



TRINIDAD AND TOBAGO

No. 17—1958

[L. S.]

I ASSENT,

SOLOMON HOCHOY

Acting Governor.

18th August, 1958.

AN ORDINANCE to encourage and facilitate the Construction of Dwelling Houses.

[1st January, 1958.]

Commence-
ment.

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

Enactment.

1. (1) This Ordinance may be cited as the Dwelling Houses (Encouragement of Construction) Ordinance, 1958.

Short title
and
commence-
ment.

(2) This Ordinance shall be deemed to have come into operation on the 1st day of January, 1958.

Interpreta-
tion.

2. In this Ordinance—

Ord. No. 30—
1955.

“Board” has the meaning assigned to it in the Public Housing Loans Ordinance, 1955;

Ch. 33. No. 1.

“Commissioner” has the meaning assigned to it in the Income Tax Ordinance;

“dwelling house” means a building used or intended to be used mainly as a separate dwelling or place of residence, and includes a flat;

“flat” means a separate and self-contained set of premises constructed for use as a dwelling and forming part of a building from some other part of which it is divided;

“Fund” means the Mortgage Insurance Reserve Fund established under section 6 of this Ordinance;

“newly constructed dwelling house” means a dwelling house the construction of which was commenced after the 31st day of December, 1957;

“owner” in relation to a dwelling house includes—

(a) part owner, and

(b) any person having an interest less than the fee simple in the land on which the dwelling house stands, by whom or on whose behalf the dwelling house was erected, and also the assignee of, or successor in title to, the interest of such person in the dwelling house;

“Public Housing Loans Fund” has the meaning assigned to it in the Public Housing Loans Ordinance, 1955;

“services” includes attendance, board, the provision of heating or lighting and any other privilege or facility connected with the occupancy of a dwelling house, not being a privilege or facility requisite for the purposes of access, water supply or sanitary accommodation;

“unfurnished” means without fittings, machinery or other articles used in premises but not forming part thereof.

3. In assessing the chargeable income of any person under the Income Tax Ordinance, the Commissioner may, as a condition precedent to applying any of the provisions of this Ordinance in relation thereto, require such person to produce a certificate from the Board in the prescribed form to the effect that in the opinion of the Board such provisions may properly be so applied.

Application
of Ordinance
Ch. 33. No. 1.

4. (1) Notwithstanding the provisions of the Income Tax Ordinance, there shall be exempt from income tax—

Rents and
profits exempt
from income
tax.

(a) the annual value, as contemplated by paragraph (c) of section 5 of the said Ordinance, of a newly constructed dwelling house during such time as it is occupied as a residence by the owner thereof:

Provided that this exemption shall not apply to any person in respect of more than one dwelling house at the same time;

(b) premiums and rents derived from the letting of any newly constructed dwelling house of the class specified in subsection (2) of this section;

(c) gains or profits derived from the initial sale of newly constructed dwelling houses of the class specified in subsection (2) of this section by any person registered in the prescribed manner as a trader in such houses.

(2) The provisions of paragraphs (b) and (c) of subsection (1) of this section shall apply in respect of a dwelling house—

(a) the cost of construction of which, in the opinion of the Board, having regard to normal building costs prevailing at the time of its construction, would not exceed twenty thousand dollars; and

(b) which is let or sold, as the case may be, unfurnished and without services.

(3) The exemptions provided for in paragraphs (a) and (b) of subsection (1) of this section shall be operative for a period of ten years commencing with the date of completion of the newly constructed dwelling house.

(4) The provisions of paragraph (b) of subsection (1) of this section shall cease to apply in respect of any dwelling house where in the opinion of the Board the cost of repairs, alterations or improvements made thereto, when added to the cost of construction as determined under subsection (2) of this section exceeds twenty thousand dollars, unless the Board has, prior to the execution of such work, authorised the carrying out thereof.

(5) The provisions of section 10 of the Income Tax Ordinance shall have effect in relation to any newly constructed dwelling house referred to in subsection (1) of this section as if the said subsection had not been enacted.

(6) Nothing in this section shall be construed as creating any exemption from liability to income tax in respect of income derived from the exercise of the trade or profession of a builder, and if any question shall arise under this section as to whether any amount ought properly to be regarded as profit derived from a transaction of sale or as being wholly or in part attributable to the exercise of the trade or profession of a builder, the same shall be determined by the Commissioner.

(7) Any person aggrieved by the determination of the Commissioner made under subsection (6) of this section may appeal in the prescribed manner to the Board whose decision shall be final.

Guarantee by
Public Housing
Loans Board
of repayment
of sums
secured
by mortgage
of dwelling
houses.

5. (1) Where the repayment of a loan for the purchase or construction of a dwelling house to which this section applies is secured by a mortgage on the said dwelling house and there is a condition included in the mortgage that the mortgagor shall reside in the said dwelling house during the subsistence of the said mortgage, it shall be lawful for the Board, subject to the provisions of this section and of such regulations as may be made in that behalf, to enter into a written guarantee with the parties to the mortgage as provided for by subsection (2) of this section.

