

GUIDELINES AND CONDITIONS FOR LICENCE UNDER THE FOREIGN INVESTMENT ACT, 1990

These Guidelines will help you, as a foreign investor, in the submission of your application for a licence to acquire an interest in land in Trinidad and Tobago, whether for residential or trade/ business purposes.

CONFIDENTIALITY/PRIVACY

1. You should be aware that, although the Government respects the privacy of personal information that you provide in your application, relevant information may be disclosed in accordance with the Freedom of Information Act, Chap. 22:02. Personal information may also be forwarded to other Government Departments and agencies, such as the taxing authorities and the Ministry of National Security and in particular the Immigration Department.

WHO IS A FOREIGN INVESTOR?

2. These Guidelines apply if you are a foreign investor wishing to acquire land in Trinidad and Tobago. You should therefore obtain independent advice on whether you are considered a foreign investor for the purposes of the Foreign Investment Act, Chap.70:07 and are required to comply with the provisions of this Act.

WHO IS REQUIRED TO OBTAIN A LICENCE?

3. A foreign investor is required to obtain a licence prior to acquiring an interest in land in Trinidad and Tobago in the following instances:

- Where the Minister of Finance issues an Order prescribing areas in Trinidad and Tobago (regardless of size) in which a foreign investor may not acquire land without first obtaining a licence;
- Where the area of land to be acquired is more than ONE ACRE, in the case land for *residential* purposes;
- Where the area of land to be acquired is more than FIVE ACRES, in the case of land for *trade or business* purposes;

4. By *Legal Notice No. 53 of 2007*, all foreign investors seeking to acquire an interest in land in any part of Tobago (regardless of size) must obtain a licence prior to such acquisition.

5. A foreign investor will not be required to hold a licence prior to the acquisition of land in Trinidad and Tobago in the following instances:

- On an annual tenancy or for any less interest for the purpose of his residence, trade or business where, in total, the land does not exceed FIVE ACRES;
- As an executor or administrator under a will or intestacy, for a period of ONE YEAR from the date of death of the testator or intestate or for such extended time as the Minister of Finance may grant;
- In pursuance of his rights to foreclose or enter into possession as a mortgagee for a period of ONE YEAR from the acquisition of such land or for such extended time as the President may grant;
- As a judgment creditor for a period of ONE YEAR from the date of acquisition of such land or for such extended time as the President may grant;
- Jointly with his spouse, where that spouse is a citizen of a Caricom member country who is resident in Trinidad and Tobago within the meaning of section 5 of the Immigration Act, Chap. 18:01.

6. Consideration for land acquired by a foreign investor shall be paid in an internationally traded currency except in the case of a company incorporated in Trinidad and Tobago where such consideration is financed out of capital reserves or retained earnings.

RESTRICTIONS ON ACQUIRING LAND IN TRINIDAD AND TOBAGO UNDER LICENCE

7. Except in the case of land to be acquired for residential purposes, there are no restrictions on the number of properties a foreign investor may acquire. In the case of residential land, a licence will be granted for the acquisition of only one (1) parcel of land. A foreign investor must nevertheless submit a separate application for each property he/she wishes to acquire.

8. If you want to enter into a contract for the sale of land, it is recommended that the contract remains conditional until after you receive your licence. For instance, the contract can state that it is “subject to a foreign investment licence. If such licence is not obtained, this contract is terminated and all monies deposited will be refunded.”

APPLICATION FORMS

9. All application forms are available for download from the Ministry of Finance website at www.finance.gov.tt.

10. You should submit your application to the following person:

Permanent Secretary
Ministry of Finance
Level 8
Eric Williams Finance Building
Independence Square
Port of Spain
Trinidad and Tobago

11. Applications for foreign investment in Tobago may be submitted directly to the Chief Administrator, Tobago House of Assembly, Calder Hall Administrative Complex, Scarborough, Tobago.

12. You should attach all required documents to your application. Applicants should also provide any additional documentation that may be requested by the Permanent Secretary, Ministry of Finance or the THA during the examination process. Incomplete Application Forms **WILL BE RETURNED FOR COMPLETION** and will delay consideration of the Application. If sufficient space is not provided on the Form, please attach the relevant information on a separate page or pages.

