

Act No. 19 of 2008**MODIFICATION OF PROVISIONS (GINN-LA
WEST END GRAND BAHAMA) ACT, 2008**

An Act to modify the provisions of certain fiscal and other statutes in their application to a proposed development project in Grand Bahama in keeping with an agreement executed by the government of The Bahamas in respect to that project and otherwise to clarify the extent of their application

[Assent 15th July, 2008]

[Commencement 10th December, 2005]

1. (1) This Act may be cited as the Modification of Provisions (Ginn-LA West End Grand Bahama) Act, 2008.

Short title and commencement.

(2) This Act shall be deemed to have come into operation on the 10th day of December, 2005.

2. In this Act —

Interpretation.

“Agreement” means the Heads of Agreement signed on the 9th day of December, 2005, between the Government of The Bahamas and Ginn-LA West End, Limited;

“Concession” means the exemptions or concessions from stamp duty, customs duty, real property tax and business licence under the Agreement;

“Developer” means Ginn-LA West End Limited, a company incorporated under the laws of The Bahamas;

“Exempt Components” means the Project Components under the Agreement comprising hotels, condo-hotels, all other units in the hotel rental programme, and the supporting infrastructure and resort amenities, including without limitation, golf courses, club-houses, marinas, marina clubs, restaurants and Project infrastructure, roads, docks (not private), electrical installation, water installation, sewerage treatment plants; excluding privately owned homes and privately owned condominiums (but not a condominium which is part of a rental programme);

“Project” means the development and construction in accordance with the Agreement of the resort community at the Property;

“Property” means the tracts of land described in the First Schedule to the Agreement including all other land acquired by the Developer for incorporation into or utilization in the Project with the approval of the Government.

Real property tax
and the Hotel
Encouragement
Act
Ch 289

3. Nothing in, or done pursuant to, the Hotels Encouragement Act shall be construed as granting an exemption from the payment of real property tax in respect of any portion of the Project, including the condominiums which are let on a hotel basis but excluding the resort amenities.

Customs duty
exemptions for
Developer
Ch 295

4. Notwithstanding anything to the contrary in the Tariff Act, the Developer shall be exempt from the payment of customs duty in respect of —

- (a) all materials necessary for the construction, equipping, furnishing and completion of the development of the Project, including construction materials, bunker oil and diesel, gasoline, aviation fuels, furniture, fixtures and other equipping of all aspects of the Exempt Components;
- (b) the fire truck, ambulance and other items of equipment for the initial equipping of any necessary fire and ambulance stations for the Project;
- (c) the importation and exportation of all construction plants, vehicles and trailers and other potable facilities necessary for the development, including the engineering, surveying, operation, study and planning aspects of the Project, and subject to any approval including the requirement of a bond as the Comptroller of Customs considers appropriate.

Business licence
fee

5. The Developer shall be liable to pay in full any business licence fees, including brokerage fees, on all resales in the Project, except that no brokerage fee shall be payable by the Developer at any time with respect to the sale or lease of Developer-owned property (including lots, parcels or condominium units).

Stamp duty
exemption for
Developer
Ch 370

6. Notwithstanding anything to the contrary in the Stamp Act and subject to section 7 the Developer shall be exempt from the payment of stamp duty —

- (a) on any conveyance or transfer of property or equity interest in a property from the Developer to another entity in which the beneficial ownership of both the transferor or the transferee entity is the same;
- (b) in respect of the materials, equipment and furnishings for the development of the Exempt Components, including without limitation, materials, equipment and furnishings for engineering, surveying and planning for the project.

7. (1) The stamp duty which is payable under the Stamp Act on any conveyance or transfer of all or any portion of the real property comprising the Project (whether by the Developer or subsequent owner) shall be calculated at the following rates in respect of —

Calculation of stamp duty on conveyance by Developer

Ch 370

- (a) Unimproved Lots
 - (i) the rate of 2% shall apply to any conveyance of \$250,000.00 or more on any unimproved lot sold by the Developer during the period commencing on the date the Developer shall convey the first unimproved lot in the Project and ending on the expiration of five (5) years from the date (hereinafter referred to as the “initial unimproved sale date) and for which purpose the Developer shall provide the Government with written notice of the date on which the first unimproved lot is conveyed.
 - (ii) the conveyances of \$250,000.00 or more of any unimproved lot by a party other than the Developer the rate set out against the respective period in the following Table shall apply (each year commencing from the initial unimproved sale date):

TABLE

Period	Applicable Rate for Sales of \$250,000.00 or more
Year 1	3%
Year 2	4%
Year 3	5%
Year 4	6%
Year 5	7%

Year 6 rate then promulgated and thereafter;

(b) Condominiums

- (i) the rate of 2% shall apply to the sale of any condominium of the value of \$250,000.00 or more sold by the Developer during the period commencing on the date (hereinafter referred to as the initial condominium sale date) the Developer shall convey to a third party the first residential condominium unit in the Project (of which date the Developer shall immediately give written notice to the Government) and ending on the expiration of the period of twenty (20) years from the initial unimproved sale date;
- (ii) the conveyance of any condominium of the value of \$250,000.00 or more by a party other than the Developer the rate set out against the respective year in the following Table (each year commencing on the initial condominium sale date, though conveyance of a common area or commercial unit, e.g. spa, restaurant, etc., shall not trigger the commencement of the yearly period) shall apply —

TABLE

Period	Applicable Rate for Sales of \$250,000.00 or more
Year 1	3%
Year 2	4%
Year 3	5%
Year 4	6%
Year 5	7%
Year 6	rate then promulgated and thereafter;

(c) Homes (not being condominiums)

On the conveyance of any home at a value of \$250,000.00 or more the rate set out in the following Table against the respective period shall apply to the conveyance when it occurs being a period that begins with the date on which substantial construction of each home is commenced and of which written notification is

immediately given by the Developer to the Government.

In this paragraph a reference to “substantial construction” is a reference to that stage of construction when the laying of the foundation of the respective building is completed.

TABLE

Period	Applicable Rate for Sales of \$250,000.00 or more
Year 1	3%
Year 2	4%
Year 3	5%
Year 4	6%
Year 5	7%
Year 6	rate then promulgated and thereafter.

(2) Notwithstanding anything to the contrary on all conveyances or transfer of property or equitable interest in property by the Developer subsequent to a date which is twenty (20) years from the initial unimproved sale date stamp duty shall be payable at the then applicable rate under the Stamp Act.

Ch 370

(3) For the avoidance of doubt all sales of unimproved lots, condominiums, and homes of less than \$250,000.00 shall attract stamp tax at the then applicable rate under the Stamp Act.