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ECONOMIC EMPOWERMENT ZONES ACT, 2018

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No. 28 of 2018

ECONOMIC EMPOWERMENT ZONES ACT, 2018

[Date of Assent - 5th October, 2018]

AN ACT TO PROMOTE THE REDEVELOPMENT OF COMMUNITIES OF THE BAHAMAS THROUGH THE GRANTING OF CERTAIN EXEMPTIONS AND FISCAL INCENTIVES FOR THE RENOVATION AND RESTORATION OF PROPERTY AND THE ENCOURAGEMENT OF BUSINESSES IN A DESIGNATED ECONOMIC EMPOWERMENT ZONE AND FOR MATTERS CONNECTED THERETO

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as Economic Empowerment Zones Act, 2018.
- (2) This Act shall come into force on such date as the Minister may by notice appoint and shall expire on the 1st day of July, 2023.
- (3) Notwithstanding subsection (2), the Minister may by order extend the period specified in subsection (2) for further periods of up to five years as appears necessary for the achievement of the objectives of this Act.

2. Interpretation.

In this Act—

“**Act**” means the Economic Empowerment Zones Act, 2018;

“**Certificate of Development**” means a certificate issued under section 6(2)(b);

“**Certificate of Trade**” means a certificate issued under section 6(2)(a);

“**dwelling home**” includes a single family residence, apartment, triplex, duplex or condominium;

“**Minister**” means the Minister assigned responsibility for the administration of this Act;

“**vehicle**” includes a bus, van or truck used for commercial purposes such as the transportation of people, goods, wares or merchandise;

“**zone**” means an economic empowerment zone designated under section 4.

3. Objectives of Act.

The objectives of this Act are —

- (a) to designate communities as economic empowerment zones and to encourage the economic and social empowerment of residents in the zone;
- (b) to provide for the granting of certain exemptions and fiscal incentives to persons engaging in economic activities in the designated zones;
- (c) to promote the construction, renovation and restoration of property and structures in a designated zone; and
- (d) to encourage the principles of corporate social responsibility.

PART II – CONCESSIONS FOR PROPERTY OWNERS AND BUSINESSES IN ECONOMIC EMPOWERMENT ZONES

4. Designation of economic empowerment zones.

- (1) For the purposes of this Act, the Minister may by order published in the *Gazette* designate an area to be an economic empowerment zone (hereinafter referred to as a “zone”).
- (2) An order made pursuant to subsection (1), shall state the description of the land and include a map of the area of land that constitutes the zone.

5. Application for concessions.

- (1) Notwithstanding anything to the contrary in any other law, any owner of property situated in a zone who is desirous of improving, renovating or restoring his dwelling home or business by —
 - (a) constructing a building in a zone to be used as a dwelling home or a business;
 - (b) reconstructing or extending a building in a zone used for a dwelling home or business,may make application to the Minister of Finance in Form I of the *First Schedule*.

- (2) For the purposes of this section, an “owner of property” shall include any person who can provide evidence of —
 - (a) title to the land;
 - (b) residence on the property, if not the beneficial owner, for a continuous period of not less than twelve years or with the written consent of the title holder; or
 - (c) in the case of a business, a person who leases premises or a part thereof and is responsible for renovating the same and has the consent of the landlord.
- (3) Notwithstanding the grant of any concessions given under this Act, this Act shall not confer on any applicant who is not the legal owner, any interest, rights or entitlements in the property.
- (4) Notwithstanding anything to the contrary in any other law, any owner of a business situated in a designated economic empowerment zone (hereinafter referred to as a “zone”), who is desirous of receiving the concessions provided for in section 8 of this Act, may make application to the Minister of Finance in Form II of the *First Schedule*.

6. Consideration and approval of application.

- (1) Where the Minister of Finance is satisfied that the application relates to property that —
 - (a) is situated in a zone;
 - (b) does not fall within a prohibited commercial activity as listed in the *Third Schedule*; and
 - (c) will have a beneficial effect upon the economy of the zone,the Minister of Finance shall grant the approval of the application subject to the provisions of this Act.
- (2) Upon approval of an application —
 - (a) a Certificate of Trade shall be issued in respect of an application by or on behalf of a business; or
 - (b) a Certificate of Development shall be issued in respect of residential development,and such certificate shall be issued for a period of one year to the approved applicant to carry on the undertaking within the zone.
- (3) A certificate issued under subsection (2) shall be subject to —
 - (a) the payment of such fees as are prescribed; and
 - (b) an undertaking by the certificate holder to —
 - (i) comply with all respective laws governing the operation of the business, if applicable; and