APPLICATION DOCUMENTATION

13. Where applicable, an applicant is required to provide the following documents when submitting the application:

- a) In the case of an individual, the passport of the Applicant; or a true Photocopy of the relevant pages (showing the name and entry/travel records) of the applicant's passport notarised by a Notary Public or designated officer at the relevant Embassy/High Commission; and in the case of Trinidad & Tobago, by a Commissioner of Affidavits.
- b) Town and Country Planning Outline Approval for the erection of a building on the land in respect of which a licence is sought;
- c) Credit references and evidence of adequate financing (from an acceptable source, such as a reputable accounting firm or registered financial institution) to maintain the applicant pursuing acquisition for business or residential purposes;
- d) Where an applicant is proposing to use the property for business purposes, a Business Plan must be submitted, showing the following:
 - i. The proposed business activity to be undertaken;
 - ii. Level of capital investment;

- iii. Credit references and evidence of adequate financing from an acceptable foreign source such as a reputable accounting firm or financial institution;
 - iv. Significant impact on local employment and proposals for training;
 - v. Foreign exchange earnings/savings; and linkages with the rest of the economy.
- e) Where the Applicant is a Company, a copy of the Certificate of Incorporation must be provided;
 - f) Certified Copy of Will and Grant of Probate, or Letters of Administration must be submitted with the application where the application is to hold interest in property inherited by will or intestacy;
 - g) Applicants who are individuals must submit Certificates of Good Character from the Police Authorities in the country of residence of the Applicant. In the case of companies, Directors are required to submit Certificates of Good Character from the Police Authorities in the country of residence of the Director

14. Designated Development Areas. To further encourage foreign investment, the Tobago House of Assembly (THA), in consultation with the Tobago Private Sector (TPS) and with the approval of the Minister of Finance/Trade/Planning and Development??, has identified a number of Designated Development Areas which are listed below:

- Arnos Vale and Culloden Estate.
 - Bacolet Estate;
 - Buccoo and Golden Grove Estate;
 - Englishman's Bay;
 - Lowlands and Diamond Estate; and
 - MT Irvine and Grafton Estate;
- a. These are areas in Tobago earmarked for tourism-related development approved by the THA.
 - b. The Tobago House of Assembly may, in consultation with the TPS and with the approval of the Minister of Finance, designate additional areas for tourism development as considered necessary.
 - c. The list of approved designated areas will at all times be made available via the Ministry of Finance and/or the Tobago House of Assembly.

15. **Other Investment/other areas.** Consideration will also be given to applications for licences in respect of non tourism-related investment in areas other than those designated for tourism-related development.

GRANT OF LICENCE

16. The grant of licences shall be subject to the conditions stated below:

Conditions For The Grant Of Licence

17. Land Acquired for Residential Purposes

- (i) The land that the foreign investor is seeking to acquire shall be used only for the purposes for which the licence is to be granted, that is, as a residence;
- (ii) Only one residential structure is to be erected on the land to be purchased;
- (iii) The land to be purchased cannot thereafter be sub-divided;
- (iv) A foreign investor can *only* acquire one (1) parcel of land for residential purposes, regardless of the size of the land;
- (v) Construction must be completed within thirty-six (36) months of the issuance of the licence or for a further period of up to two (2) years where approved by the Minister of Finance. Failure to complete construction within the specified period may result in the revocation of the licence;
- (vi) Any other condition as the Minister of Finance may determine.

18. Land Acquired for Business/Trade Purposes

- (i) The time permitted after a licence is granted for effective completion of construction and/or start-up of business with regard to -
 - a. land acquired for an Integrated Resort Development, is sixty (60) months;
 - b. land acquired for hotel development, is sixty (60) months;
 - c. land acquired for non tourism-related investment, is sixty (60) months;
 - d. completion timeframes which have not been complied with, the Minister of Finance may approve extensions of up to three years in the case of (a) , (b) and (c) above.

- (ii) Where unlawful activity is conducted by a foreign investor employees or agents (with the knowledge of the foreign investor) on business premises in respect of which a licence has been granted, the licence may be revoked by the Minister;
- (iii) Where restrictions are placed on the types of business activities to be conducted by the foreign investor, the licence may be revoked where unapproved activities are promoted by the foreign investor, or by his employees or agents with his knowledge; and
- (iv) For any expansion of business operations, the foreign investor must obtain the prior approval of the Minister of Finance or the relevant Government Department or other agency;
- (v) Any other condition as the Minister of Finance may determine.

19. Where a foreign investor fails to fully comply with 17 (v) and 18(i) above the licence shall be cancelled and the State shall embark upon judicial procedures to have the land/property forfeited or take such other legal action as may be deemed appropriate.

20. These applications are complex in nature and, where ALL of the required information is provided, it may take up to 20 working days to process.

DISPOSAL/PURCHASE BY FOREIGN INVESTOR FROM FOREIGN INVESTOR

21. A licence granted under the Foreign Investment Act, Chap. 70:01 is not a form of property and is not transferable to another foreign investor. A foreign investor seeking to acquire land which was previously owned by another foreign investor who was granted a licence to own that land, must also obtain a licence prior to the acquisition of that land.

OTHER PENALTIES

22. You should be aware that a person who knowingly does any act or thing causing or calculated to cause the vesting in a foreign investor of any land without obtaining a licence is guilty of an offence and is liable on summary conviction to a fine of \$100,000.

23. Land that is required to be held under licence and not so held may also be forfeited by the State. This is in addition to any other penalty which may be incurred under the Foreign Investment Act.