

STATES OF JERSEY



ESTABLISHMENT OF A DIGITAL REGISTER OF ALL COMMERCIAL AND RESIDENTIAL PROPERTIES (P.93/2020): COMMENTS

Presented to the States on 1st October 2020
by the Chief Minister

STATES GREFFE

COMMENTS

Opening

It is essential that Government, and the Assembly, have high-quality information on which to make good-quality policy decisions. Any decision to make additional requirements of individuals or industry, be it regulation or information collection, must however be for a clear policy purpose.

Residential Property

This proposition adopts a single approach to residential and commercial property. There is a perception, and some anecdotal suggestions, that external investment in residential property might be having negative consequences for Islanders – limiting supply and increasing prices.

Members should keep in mind, however, that the deeds transferring freehold property from one person to another person in Jersey are held in the Public Registry, which is open to the public.

Land Transaction Tax is charged on transactions involving the transfer of domestic share transfer property, and data on these transactions is held by Revenue Jersey. Information with respect to the ultimate beneficial owners of share transfer property will be accessible if required by the Jersey Financial Services Commission. (JFSC).

In addition, the Parishes hold information on the owners and occupiers of all immovable property in Jersey through the annual rates return. It is therefore not correct to state that we have no idea who owns residential property in Jersey.

It is acknowledged, however, that improvements could be made to the manner in which we utilise existing available information, and action in this regard could support policy formation. An assessment also needs to be made of any data gaps in respect of ownership information.

Commercial property

Commercial property is quite different. Jersey has spent more than a decade successfully growing its commercial property market for overseas investment.

The commercial property market forms part of Jersey's crucial international finance sector. It plays an important role in making Jersey attractive to large international investors structuring their deals through Jersey and even locating their offices to the Island. This supports jobs and livelihoods in Jersey.

In the commercial property market, ownership is not a key factor which drives how the market works. Size, location and purpose are much more relevant to value and these levers are already within the Government's control.

For commercial property, where information about the ultimate beneficial owner is relevant, this can already be accessed under the [Financial Services \(Disclosure and Provision of Information\) \(Jersey\) Law 202-](#), which was recently adopted by the Assembly. This Law requires the disclosure and holding of data of beneficial ownership

for all corporate entities (not including trusts) and is part of EU beneficial ownership changes. The Law enables inter-regulator disclosure in the short term and public access in the long term. Consequentially, [P.93/2020](#) brings with it direct duplication of transparency measures which are already in development.

Data Protection

This proposition also potentially presents data protection challenges and these need to be thoroughly considered. The consent of a data subject for the use of their personal data by the operator of this register will very likely be required. A clear purpose is required to enable that consent to be given within statute authorising the use of data. It is not clear what the purpose would be in P.93/2020, other than to inform policy, which is rather general and vague. Careful and further thought needs to be given in this respect. Members should also note that the [Statistics and Census Law 2018](#) already allows Government to access existing data it holds in an anonymised form for statistical purposes to inform policy making.

Resources

There are also financial and manpower implications of pulling together and maintaining data from various sources, especially if it is a single-use, confidential property register, rather than something that has a wider utility for Government. The integration of existing data faces challenges of accuracy, consistency and complexity. The proposition does not include any estimated costs, either for the initial set up of the register or its ongoing operation, and no indication is given as to how these costs would be met.

JFSC

There is also concern as to the role of the JFSC, who have not been consulted regarding this proposition. The JFSC has a clear and crucial role to play in the success of our financial services industry and tackling financial crime. Their priority should be to implement international regulatory standards and ensure that Jersey receives excellent reports from international bodies such as Moneyval. The regulation of ownership within the commercial and residential property market is clearly outside of the JFSC's remit.

Operating this register is not a priority for the JFSC and would not be achievable by the end of 2021.

Conclusion

Bearing all this mind, this proposition is not supported.

Instead, the Government Plan lodged on the 12th October will include a commitment to report to the Assembly on a clear plan for the collection, maintenance and use of property information, for policy development and other purposes, by the end of 2021, factoring in data protection compliance, and aligning this with other workstreams. This work will have a particular focus on the extent of external investment in residential property.

Members are asked to recommend the objectives of the proposition, but to nevertheless reject it in favour of this alternative approach which hopefully supports the spirit of the proposition whilst recognising the practical complexities.