- (ii) observe all conditions and requirements as are imposed upon him by or under this Act and endeavour to ensure a like compliance therewith by his employees and agents.
- (4) A Certificate of Trade or Certificate of Development granted pursuant to this Act may be terminated or revoked by the Minister of Finance upon breach of any term or condition to which the certificate is subject.
- (5) A Certificate of Trade or Certificate of Development shall entitle an applicant to the grant of concessions referred to under this Act.
- (6) Where the Minister of Finance refuses an application made under this Act, the applicant shall be notified of the reasons therefor in writing.
- (7) A person aggrieved by a refusal may appeal to the Minister responsible for the Act, if not the Minister of Finance and thereafter to the Governor-General.

7. Concessions for the development of property in a zone.

- (1) Notwithstanding anything to the contrary in any other law and subject to the provisions of this Act and to any terms and conditions under which an approval was granted, an approved applicant shall in respect of a zone be eligible to enjoy over the specified period the benefits set out in Part A of the *Second Schedule*.
- (2) Every approved applicant who imports into The Bahamas any machinery, materials or articles with the benefit of any exemption from customs duty under this section, shall upon being required so to do by the Comptroller of Customs, cause such machinery, materials or articles to be marked with such marks and in such manner as may be required by the Comptroller of Customs.

8. Concessions for businesses in a zone.

- (1) Notwithstanding anything to the contrary in any other law and subject to this Act and to any terms and conditions under which an approval was granted, an approved applicant shall in respect of a zone be eligible to enjoy over the specified period in the Certificate, the benefits set out in Part A if its business is property development or Part B of the *Second Schedule*.
- (2) The Minister may by order amend the *Second* or *Third Schedule*.

9. Businesses to be in good standing.

The Minister of Finance shall not, unless arrangement has been made to pay the amounts outstanding to the appropriate authorities, grant an approval to any business for concessions under this Act to the applicant in any case where —

- (a) national insurance contributions under the National Insurance Act are outstanding;
- (b) all taxes due and payable under the Real Property Tax Act (*Ch. 375*) in respect of the property or premises in which the residence or business of the applicant is located have not been paid and the applicant is the owner of such property or premises;
- (c) any fees due under the Business Licence Act are outstanding;
- (d) the applicant is a franchise holder and any fees under the Business Licence Act (*No. 25 of 2010*) or taxes under the Real Property Tax Act (*Ch. 375*) or national insurance contributions under the National Insurance Act are outstanding in respect of any business or premises subject to the franchise whether carried on by any franchise holder or the grantor of the franchise.

10. Restriction on disposition of materials imported duty free.

- (1) No materials or equipment imported into The Bahamas with the benefit of any exemption from customs duty under section 7 or 8 shall —
 - (a) be used for purposes other than the improvement, renovation or restoration of property situated in the zone; or
 - (b) be sold, given away or otherwise disposed of to a business outside of the zone,
 unless with the express approval of the Minister of Finance, in writing.
- (2) No vehicle imported into The Bahamas with the benefit of any exemption under section 8 shall be —
 - (a) used for any purpose other than the business in the zone for which the exemption was granted;
 - (b) sold, given away or otherwise disposed of within five years from the date of importation,
 unless with the express approval of the Minister of Finance, in writing.

11. Inspection and record keeping requirements.

Every business within a zone approved for concessions under this Act which imports into the zone any article with the benefit of any exemption from customs duty under the provisions of this Act shall —

- (a) keep such records in such forms and containing such particulars of the articles so imported by him as may be required by the Minister of Finance or Comptroller of Customs; and
- (b) permit the Comptroller of Customs or any person authorized by him to inspect the record at all reasonable times.

PART III – MISCELLANEOUS

12. Duty of businesses to promote corporate social responsibility.

Every owner of a business shall include in its application, a corporate social responsibility statement, outlining the business commitment to contributing to the sustainable development of the community through the provision of economic, social and environmental benefits to the community at no cost to the community.

