieved by a decision of the Committee under subsection (2) may appeal to the High Court.

Duration of licence

43. A licence issued under this Act shall be valid for three years from the date of issue, unless it is cancelled, suspended or revoked, and may be renewed in accordance with section 44.

Renewal of licence

44. (1) A broker who wishes to renew his licence shall apply to the Committee no later than one month before the expiration of his licence.

(2) An application for the renewal of a licence shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) An application for renewal of a licence shall not be granted unless the Committee is satisfied that the applicant—

- (a) is registered with the Supervisory Authority;
- (b) has completed the prescribed training programme; and
- (c) is not disqualified under section 10.

(4) Where an applicant is aggrieved by a decision of the Committee made under this section, he may appeal to a Judge of the High Court.

45. (1) A broker shall prominently display his licence at his principal place of business and a copy thereof, issued by the Committee, shall be similarly displayed at any other location at which he conducts real estate business. Display and production of licence

(2) A broker who contravenes this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars and a further fine of one hundred dollars in respect of each day during which the offence is continued.

46. (1) A broker may at any time surrender his licence to the Committee. Surrender and cancellation of licence

(2) Where the Committee receives a surrendered licence, the Committee shall—

- (a) cancel the licence; and
- (b) give notice of the cancellation to the Registrar General and the Supervisory Authority.

(3) Where a broker dies, his licence shall cease to have effect from the date of his death and the Committee shall cancel his licence and notify the Registrar General and the Supervisory Authority.

(4) Where the Registrar General is notified that a licence is cancelled under this section, he shall remove the name of the broker from Part 2 or Part 3 of the Register of Real Estate Agents, as the case may be.

(5) The Registrar General shall cause notice of the cancellation of a licence and the removal of the name of the broker from Part 2 or 3 of the Register of Real Estate Agents to be published in the Gazette and in at least two newspapers in daily circulation in Trinidad and Tobago.

PART VII

PROFESSIONAL MISCONDUCT

Professional
misconduct

47. (1) A real estate agent commits an act of professional misconduct if he—

- (a) is dishonest or demonstrates gross incompetence in the performance of his professional duties;
- (b) engages in conduct of grave impropriety or gross negligence in the performance of his duties as a real estate agent;
- (c) uses another real estate agent's description, photograph or other information relating to real property to procure the appraisal, auction, sale, exchange, purchase, lease or license of real property;
- (d) fails, without reasonable excuse, to produce any record or document when required by the Disciplinary Committee to do so, or to answer any question put to him by the Disciplinary Committee at its proceedings;
- (e) knowingly makes a false or misleading statement or any material omission in or from an answer to any question put to him by the Disciplinary Committee at its proceedings;

- (f) being a broker, engages in the business of a broker or any part of that business under more than one name or description with intent to deceive;
- (g) advertises real property for appraisal, auction, sale, exchange, purchase, lease or licensing and fails to disclose his name and the fact that he is a real estate agent in a manner calculated to represent to the public that he is the owner of the real property;
- (h) fails to display his Certificate of Registration in accordance with this Act, or displays an invalid Certificate of Registration;
- (i) holds himself out as a real estate agent having authority to conduct business in relation to real property on behalf of an owner without the owner's consent;
- (j) accepts a commission, rebate or profit on expenditures made while acting as a real estate agent in the management of real property without the owner's consent;
- (k) acquires an interest in real property listed with him for auction, sale, exchange, purchase, lease or licensing, without disclosing complete details of his interest to the owner of the real property;
- (l) induces a party to a contract for the purchase, sale, lease or licensing of real property to breach the contract for the purpose of entering into a contract with another person;
- (m) acts as a dual agent without the written consent of the parties involved in a transaction and without disclosing the nature and scope of the representation to his client in the transaction;

- (n) assigns a contract without providing full and frank disclosure to all parties involved in the transaction; or
 - (o) breaches the Code of Ethics.
- (2) For the purposes of subsection (1)(m)—
- (a) a sales associate acts as a dual agent where he—
 - (i) represents more than one party to a transaction; or
 - (ii) is employed with a broker and represents one party to a transaction and another party to the transaction is represented by another sales associate employed with the same broker;
 - (b) a broker, other than a brokerage, acts as a dual agent where he—
 - (i) represents more than one party to a transaction; or
 - (ii) is employed with a brokerage and represents one party to a transaction and another party to the transaction is represented by a sales associate or broker employed with the same brokerage; and
 - (c) a brokerage acts as a dual agent where it represents more than one party to a transaction, whether through a sales associate or broker, employed by the brokerage.