(2) The guarantee referred to in subsection (1) of this section shall provide that in the event of the exercise by the mortgagee of his power of sale the mortgagee shall, where the net amount realised by the mortgagee upon sale is less than the amount then owing under the mortgage, recover an amount equal to the difference between the net amount realised by the mortgagee upon sale and either—

(a) the amount then owing under the mortgage, or

(b) eighty-five per centum of the value of the said dwelling house as assessed by the Board at the time of the execution of the guarantee, in addition to interest owing at the prescribed rate on the loan secured by the mortgage but not exceeding one year's interest,

whichever shall be the less.

(3) It shall be a condition of any guarantee entered into under this section that the mortgagee shall pay to the Board at such time or times as may be specified in the guarantee an insurance fee of one per centum per annum of the balance of the principal sum for the time being owing under the mortgage.

(4) This section applies to—

(a) any newly constructed dwelling house the cost of construction of which, in the opinion of the Board, having regard to normal building costs prevailing at the time of its construction, would not exceed twenty thousand dollars; and

(b) any other dwelling house the purchase price of which is not more than twenty thousand dollars.

(5) Where a dwelling house in respect of which a guarantee is executed by the Board under this section is put up for sale by the mortgagee in exercise of his power of sale under the mortgage, it shall be lawful for the Board to acquire the same by purchase and thereafter to deal with the same as owner thereof.

6. (1) The Board shall establish a fund to be known as the Mortgage Insurance Reserve Fund to which shall be credited all insurance fees received by the Board under this Ordinance.

Mortgage
Insurance
Reserve
Fund.

(2) The Board may invest any part of the Fund in such securities as may be approved by the Governor in Council.

(3) Property acquired by the Board under section 5 of this Ordinance and investments made out of the Fund under subsection (2) of this section shall be assets of the Fund.

(4) The income of the Board derived under this Ordinance shall be exempt from income tax.

(5) All payments required to be made by the Board under section 5 of this Ordinance shall be made out of the Fund, and where the moneys lying to the credit of the Fund are insufficient to meet any such payment the Board shall report the matter to the Governor in Council who shall direct that such deficiency shall, subject to such terms and conditions as he may impose, be paid either out of the Public Housing Loans Fund or out of general revenue.

(6) On the expiration of this Ordinance the assets of the Fund shall be disposed of in such manner as the Governor in Council shall direct.

Powers of
Inspection.

7. (1) Any person authorised in writing in that behalf by the Board may at all reasonable times on giving forty-eight hours notice to the owner or occupier enter upon and inspect any dwelling house in respect of which—

- (a) any application is made to the Board for a certificate under section 3 of this Ordinance;
- (b) any exemption from income tax is claimed under section 4 of this Ordinance; or
- (c) a guarantee is sought from or given by the Board under section 5 of this Ordinance.

(2) Any person who wilfully obstructs or impedes any person in the exercise of the powers conferred upon him by subsection (1) of this section, whether by force, threats or otherwise, shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months or to both such fine and such imprisonment.

False state-
ments.

8. Any person who makes to the Board, in relation to the exercise of its powers or the performance of its duties under this Ordinance, any statement in any application or declaration which he knows to be false or does not believe to be true shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months or to both such fine and such imprisonment.

Regulations.

9. (1) The Governor in Council may make regulations—

- (a) prescribing anything which may be or is required to be prescribed under this Ordinance;
- (b) prescribing the conditions under which the Board may enter into the guarantee referred to in section 5 of this Ordinance;
- (c) prescribing fees or charges that may be made by the Board or any other person in connection with the purposes of this Ordinance;
- (d) requiring separate accounts to be kept for the purposes of this Ordinance;
- (e) prescribing functions or duties to be undertaken by the Board in connection with the carrying out of the purposes of this Ordinance; and
- (f) generally for giving effect to the purposes of this Ordinance.

(2) Regulations made under subsection (1) of this section may prescribe in respect of any contravention thereof or failure to comply therewith a penalty not exceeding two hundred and fifty dollars on summary conviction.

10. (1) Except where it is otherwise expressly provided by this Ordinance, where any question arises as to— Settlement of disputes.

(a) whether any person is entitled to the grant of a certificate under section 3 of this Ordinance or as to the terms of any such certificate granted to any person; or

(b) whether a dwelling house is a newly constructed dwelling house for any of the purposes of section 4 of this Ordinance or is a dwelling house to which section 5 of this Ordinance applies; or

(c) whether or when any dwelling house or any person commences or ceases to qualify for any concession under this Ordinance,

the same shall be resolved by the Board in its discretion.

(2) Subject to any regulations made in that behalf there shall be an appeal from any decision of the Board under this section to the Governor in Council whose decision shall be final.

Passed in Council this twenty-first day of June, in the year of Our Lord one thousand nine hundred and fifty-eight.

P. A. GRANNUM

Acting Clerk of the Council