

THE MINISTRY OF FINANCE, INVESTMENT & TRADE



TURKS & CAICOS ISLANDS

**CONSULTATION ON THE IMPLEMENTATION OF THE REAL ESTATE
(BROKERS & SALESMEN) LICENSING ORDINANCE 2004**

RELEASE DATE: JANUARY, 29 2023

This consultation paper is being issued to seek feedback from businesses, stakeholders, consumers, industry associations, practitioners and any other interested parties (“Consultees”) in regard to the implementation of the Real Estate (Brokers & Salesmen) Licensing Ordinance, 2004 (the “Proposal”).

The Ministry of Finance, Investment & Trade is seeking feedback, comments and suggestions on the Proposal.

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INTRODUCTION

The Real Estate (Brokers & Salesmen) Licensing Ordinance, 2004, has been in force since the 26th October, 2004 (“the Ordinance”). The purpose of the Ordinance is to regulate and make provision for the licensing of Real Estate Brokers and Salesmen within the Turks and Caicos Islands.

In keeping with TCIG’s commitment and obligation in regard to transparency, the Ministry of Finance, Investment & Trade (“MOF”) will host public consultations in order to -

- Increase the public’s awareness of critical elements of the Ordinance’s purpose;
- Bolster compliance with the Ordinance;
- Obtain feedback from licenced brokers, real estate agents, property managers, and any other interested party, on the efficiency of the current Ordinance;
- Obtain feedback on the experiences of stakeholders in the current real estate market; and
- Implement the necessary amendments and Regulations which will not only bring the current Ordinance into alignment with global industry standards but improve the overall efficiency of its administrative components.

PURPOSE OF THE CONSULTATION

The Government of the Turks and Caicos Islands (“TCIG”) is hereby seeking feedback, comments and suggestions on:

- Practical mechanisms which can bolster compliance with the Ordinance; and
- Amendments and regulations which will effectively bring the current operating practices of the real estate market, into alignment with international standards and improve administrative efficiency.

However, this consultation is not only geared towards garnering feedback on the outlined proposals for amendments and regulations but also aims to solicit suggested amendments from those it will impact the most. This approach is expected to facilitate a smooth transition for operators and prospective operators in the real estate community.

In so doing, TCIG will focus on three (3) distinct stages, which will be explored in this Consultation Paper:

- ❖ Stage one: identify individuals and companies which operate within the real estate market;
- ❖ Stage two: garner feedback on the current operating practices and how proposed changes will impact them; and
- ❖ Stage three: enforcement and effective administration of the requirements in the Ordinance.

THE MINISTRY OF FINANCE, INVESTMENT & TRADE
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CONSULTATION ON PROPOSED AMENDMENTS TO THE BUSINESS LICENSE
ORDINANCE & REGULATIONS

*** Required**

1. Name & Contact Details *

Name (First & Last) :

Ph#

Email:

2. Are you any of the following? *

- An independent real estate broker/agent?
 Part of a real estate agency/company?
 Part of a real estate partnership?
 None of the above

3. If, you answered “none of the above” to question 2 are you interested in becoming any of the above?

- Yes
 No

4. Are you aware that ALL real estate licences expire annually on 30th September in the Turks and Caicos Islands?

- Yes
 No

5. If you fall within any of the categories listed in question 2, when do you typically commence your licence renewal process?

- September
 June- August
 Before June

6. If you fall within any category listed in question 2, how many properties are in your current portfolio?

- 1-5
 6-10
 10-20
 More than 20

7. If you fall within any category listed in question 2, what is the current asset value in your portfolio?

- 0-\$500K;
 \$500K -\$5 million;
 \$6 million -\$15 million;
 \$15million +

8. Are you familiar with the 2004, Real Estate (Brokers and Salesmen) Licensing Ordinance?

- Yes
 No

9. Are you aware that the Real Estate Ordinance stipulates that real estate brokers or salesmen must be Turks and Caicos Islanders?

- Yes
 No

10. Are you familiar with the Business Licensing Ordinance, Cap 17.02 of the Revised Laws of the Turks and Caicos Islands?

- Yes
 No

11. Are you aware that under the Business Licensing Ordinance, "Real Estate Agency" falls under Business Activities which are reserved for Turks and Caicos Islanders?

- Yes
 No

12. Are you aware that under the Real Estate Ordinance, there are specific documents that must accompany an application for a business licence to trade as a real estate salesman or broker?