(3) Where an act of professional misconduct under subsection (1) is established by the Disciplinary Committee to have been committed by a brokerage with the consent, connivance or acquiescence of a director, partner or officer concerned with the management of the

brokerage, that director, partner or officer concerned with the management of the brokerage is deemed also to have committed an act of professional misconduct and is liable to the sanctions outlined under sections 65 and 66.

PART VIII

DUTIES AND OBLIGATIONS OF A REAL ESTATE AGENT

48. (1) A sales associate shall keep proper records of ^{Keeping of records by sales associate} his transactions in relation to his real estate business, including a record of the following in respect of each transaction:

- (a) the nature and particulars of the transaction including, where applicable—
 - (i) survey plans;
 - (ii) valuation reports;
 - (iii) title information; and
 - (iv) any other particulars material to the transaction;
- (b) a description of the real property involved, sufficient to identify it, and its value;
- (c) the names and proof of identity of the parties to the transaction;
- (d) the amount of commission paid to him by a broker and the name of the broker who paid it; and
- (e) a copy of the relevant agreement or Deed.

(2) The records referred to in subsection (1) shall be retained by the sales associate for a period of six years from the date of completion of the transaction.

49. A broker shall supervise a sales associate in his ^{Broker to supervise sales associate} employ to ensure that the sales associate performs his functions competently and in compliance with this Act.

Keeping of records
by broker

50. (1) A broker shall keep proper books and accounts of his transactions in relation to his real estate business, including a record of the following in respect of each transaction:

- (a) the nature and particulars of the transaction including, where applicable—
 - (i) survey plans;
 - (ii) valuation reports;
 - (iii) title information; and
 - (iv) any other particulars material to the transaction;
- (b) a description of the real property involved, sufficient to identify it;
- (c) the names and proof of identity of the parties to the transaction;
- (d) the consideration for the transaction;
- (e) the amount of the deposit received and a detailed record of the client disbursement thereof; and
- (f) the amount of remuneration paid, the name of the party paying it and to whom it was paid.

(2) The records referred to in subsection (1) shall be retained by the broker for a period of six years from the date of completion of the transaction.

(3) For the purpose of this section, “remuneration” includes any commission, fee, gain, or reward which is received or to be received by the broker, whether directly or indirectly, in relation to the conduct of real estate business.

Broker to keep client
account

51. (1) A broker shall maintain a client account and where he receives client’s money, he shall forthwith pay the money into the client account.

(2) A broker shall keep his client account separate from his personal account.

(3) A person who contravenes this section commits an offence and is liable on summary conviction, to a fine of one hundred and fifty thousand dollars and to imprisonment for five years.

52. (1) Client's money is held in trust where such Money held in trust money—

- (a) is held by a broker in trust for the person who is entitled to call for it to be paid over to that person or to be paid on the direction of that person, or to have it otherwise credited to such person; and
- (b) is received by a broker as stakeholder and is held by him in trust for the person who may become so entitled on the occurrence of the event against which the money is held.

(2) Client's money shall not be available for payment of any debt or liability to any person other than the person for whom the broker holds the client's money in trust.

53. (1) A broker shall, on an annual basis, submit to Broker obligations the Committee a declaration in the prescribed form stating—

- (a) whether he has kept proper books and accounts of his transactions in accordance with the IFRS, which are adopted from time to time by ICATT, in relation to his real estate business;
- (b) whether an auditor examined the balances due to clients in trust, and found them in agreement with the accounting records of the broker;
- (c) whether a financial institution has verified that he maintains a client account in accordance with section 51(2);
- (d) the amount of money that is in the client account;

- (e) whether the auditor has done a sufficient review of the trust account transactions of the broker for the immediate calendar year, to satisfy himself that the trust money held for clients are kept separate from money belonging to the broker;
- (f) whether, after due consideration, the auditor has formed an independent opinion as to the position of the trust money held for clients, and to the best of his information the trust money held for clients are maintained in a separate trust account and are not less than the amount of trust money received in respect of which there is an undischarged trust obligation; and
- (g) whether he has participated in the policy of professional indemnity insurance referred to in section 28, continuously from the date of the issue of his licence.

(2) Where a broker knowingly submits false or misleading information in a declaration under subsection (1), he commits an offence and is liable to the penalties set out under this Act.

