

**Third Session Third Parliament Republic of Trinidad  
and Tobago**

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**REPUBLIC OF TRINIDAD AND TOBAGO**

**Act No. 18 of 1989**

[L.S.]

AN ACT to amend the law relating to approved mortgage  
companies

*[Assented to 8th June, 1989]*

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

1. This Act may be cited as the Finance (No. 2) Act, 1989. Short title

Chap. 33:01  
amended

## 2. The Housing Act is amended—

(a) by substituting for section 11 the following:

“Interpretation 11. In this Part—

“approved mortgage company” means a company declared by the Minister by instrument in writing to be an approved mortgage company in accordance with paragraph 1(2) of the Fifth Schedule to the Corporation Tax Act; and

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“mortgage” means a mortgage held by an approved mortgage company.”; and

(b) in section 12(1)—

(i) in paragraph (a), by substituting for the words “cost and value” occurring in line nine, the words “cost or value whichever is the less”; and

(ii) in paragraph (c), by substituting for the words “cost and value” occurring in line five, the words “cost or value whichever is the less”.

L.N. No. 185 of  
1986 amended

## 3. The Housing (Income Tax Exemption) Regulations, 1986 are amended—

(a) in regulation 2(7) and (8), by substituting for the words “section 42(2)(e)” wherever they occur, the words “section 42(2)(d) or (e)”; and

(b) in the Schedule—

(i) in Form No. 8—

(A) by inserting immediately after the words “42(2)(d)” occurring in line five, the words “/section 42(2)(e)\*”

and by inserting immediately below the words "Date....." occurring in line ten, the words "\*Delete what is inapplicable"; and

(B) by deleting the column having the heading "National Housing Authority Guarantee Number"; and

(ii) in Form No. 9—

(A) by substituting for the words "42(2)(d) or of section 42(2)(e)" occurring in lines one and two, the words "42(2)(d)/42(2)(e)\*" and by inserting immediately below the word "Minister" occurring in line nine, the words "\*Delete what is inapplicable";

(B) by deleting the column having the heading "National Housing Authority Guarantee Number"; and

(C) by inserting immediately after the column having the heading "Rate of Interest" a new column having the heading "Extent of Tax Exemption [section 42(2)(d) only]".

4. The Housing Regulations, 1986 are amended—

L.N. No. 187 of  
1986 amended

(a) in regulation 2, by deleting the definitions of "Approved Mortgage Company" and "approved mortgage";

(b) in regulation 6—

(i) by substituting for the words "(in this regulation referred to as "the mortgagor")" occurring in lines two and three, the words "(in this regulation and in regulation 7 referred to as "the borrower")"; and

- (ii) in paragraph (a), by substituting for the word “mortgagor” the word “borrower”;
- (c) in regulation 7, by substituting for the word “mortgagor” wherever it occurs, the word “borrower”;
- (d) in regulation 8—
  - (i) in subregulation (2), by substituting for the words “a term of years absolute” occurring in line one of paragraph (b), the words “a leasehold term”;
  - (ii) by inserting immediately after subregulation (2) the following—

“ (2A) The interest of the borrower who has been granted a loan by an Approved Mortgage Company for the construction of a house shall be either—

    - (a) the fee simple absolute in the land upon which the house is to be constructed; or
    - (b) a leasehold term in the freehold land upon which the house is to be constructed.”; and
  - (iii) in subregulation (4), by inserting immediately after the word “mortgage” occurring in line one, the words “or loan granted by an Approved Mortgage Company for the construction of a house” and by substituting for the words “cost and value” wherever they occur, the words “cost or value whichever is the less”;
- (e) in regulation 9, by substituting for the words “approved mortgage” occurring in line two of subregulation (1), the word “mortgage”;

(f) by substituting for regulation 12 the following:

“Indemnity of  
Approved  
Mortgage  
Company

12. An Approved Mortgage Company shall exercise reasonable care and prudence in the administration and collection of a mortgage or of a loan granted for the construction of a house and shall be deemed not to be negligent if it follows the practice and procedure generally observed by lending or mortgage institutions.”; and

(g) by revoking regulation 13.

5. The Income Tax Act is amended—

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amended

(a) in section 42—

(i) in subsection (2)(d), by inserting immediately before the word “interest” occurring in line one, the words “interest on and any service charge payable under a loan granted by an approved mortgage company for the construction of a house and” and by inserting immediately before the word “exceed” occurring in line four, the words “in either case”;

(ii) in subsection (5)—

(A) by substituting for the words “cost and value” occurring in line three, the words “cost or value whichever is the less”;

(B) by deleting the word “or” occurring in line three of paragraph (c);

(C) by substituting for the word “1976.” occurring in line two of paragraph (d) the words “1976, but not later than 31st December, 1979; or”; and

(D) by inserting immediately after paragraph (d) the following:

“(e) two hundred and fifty thousand dollars where construction commenced after 31st December, 1979.”; and

(b) in section 43, by substituting for the words “cost and value” occurring in line three of subsection (1) the words “cost or value”.