13. Offences.

- (1) Any person who contravenes—
 - (a) any provision of this Act or any regulations made thereunder; or
 - (b) any condition of any certificate,commits an offence, and, in the case of a default in complying with any such provision, the offence shall be deemed to be continued so long as the default continues.
- (2) Where an offence against this Act is committed by a company and the offence is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of any director, principal officer, or any other officer or beneficial owner or shareholder or an actuary or auditor of the company, that person, as well as the company, shall be deemed to have committed the offence.
- (3) A person commits an offence if —
 - (a) any document required by, or under this Act, to be signed by any person is false in any particular to the knowledge of the person who signs it;
 - (b) that person makes a false statement or representation, declares any false returns or keeps or prepares false accounts, in respect of any fiscal benefits derived pursuant to this Act.

14. General penalty.

- (1) All offences against this Act for which no other penalty is prescribed shall be punishable on summary conviction —
 - (a) in the case of a company, to a fine of twice the value of the concessions provided under this Act; or
 - (b) in the case of an individual (including a person referred to in section 13(2)), to a fine of twice the value of the concessions provided under this Act or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

- (2) The imposition of any one or more of the penalties specified in subsection (1) shall not limit the power of the Minister of Finance to —
 - (a) temporarily suspend the Certificate of Trade or Certificate of Development;
 - (b) rescind the approval; or
 - (c) impose a condition on the grant of a Certificate of Trade or Certificate of Development.
- (3) In addition to the penalties under this section, the Court may make —
 - (a) a confiscation order; or
 - (b) an order directing payment to a public body the value of any property or benefit obtained by the guilty person or entity under this Act.

15. Regulations.

The Minister, for the purposes of giving effect to the provisions of this Act, may make such regulations as the Minister deems necessary and without prejudice to the generality thereof regulations may be made —

- (a) setting out the items eligible to receive concessions under this Act;
- (b) setting out the procedure for obtaining the concessions on items purchased locally;
- (c) for the management, supervision, control and operation of the zone;
- (d) providing for anything which is required to be prescribed under this Act.

FORM II
ECONOMIC EMPOWERMENT ZONES ACT

APPLICATION FOR CONCESSIONS FOR BUSINESSES

Name of Applicant:	
Nationality:	
NIB No. or other I.D. No:	
Date of Birth:	
P. O. Box:	
Telephone:	
Facsimile:	
E-mail:	
If a company, name, date and place of incorporation:	
Name of Directors, Officers and Beneficial Owners:	
Street address or Registered Office (existing and prospective):	
Describe the type and nature of business:	
Description of the type of products sold:	
Estimated annual sales:	
Corporate Social Responsibility Statement	

I, _____ declare that the contents herein are true and correct to the best of my knowledge, information and belief.

Applicant's Signature

Date

Please submit copies of the following documents along with this application:

- (a) N.I.B. Card or other Government Identification No.;
- (b) Proof of valid business licence;
- (c) Copy of incorporation documents (where appropriate);
- (d) Tax Compliance Certificate;
- (e) Evidence of fulfilling corporate social responsibilities (upon renewal).

SECOND SCHEDULE

(section 7(1) & 8(1))

PART A CONCESSIONS FOR THE DEVELOPMENT OF PROPERTY

Real Property Tax	Exemption from the payment of real property taxes on an annual basis on condition that: <ul style="list-style-type: none"> - the building and land remain well maintained - in use Continuation of the exemption may be revoked if the property falls into disrepair or is abandoned).
Customs Duties	Customs duties in respect of the import of any and all materials necessary for the construction or reconstruction of buildings and structures on land for a period of two years from the date of the approval from the Minister.
Excise Tax	Exemption from excise tax as provided for in the Certificate
Stamp Duty	Stamp duty and any other taxes now or hereafter imposed on the sale and transfer of real property with the exception of VAT. This provision remains in effect for the duration of the zone

PART B CONCESSIONS FOR BUSINESSES

Business Licence Fee	Waiver of business licence fee for all businesses with an aggregate turnover of five million dollars (\$5,000,000) or less on the condition that the business is not engaged in any activity listed in the <i>Third Schedule</i>
Customs Duties	Businesses with an aggregate turnover of five million dollars (\$5,000,000) or less may enjoy no customs duties on importation of business or commercial vehicles on condition that — <ul style="list-style-type: none"> - the exterior of the vehicle permanently and prominently displays business signage; - the vehicle is utilised solely for business or commercial purposes; and if there is a change in the purpose of the vehicle, including the sale of the vehicle within five years all taxes related to the importation of the vehicle must be paid
Excise Tax	Exemption from excise tax as provided for in the Certificate

THIRD SCHEDULE

(section 7 & 8(3))

PROHIBITED COMMERCIAL ACTIVITIES

1. Sale of alcohol (*where this is the primary activity*).
2. Gaming.