PART IX DISCIPLINARY COMMITTEE

Establishment of a
Disciplinary
Committee

54. (1) There is established a Disciplinary Committee which shall consist of seven members appointed by the President as follows:

- (a) a Chairman, being an Attorney-at-law of at least ten years' standing, appointed on the advice of the Judicial and Legal Service Commission;
- (b) three Attorneys-at-law of at least seven years' standing, appointed on the advice of the Judicial and Legal Service Commission;

(c) **two** persons with at least five years' experience in real estate business; **and**

(d) **one broker with at least five years' experience.**

(2) The appointment of a member of the Disciplinary Committee shall be made by instrument, in writing, and published in the *Gazette*.

(3) A secretary shall be chosen from among the members of the Disciplinary Committee who shall forward to the Registrar General the name of each person appointed to the Disciplinary Committee.

(4) The President, acting in his own discretion, may designate a person who meets the criteria specified in subsection(1)(c) as an alternate member in respect of the member appointed under that paragraph, and the alternate member may act in the stead of that member.

55. (1) The functions of the Disciplinary Committee are to hear and determine complaints made against a real estate agent and any other matters related to professional misconduct by a real estate agent.

Functions of
Disciplinary
Committee

(2) In the performance of its functions, the Disciplinary Committee shall not be subject to the control or direction of any person.

56. The office staff of the Disciplinary Committee shall be paid for by the Association.

Secretariat to the
Disciplinary
Committee

57. (1) A member of the Disciplinary Committee shall hold office for a term not exceeding three years and is eligible for reappointment.

Tenure and
remuneration of
members of
Disciplinary
Committee

(2) The members of the Disciplinary Committee shall be paid such remuneration and allowances as the President may determine.

58. (1) The Chairman of the Disciplinary Committee may resign his office by letter addressed to the President.

Resignation of
member

(2) A member of the Disciplinary Committee, other than the Chairman, may resign his office by letter addressed to the Chairman who shall immediately cause it to be forwarded to the President.

Removal of member **59.** The appointment of a member of the Disciplinary Committee may be terminated by the President acting in his own discretion—

(a) where the member—

- (i) is declared bankrupt;
- (ii) becomes of unsound mind;
- (iii) is, for whatever reason, incapable of performing or unable to perform his duties as a member;
- (iv) is convicted of an offence which carries a term of imprisonment of at least twelve months; or
- (v) misbehaves in office or brings his office into disrepute; or

(b) for any other reasonable cause.

Quorum **60.** A quorum for a meeting of the Disciplinary Committee is three members.

Declaration of interest **61.** (1) A member of the Disciplinary Committee who has a direct or indirect interest in a matter under consideration by the Disciplinary Committee shall declare his interest at the earliest opportunity and shall not participate in the consideration of, or vote on, any question relating to the matter.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and imprisonment for five years.

Rules of the Disciplinary Committee **62.** Subject to the provisions of this Act, the Disciplinary Committee may make rules to regulate its procedure.

PART X
DISCIPLINARY PROCEEDINGS

63. (1) A person who wishes to make a complaint ^{Complaint} against a real estate agent shall make the complaint in writing before the expiration of four years from the date on which the subject matter of the complaint arose, and submit any documents and other information in support of the complaint, to the Disciplinary Committee.

(2) Where the Disciplinary Committee receives a complaint under subsection (1), which it does not consider to be frivolous or vexatious, it shall, within thirty days of receiving the complaint, notify the respondent, in writing, of the particulars of the complaint and inform him of his right to reply to the complaint.

(3) Where the respondent is desirous of replying to the complaint, he shall submit a written response to the Disciplinary Committee within twenty-one days of receipt of the notice of the complaint or such other timeframe in excess of that twenty-one day period, as the Committee may in writing grant.

64. (1) In any case in which, in the opinion of the ^{Hearings by} Disciplinary ^{Committee} Committee, a *prima facie* case is established by the complainant, the Disciplinary Committee shall conduct a hearing in relation to a complaint and may require the respondent to produce documents and other information pertaining to the real estate business that is the subject of the complaint.

(2) A respondent who is required by the Disciplinary Committee to produce any record or document or to answer any question shall be entitled to the same rights and privileges as before a court of law.

(3) A complainant or respondent may appear before the Disciplinary Committee in person or through an Attorney-at-law.