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amended

6. The Corporation Tax Act is amended in the Fifth Schedule—

(a) in paragraph 1—

(i) in subparagraph (1), by inserting immediately after the words “subparagraph (2)” occurring in line two, the words “and paragraph 1A(1)”;

(ii) by substituting for subparagraph (2) the following:

“(2) For the purposes of subparagraph (1), the Minister may by instrument in writing declare a company to be an approved mortgage company where that company has entered into an agreement with the Government whereby the company agrees, in accordance with this Schedule and the Housing Act and under the terms of the agreement—

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(a) to finance by way of mortgage the purchase of newly constructed houses;

(b) to finance by way of mortgage the repayment of loans

granted for the construction of houses; and

(c) to finance the construction of houses by providing loans under loan agreements and by taking mortgages of the houses so constructed upon completion of construction.”; and

(iii) by inserting immediately after subparagraph (2) the following:

“(2A) Notwithstanding the termination of the agreement between a company and the Government referred to in subparagraph (2), the exemptions granted under this Schedule shall apply in respect of any mortgages or loans which the Minister certifies were granted prior to the date of termination.”;

(b) by inserting immediately after paragraph 1 the following:

“ 1A. (1) Where the Home Mortgage Bank has entered into an agreement with the Government to buy mortgage loans from approved mortgage companies, the Home Mortgage Bank is, subject to the terms of the agreement, deemed for the purposes of section 42(2)(d) of the Income Tax Act and paragraphs 1(1), 3(3) and 5 to be an approved mortgage company in relation to any mortgage loan that it buys from an approved mortgage company.

(2) Notwithstanding subparagraph (1) or paragraph 4A(1) that relate to the taxes with respect to which the profits of the Home Mortgage Bank or

the debenture holders of the Home Mortgage Bank are exempt, the terms of the agreement mentioned in subparagraph (1) may limit the taxes from which the Home Mortgage Bank or the debenture holders of the Home Mortgage Bank are exempt.

(3) Notwithstanding the termination of the agreement between the Home Mortgage Bank and the Government referred to in subparagraph (1), the exemptions granted to the Home Mortgage Bank by reason of that subparagraph shall apply in respect of any mortgage loan granted by an approved mortgage company which the Minister certifies was sold to the Home Mortgage Bank prior to the date of termination.”;

(c) in paragraph 2, by inserting immediately after the word “mortgage” occurring in line three, the words “or loan agreement”;

(d) in paragraph 3—

(i) in subparagraph (3), by substituting for the words “paragraphs 2 and 4” occurring in line one, the words “paragraphs 2, 4 and 4A”; and

(ii) in subparagraph (3)(c), by inserting immediately after the words “paragraph 4(3)” the words “or 4A(3) as the case may require”;

(e) in paragraph 4—

(i) in subparagraph (1) by substituting for the words “financing the purchase of newly constructed houses” occurring in line four, the words “financing the construction of houses, the purchase of newly constructed houses or the repayment of loans granted for the construction of houses”;

- (ii) by inserting immediately after subparagraph (1) the following:

“ (1A) Notwithstanding that an approved mortgage company sells to the Home Mortgage Bank a mortgage loan the interest or service charge payable under which is exempt from corporation tax under paragraph 1(1), if the approved mortgage company uses the proceeds of the sale to finance by way of mortgage the activities mentioned in paragraph 1(2)(a), (b) and (c) in accordance with the agreement referred to in that paragraph any interest payable on debenture borrowings which would have been exempt from income or corporation tax in the hands of the debenture holders of the approved mortgage company under subparagraph (1) but for the sale, shall continue to be so exempt.”; and

- (iii) in subparagraph (3), by inserting immediately after the word “mortgages” occurring in line three, the words “or the borrowers who entered into loan agreements”;

- (f) by inserting immediately after paragraph 4 the following:

“ 4A. (1) Where the income of the Home Mortgage Bank is exempt from corporation tax under paragraph 1(1) by reason of paragraph 1A(1), any interest payable by the Home Mortgage Bank on debenture borrowings by the Home Mortgage Bank for the purpose of financing the purchase of mortgage loans from approved mortgage companies is, subject to subparagraphs (2) and (3), exempt from income or corporation tax in the hands of the debenture holders of the

Home Mortgage Bank, if the interest so paid is derived from income of the Home Mortgage Bank exempt under paragraph 1(1) by reason of paragraph 1A(1).

(2) The period during which the interest paid to debenture holders is exempt from tax under subparagraph (1) is a period commencing on the date when the principal sums are paid for the debentures and ending two years after the date on which the principal sums secured are deemed repaid under subparagraph (3).

(3) For the purposes of subparagraphs (1) and (2), any sum repaid to the Home Mortgage Bank by the mortgagors under mortgage loans sold to the Home Mortgage Bank by approved mortgage companies after the issue of the debentures referred to in subparagraph (2), shall, after deduction of any interest paid on those debentures, be debited against the debenture holders account until the sums so repaid to the Home Mortgage Bank equal the principal sum secured by the debentures and thereafter the debentures shall be deemed to have been repaid.

(4) Notwithstanding the provisions of this paragraph that relate to the period during which the interest paid to debenture holders is exempt from tax, the Government may, in the agreement mentioned in paragraph 1A(1), make other provisions with respect to that period, and those provisions when so made apply to the Home Mortgage Bank.”; and

(g) by substituting for paragraph 6 the following:

“6. In this Schedule—

“Home Mortgage Bank” means the Home Mortgage Bank established by the Home Mortgage Bank Act; and

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“Minister” means the Minister  
responsible for Housing.”

Passed in the House of Representatives this 7th day  
of April, 1989.

J. E. CARTER  
*Clerk of the House*

Passed in the Senate this 9th day of May, 1989.

N. COX  
*Acting Clerk of the Senate*

Senate amendments were agreed to in the House of  
Representatives on 17th May, 1989.

J. E. CARTER  
*Clerk of the House*