

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT (NO. 2) ACT 2016

WHEREAS it is expedient to amend the Bermuda Immigration and Protection Act 1956, the Companies Act 1981, and the Limited Liability Company Act 2016 to clarify that “tourist accommodation” or a “hotel residence” is not designated by regulations, and that those expressions have the meanings given in section 72(1) of the Bermuda Immigration and Protection Act 1956;

Be it enacted by The Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Bermuda Immigration and Protection Amendment (No. 2) Act 2016.

Amends section 72 of Bermuda Immigration and Protection Act 1956

2 Section 72(1) of the Bermuda Immigration and Protection Act 1956 is amended in the definition of “tourist accommodation” by, after the first instance of “Hotels (Licensing and Control) Act 1969”, inserting “, which is to be made available for occupancy by paying transient guests as part of the hotel inventory for at least six months each year or, in the case of an exempted company (as provided in regulation 3(2)(a) of the Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010), for use by a tenant who occupies the accommodation under a rental agreement entered into pursuant to a permit issued by the Minister”.

Amends section 92A of Bermuda Immigration and Protection Act 1956

3 Section 92A of the Bermuda Immigration and Protection Act 1956 is amended in subsection (1) by repealing paragraph (b).

Amends sections 120 and 129 of Companies Act 1981

4 The Companies Act 1981 is amended in both sections 120(5) and 129(1)(aa) by deleting “is designated as tourist accommodation or a hotel residence by regulations made under section 102D(1)(ba) of the Bermuda Immigration and Protection Act 1956” and, in

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each case, substituting “is “tourist accommodation” or a “hotel residence” (as defined in section 72(1) of the Bermuda Immigration and Protection Act 1956)”.

Amends section 20 of Limited Liability Company Act 2016

5 Section 20(5) of the Limited Liability Company Act 2016 is amended by deleting “is designated as tourist accommodation or a hotel residence by regulations made under section 92A(1)(b) of the Bermuda Immigration and Protection Act 1956” and substituting “is “tourist accommodation” or a “hotel residence” (as defined in section 72(1) of the Bermuda Immigration and Protection Act 1956)”.

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EXPLANATORY MEMORANDUM

This Bill would repeal subsection (1)(b) of section 92A (restriction on acquiring tourist accommodation or a hotel residence) of the Bermuda Immigration and Protection Act 1956. It would also amend sections 120(5) and 129(1)(aa) of the Companies Act 1981, as well as section 20 of the Limited Liability Company Act 2016. Each of the amendments would delete the reference to the designation by regulations of “tourist accommodation” or a “hotel residence”, and provide that those expressions have the meanings given in section 72(1) of the Bermuda Immigration and Protection Act 1956.

Clause 1 gives the citation and is self-explanatory.

Clause 2 amends the definition of “tourist accommodation” in section 72(1) of the Bermuda Immigration and Protection Act 1956 to provide that “tourist accommodation” must be made available as part of the hotel inventory for at least six months each year for occupancy by paying transient guests although, in the case of an exempted company, the accommodation may alternatively be used by a tenant who occupies the accommodation under a rental agreement entered into pursuant to a permit issued by the Minister.

Clause 3 amends section 92A of the Bermuda Immigration and Protection Act 1956 by repealing paragraph (b) of subsection (1). The paragraph currently provides that the Minister may approve an application for a licence to hold or acquire an interest in tourist accommodation or a hotel residence only if “the tourist accommodation or a hotel residence to be held or acquired is designated by the regulations as eligible to be held or acquired by restricted persons”. However, pursuant to amendments made by the Bermuda Immigration and Protection Amendment Act 2015, tourist accommodation or a hotel residence is no longer designated by regulations. Therefore, the paragraph is repealed.

Clause 4 amends sections 120(5) and 129(1)(aa) of the Companies Act 1981. The amendments delete references to the designation by regulations of “tourist accommodation” or a “hotel residence”, and provide that those expressions have the meanings given in section 72(1) of the Bermuda Immigration and Protection Act 1956.

Clause 5 amends Section 20(5) of the Limited Liability Company Act 2016. The amendment also deletes references to the designation by regulations of “tourist accommodation” or a “hotel residence”, and provides that those expressions have the meanings given in section 72(1) of the Bermuda Immigration and Protection Act 1956.