Powers and
responsibility of
Disciplinary
Committee

65. (1) Upon the determination of a complaint, the Disciplinary Committee may, where it is satisfied that the respondent has committed an act of professional misconduct within the meaning of section 47—

- (a) reprimand or censure the respondent;
- (b) recommend to the Registrar General, that the Certificate of Registration of the respondent be suspended for a period not exceeding two years; or
- (c) recommend to the Committee, that the licence of the respondent be revoked.

(2) The Disciplinary Committee shall, in writing, forthwith notify the complainant, the respondent, the Registrar General, the Supervisory Authority, the Committee and the Association of its decision with reasons in writing.

Grounds for
cancellation or
revocation

66. Notwithstanding section 65(1), the Disciplinary Committee may also recommend cancellation of a Certificate of Registration or revocation of a licence on the ground that the broker was convicted of an offence under this Act or an offence listed in Schedule 2.

Schedule 2

Surrender of
Certificate of
Registration and
licence pursuant
to disciplinary
proceedings

67. (1) Where the Disciplinary Committee recommends the suspension of a Certificate of Registration, the respondent shall forthwith surrender that Certificate of Registration to the Registrar General.

(2) Where the Disciplinary Committee recommends the revocation of a licence, the respondent shall forthwith deliver that licence to the Committee.

Entry in Register

68. Where a Certificate of Registration or a licence is suspended, revoked or reinstated, the Registrar General shall cause such memorial to be entered in the Register of Real Estate Agents.

Publication of
suspension,
reinstatement or
revocation of licence

69. The Registrar General shall cause a notice of every suspension, revocation, reinstatement of a Certificate of Registration or a licence, as the case may be, to be published in the *Gazette* and at least two newspapers in daily circulation in Trinidad and Tobago.

70. Where, during the course of its proceedings or on the conclusion of its examination, the Disciplinary Committee discovers that there is evidence of a criminal offence, it shall immediately refer the matter to the Commissioner of Police and the Director of Public Prosecutions and inform the Registrar General and the Supervisory Authority of same.

Duty of Disciplinary Committee to inform of offence

71. A person who is aggrieved by a decision of the Disciplinary Committee may appeal to the High Court.

Appeals from decision of the Disciplinary Committee

PART XI OFFENCES AND PENALTIES

72. The prosecution for a summary offence under this Act shall be instituted within two years from the date of discovery of the breach.

Time limit for making a complaint

73. A person who knowingly makes a false statement or provides false information in an application form under this Act commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars and imprisonment for six months.

Misrepresentation in application form

74. A person who employs a person, other than a real estate agent, to engage in real estate business, commits an offence and is liable to the penalties set out under this Act.

Offence to employ non registrant

75. (1) A person who engages in real estate business shall not knowingly receive or handle client's money unless he is a broker.

Offence to deal with client's money without licence

(2) A person who contravenes this section commits an offence and is liable to the penalties set out under this Act.

76. (1) A person concerned with the administration of this Act shall keep confidential all documents and information he receives in the course of his duties and shall not disclose such documents and information except where such disclosure—

Confidentiality

(a) is required for the exercise of his function;

(b) is authorised by an order of the Court or any written law.

(2) A person who contravenes this section commits an offence and is liable to the penalties set out under this Act.

General penalties

77. A person who commits an offence under this Act is liable:

(a) on summary conviction, in the case of—

- (i) a body corporate, to a fine of three hundred thousand dollars;
- (ii) a director or other officer of a body corporate, to a fine of three hundred thousand dollars and to imprisonment for one year; and
- (iii) any other individual, to a fine of one hundred and fifty thousand dollars and to imprisonment for one year; and

(b) on conviction on indictment, in the case of—

- (i) a body corporate, to a fine of six hundred thousand dollars;
- (ii) a director or other officer of a body corporate, to a fine of six hundred thousand dollars and to imprisonment for two years; and
- (iii) any other individual, to a fine of three hundred thousand dollars and to imprisonment for two years.

PART XII

MISCELLANEOUS

Regulations

78. (1) Subject to subsection (2) and section 79, the Minister may make Regulations governing such matters as may be necessary to bring the Act into effect.

(2) The Minister to whom responsibility for finance is assigned may make Regulations in relation to the Supervisory Authority in order to carry into effect the provisions of this Act.

(3) Regulations made under this section may prescribe that any contravention thereof shall constitute an offence punishable on summary conviction, in the case of—

- (a) a body corporate, to a fine of one hundred and fifty thousand dollars;
- (b) a director or other officer of a body corporate, to a fine of one hundred and fifty thousand dollars and imprisonment for one year; and
- (c) any other individual, to a fine of one hundred and fifty thousand dollars and imprisonment for one year.