- Yes
 No

13. Are you aware that international real estate practices are subject to "Know-your-Customer" ("KYC") and Anti-Money Laundering ("AML") compliance standards?

- Yes
 No
 I do not know what the KYC and AML standards are.

14. Are you aware of any individual or establishment operating as a real estate broker/company without a valid real estate license?

- Yes
 No

15. If you answered “Yes” to question 14, how prevalent would you say this is in the Turks and Caicos Islands?

- Exists but rare;
- Quite common and known;
- Extremely widespread.

16. Are you aware that under both the Real Estate Ordinance and the Business Licensing Ordinance, operating as a real estate agency, partnership, salesman or broker without the required licences, is an offence punishable by fine of up to \$25,000.00, or imprisonment for six months, or both?

- Yes
- No

17. Are you aware that all businesses in the Turks and Caicos Islands, including real estate agencies, salesmen and brokers are subject to the auditing process and procedures of the Inland Revenue Department?

- Yes
- No

18. Are you aware that all changes made to the membership of a partnership shall be deemed to create a new partnership and to extinguish an existing licence and that notice of any such change must be provided to the Permanent Secretary, Finance within 30 days of such change?

- Yes
- No

19. Do you believe the current administrative practices which govern the real estate market of the Turks and Caicos Islands are efficient?

- Yes
- No

Give reasons for your answer

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20. What recommendations would you make to the Government of the Turks and Caicos Islands to improve the efficiency of the processes which govern real estate practices?

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RESPONDING TO THE PROPOSAL

Please provide your comments by **February 9, 2024** in writing and in a format that can be read by Microsoft Word or Adobe Acrobat Reader. Responses to be made by email to the following: CFOSTER@GOV.TC

The consultation period will be from January 29, 2024 and is expected to close by February 9, 2024. You will accordingly be notified of any changes or extensions of this timeframe, in the event that it becomes necessary.

1. When submitting your views please indicate whether you are responding on behalf of an organization.
2. The IRD is also interested in receiving general comments and feedback on the Proposal, and on any other related matters. Please feel free to respond to all, or some, of the questions.
3. Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. Please mark your response clearly if you wish your name to be kept confidential. Note that confidential responses will be included in any summary of comments received.
4. The purpose of the consultation is to gather information, views and evidence which will allow an informed decision to be made regarding the Proposal. As in any consultation exercise, the responses received do not guarantee changes will be made in accordance with what has been proposed.

PROPOSED AMENDMENTS

The proposed amendments to the Ordinance are as follows:

I. Definition of Salesman-

Currently the Ordinance does not define the term “Salesman”. The amendments will attach the following definition to the term.

“ Salesman” – means an individual who is a Turks and Caicos Islander Status Card Holder and the salesman of a Broker who for another or others, for compensation, gain or reward or hope or promise thereof, trades in real estate or holds himself out as such.

II. Amendments to section 8. – Powers of Business Licensing Committee

- There is currently no Business Licensing Committee. The proposal is to replace all reference to the Business Licensing Committee throughout the Ordinance with reference to Permanent Secretary, Finance.
- Amend section 8(5) to allow all real estate licences to expire on 31st March each year, in order to coincide with the current business licensing cycle.

III. Inclusion of Transition clause

Currently, there is no law which allows a non- Turks and Caicos Islander to operate as a real estate broker or salesman. The issuing of work permits to a non- Turks and Caicos Islander, for the purposes of working as a real estate broker/ agent is legally erroneous.

The proposal is to include a transition clause which allows holders of work permits or companies who employ work permit holders, an opportunity to correct these discrepancies within a specific period of time.

IV. Section 6 – Licensing of Broker

Amend the legislation to add requirements for brokers which will include the following:

- Required to be a TCI Status Card holder;
- Required to register as a Designated Non-Financial Business and Profession, as set out under schedule 2 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations or under any Ordinance as may be required;
- Required to pass an examination set and administered by an institution or body in the Turks and Caicos Islands or an institution outside the Turks and Caicos Islands, which is recognized by the Ministry of Finance, Investment and Trade.

V. Section 33- Regulations.

Implementation of Regulations –

- To prescribe forms for use under this Ordinance;
- To prescribe the practice and procedure upon an investigation under sections 14, 15 and 16 of the Ordinance;

- To provide for the examination of applicants for real estate licences;
- To generally allow for practical mechanisms for more efficient administration of the Ordinance.