

REAL ESTATE AGENCY BILL, 2020

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ENTITLED

REAL ESTATE AGENCY ACT, 2020

AN ACT to establish the Real Estate Agency Council to regulate real estate agency practice, commercial transactions in real estate including the sale, purchase, rental and leasing of real estate and related fixed assets and to provide for related matters.

PASSED by Parliament and assented to by the President:

Application

Application of this Act

1. (1) This Act applies to real estate transactions including a tenancy for a term of not less than one year.

(2) For the purpose of subsection (1), a tenancy agreement for a term of less than one year which provides for an extension of the tenancy either in the lease agreement or by verbal agreement which will result in the total term of tenancy extending over one year is deemed to be a lease for a term of more than one year.

(3) Despite subsection (1) and subject to section 38, this Act does not apply to a real estate transaction in which

(a) a person acts personally or an employee acts on behalf of the employer in the regular course of employment to

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- (i) acquire, lease or rent real estate for the use or investment of that person or employer; or
 - (ii) negotiate a loan secured or to be secured by a mortgage or other encumbrance on real estate for that person or employer;
- (b) a person acts as a licensed auctioneer;
- (c) a person buys, sells or otherwise deals in any stock, mortgage bond or any other security, or certificate of beneficial interest in any trust;
- (d) a public officer or an employee performs the official duties of that public officer or employee;
- (e) a receiver, a trustee in bankruptcy, executor, administrator, guardian or conservator is performing the function of that person;
- (f) a person sells real estate under an order of a court;
- (g) a trustee acts under a written instrument of trust, or deed or declaration of trust, or will, or a regular employee of a trustee acting in the course of the employment;
- (h) a bank under the laws of this country or an insurance company lawfully engages in business in this country or a regular employee of a bank or insurance company acts in the course of the employment, when that bank or insurance company is acting
 - (i) in the capacity of a fiduciary,
 - (ii) for itself in negotiating a loan secured or to be secured by a mortgage or other encumbrance on real estate, or
 - (iii) for itself with reference to real estate owned, mortgaged, leased or rented, by or to it or which it seeks to acquire, lease or rent for its own use; or
- (i) a credit union that operates under the laws of this country undertakes the transaction or the regular employees of that credit union act in the course of the employment.

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Real Estate Agency Council

Establishment of the Real Estate Agency Council

2. (1) There is established by this Act a Real Estate Agency Council as a body corporate with perpetual succession.

(2) The Council may, for the performance of the functions of the Council, acquire and hold property, dispose of property and enter into a contract or any other related transaction.

(3) Where there is a hindrance to the acquisition of land, the land may be acquired for the Council under the State Lands Act, 1962 (Act 125) and the cost of the acquisition shall be borne by the Council.

Object of the Council

3. The object of the Council is to promote and facilitate the development of real estate agency practice and regulate the provision of real estate agency services.

Functions of the Council

4. To achieve its object, the Council shall

- (a) regulate the practice of real estate agency practice;
- (b) prescribe or approve courses of study for real estate agency practice;
- (c) conduct and set standards for qualifying examinations for registration as a real estate broker;
- (d) license real estate brokers and agents;
- (e) provide forms for real estate transactions;
- (f) issue real estate transaction certificates;
- (g) maintain and publish a register of real estate brokers;
- (h) set performance standards for real estate agency practice;
- (i) facilitate and promote education which is necessary for the development and growth of real estate agency practice;
- (j) establish programmes of continuing education for real estate brokers and agents;
- (k) monitor and evaluate compliance with this Act and in furtherance of that, conduct inspections;
- (l) establish and enforce a code of conduct and ethics for real estate agency practice;
- (m) monitor the performance of real estate brokers;
- (n) monitor advertisements in both the print and electronic media including the world-wide web or the internet to ensure compliance with this Act;