(4) Regulations made under this section shall be subject to negative resolution of Parliament.

79. (1) The Registrar General may, with the approval ^{Rules} of the Minister, make Rules prescribing forms, fees and other matters relating to the registration under this Act.

(2) Rules made under this section may prescribe that any contravention thereof shall constitute an offence punishable on summary conviction, to a fine of twenty thousand dollars.

80. (1) The Minister may, by Order, on the ^{Code of Ethics} recommendation of the Committee and after consultation with the Board, establish a Code of Ethics for real estate agents.

(2) An Order made under this section shall be subject to negative resolution of Parliament.

81. The Minister may, by Order, amend Schedule 2. ^{Amendment of Schedule 2}

82. The Acts listed in the First column of Schedule 3 ^{Consequential amendments Schedule 3} are amended to the extent stated in the Second Column of that Schedule.

Transitional

83.(1) A person who engaged in the business of a sales associate immediately before the coming into force of this Act may continue to engage in the business of a sales associate, without being registered under Part III, for a period of twelve months from the date of commencement of this Act or such longer period as the Minister may, by Order, determine.

(2) A person who engaged in the business of a broker immediately before the coming into force of this Act may continue to engage in the business of a broker without—

(a) being registered under Part III; or

(b) being the holder of a licence,

for a period of eighteen months from the date of commencement of this Act or such longer period as the Minister may, by Order, determine.”

SCHEDULE 1

[Sections 21(2) and 22(3)]

PART A

CONSTITUTION OF THE ASSOCIATION

- | | |
|------------------------------------|---|
| Elections to be held every year | 1. In every year elections shall be held in accordance with this Schedule and any rules made hereunder for the election of the members of the Board. |
| Closing date of nomination | 2. In the month of January every year the Board shall publish in the <i>Gazette</i> and in two daily newspapers in daily circulation in Trinidad and Tobago, for at least once a week, in two consecutive weeks, the closing date for nomination of candidates for election to the Board. |
| Candidate's consent to be obtained | 3. Every nomination of a candidate for election to the Board shall be in writing signed by not less than five members and shall name only one candidate whose consent shall be endorsed thereon. |
| Date of election and publication | 4. Election of members to the Board shall be held as soon as practicable after the month of January in every year but the names of the candidates nominated shall not be published before the first day of February in that year. |

5. Voting shall be by secret ballot.

Secret ballot voting

6. (1) A person may at the same election be a candidate for two or more of the offices of President, Vice-President, Treasurer, Secretary and member of the Board.

Election to offices

(2) The election to these offices shall be determined in the order in which the offices are mentioned in subparagraph (1).

7. In the event of an equality of votes between candidates, the one to be declared elected shall be determined by lot in such manner as may be prescribed in the Association's by-laws.

Equality of votes

8. (1) The names of the members of any newly elected Board shall be published in the *Gazette*.

Publication of Board members

(2) On the date of publication mentioned in subparagraph (1)—

(a) the new Board shall be deemed to have been constituted and its members to have taken office; and

(b) the term of office of the members of the previous Board shall expire.

9. Subject to the provisions of this Act, all members of the Board shall hold office until the coming into office of a new Board on the day and year next following that date mentioned in paragraph 8.

New Board

10. If a vacancy arises in the office of an elected member it shall be filled in one of the following ways:

Filling of vacancies

(a) where it arises less than six months after a member took office, by a by-election; and

(b) where it arises six months or more after the member took office, by the appointment by the Board of a person qualified for election to the office.

11. (1) The President of the Board or, in his absence the Vice-President of the Board shall be the Chairman and the Association and shall preside at all meetings of the Board.

Presiding at meetings of the Board and Association

(2) In the absence from a meeting of both the President and the Vice-President the members present shall select one of their members to preside at that meeting.

12. Subject to paragraph 11, where for any reason the President, Vice-President, Treasurer or Secretary of the Board is unable to carry out his functions under this Act, the Board shall appoint a member from among the elected members of the Board to act in his place.

Appointment of officer due to illness, etc.

- Vacation of office of statutory member 13. A member of the Board shall vacate his office if—
- (a) his Certificate of Registration or his licence has been suspended or revoked, as the case may be;
 - (b) he is declared bankrupt; or
 - (c) he becomes of unsound mind.
- Quorum of Board. 14. **Five** members present at a meeting of the Board shall constitute a quorum.
- Out-of-pocket expenses to be paid to members of the Board 15. No recompense shall be paid to any member of the Board but a member may be reimbursed from the funds of the Association for out-of-pocket and travelling expenses incurred by him in relation to the affairs of the Association.
- Annual General Meeting 16. (1) The Board shall convene an Annual General Meeting which shall be held on or before the 31st day of March in each year and shall cause to be prepared and presented to the Annual General Meeting—
- (a) a report on the activities of the Association; and
 - (b) proper accounts, duly audited, of all funds, property and assets of the Association,
- for the year terminating on the 31st day of January preceding such general meeting.
- (2) An Auditor shall be appointed at each Annual General Meeting.
- Special General Meeting 17. The Board may convene a Special General Meeting of the Association at such time or times as the Board deems expedient.
- Twenty-five members can requisition Special General Meeting 18. (1) Members of the Association may at any time request the Secretary of the Board in writing to convene a Special General Meeting.
- (2) The request for a Special General Meeting must be signed by no fewer than twenty-five members of the Association.
 - (3) The request for a Special General Meeting shall—
 - (a) indicate the reason for requesting such a meeting; and
 - (b) be served on the President and the Secretary of the Board.
 - (4) The Board shall convene a Special General Meeting to be held within thirty days of the service of the request for such Special General Meeting.

19. Where the Board fails to convene a Special General Meeting within the time required by subparagraph (4), the requisitioning members may convene that Special General Meeting within sixty days of the service of the initial request for such Special General Meeting.

20. At a General Meeting, every member present shall have one vote and the person presiding at that meeting shall have a casting vote.

21. (1) All such powers, acts, or things which are by the Act expressly authorised, directed or required to be exercised or done by the Board at a General Meeting may, subject to this Act or any by-laws made hereunder or any resolution passed from time to time by the Association at a General Meeting, be exercised or done by the Board.

(2) No resolution of the Association passed under subparagraph (1) shall invalidate the previous exercise of any power or the previous doing of any act or thing by the Board which would have been valid if such resolution had not been passed.

22. (1) The Board shall have the power to provide for all matters not expressly reserved to the Association at a General Meeting and for all such other matters as may appear to it to be necessary or desirable for carrying out its functions under this Act.

(2) Without prejudice to the generality of the power conferred by subparagraph (1) the Board may make by-laws on any of the following matters:

- (a) the manner of nominating candidates;
- (b) the manner of communicating to members the names of the persons nominated for election;
- (c) the form of nomination paper and the ballot paper;
- (d) the times at which the various steps in an election are to take place; and
- (e) the number of members, being not less than fifty, to constitute a quorum at a General Meeting.

PART B

TRANSITION TO FIRST BOARD

Until the First Board is constituted and a person is appointed to perform the functions of Secretary of the Association, the Registrar General shall perform these functions and shall be responsible for making arrangements for constituting the First Board and for holding elections for this purpose.

SCHEDULE 2

[Section 66]

LIST OF OFFENCES

1. Offences under the Prevention of Corruption Act, Chap. 11:11
2. Offences under the Computer Misuse Act, Chap. 11:17
3. Offences under the Proceeds of Crime Act, Chap. 11:27
4. Offences under the Anti-Terrorism Act, Chap. 12:07

SCHEDULE 3

[Section 82]

CONSEQUENTIAL AMENDMENTS

<i>First Column</i>	<i>Second Column</i>
Forgery Act, Chap. 11:13	Section 5(3) is amended by inserting the following new paragraph: “(p) a Certificate of Registration or licence issued under the Real Estate Agents Act, 2020.”.
Proceeds of Crime Act, Chap. 11:27	The First Schedule is amended in relation to “Real Estate”, by deleting the interpretation in the Second Column and substituting the following interpretation: “ A person registered or licensed under the Real Estate Agents Act, 2020 to engage in real estate business.”.

Passed in the House of Representatives this 8th day of May, 2020.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of ,
2020.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 2 of 2020

FIFTH SESSION
ELEVENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to provide for the registration and regulation of real estate agents in order to promote transparency, accountability and integrity in the real estate profession, to protect and assist persons engaged in transactions with real estate agents and to assist in the detection and prevention of money laundering and terrorist financing, and other related matters

Received and read the

First time

Second time

Third time
