Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022

Explanatory Notes

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The short title of the Bill is the *Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022* (the Bill).

Policy objectives and the reasons for them

Queensland is in a housing crisis. Rental vacancy rates in Queensland are at record lows.[1] Brisbane's rental vacancy rate - properties available to rent - is at an all-time low of 0.6%. In the regions the story is just as bad, with vacancy rates at 0.6% in Hervey Bay, 0.5% in Fraser Coast and Cairns, and 0.4% in Bundaberg.

Investors have capitalised on this untenably low availability, deciding to increase rents more than 20% in Brisbane, Toowoomba, West Queensland, and the Gold Coast, and as much as 31% in the Beenleigh and Logan Corridor.[2] Every week brings more stories of everyday people moving into tents, caravans and cars. Even before the most recent worsening of the crisis, the public housing waitlist ballooned to more than 50,000 people as of June 2021.[3] Less and less people are able to own their own home.[4]

Yet as this crisis unfolds, the actual vacancy rate - properties deliberately left vacant - is high. 192,000 homes, or 8.7 percent of all homes in Queensland, were left deliberately vacant on 2021 Census night with around 87,000 of these vacant for more than three months.[5] Our taxation system needs to provide an incentive for investors to add these properties to the private rental market.

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[1] https://www.domain.com.au/research/vacancy-rates-july-2022-1156411/
[2] https://sqmresearch.com.au/weekly-rents.php?region=qld%3A%3ABrisbane&type=c&t=1
[3] https://www.data.qld.gov.au/dataset/social-housing-register/resource/9fd99c88-c117-4e30-8b4b-54ac24170b80
[4] https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook46p/HomeOwnership
[5] https://www.realestate.com.au/news/one-in-five-empty-homes-on-census-night-were-in-qld/ https://www.couriermail.com.au/property/rent-crisis-87000-properties-empty-waters-on-noones-home/news-story/3ca0caf5850f074335aac1999085f45c

In addition to thousands of existing properties lying idle, speculative investment in property has pushed the value of land and existing stock to the extreme. This investment bubble has led to increasingly larger mortgages being needed to own property, resulting in larger mortgage payments from owners, with landlords passing the buck onto renters with subsequent rent hikes. That said, the cost of rent is out of proportion with the cost of providing and maintaining housing, and high rental costs are driven primarily by demand. A trickle-up system ensures that ordinary people's incomes are going towards investors paying off overvalued assets and into the pockets of big banks charging interest on exorbitant mortgages.

This investment bubble also presents a financial barrier to investment in construction of new housing as more finance is needed to purchase vacant land. Vacant land in areas of high-housing demand sits idle as wealthy investors accrue capital gains, putting the brakes on new housing supply.

Queensland is in a cost-of-living crisis and housing emergency. These residential assets need to serve the interest of the public and ordinary Queenslanders, not just wealthy investors

This Bill enacts a levy on empty homes and vacant land to incentivise property owners to put suitable vacant properties onto the rental market and disincentive investment in idle housing assets. Around the world, vacancy levies, such as Vancouver's Empty Homes Levy, have worked to immediately put existing homes to use providing stable housing. In addition to bringing thousands of vacant properties back into the rental market, over the long run this bill will result in a lower financial barrier to constructing new housing, lower mortgage repayments for owners, and lower rents for tenants.

Achievement of policy objectives

The bill will ensure our taxation system provides an incentive for property owners to put vacant residential homes onto the rental market, and for investors to sell vacant land they don't intend to develop by establishing an empty homes levy. The levy will require owners of vacant residential land to pay a levy of 5 per cent of the capital improved value of the land, if the land has been occupied for less than 6 months in a given year.

Exemptions will apply when:

- Land has changed ownership during the previous year.
- A residence was being constructed or renovated during the previous year, and the Commissioner of State Revenue is satisfied that this was not carried out to avoid the levy, and wasn't delayed by the owner.
- The land was used as a wildlife habitat during the previous year.
- The owner of the land passed away in the previous year.

- Occupants of the land moved into an aged care facility, hospital or supported accommodation during the previous year.
- An order of a court or government authority prevents the land being used as a principal place of residence, and arises from circumstances unable to be addressed by the owner.
- The land was used for primary production in the previous year.
- The Commissioner of State Revenue is satisfied that imposing the levy would be unfair and would not further the aims of the levy.

Over the next four years an Empty Homes Levy would

- See 20,600 homes re-enter the rental market and allow Queensland families to find affordable, secure places to live.[6]
- Cool the housing investment bubble and allow first-home buyers to enter the market.
- Push land prices down so there is more money to build new homes with, rather than billions of dollars of land remaining unused as speculative investments or being funneled to banks as exorbitant mortgage repayments.

Alternative ways of achieving policy objectives

There is no alternative method of achieving the policy objective.

Estimated cost for government implementation

Any additional costs required to administer the levy are expected to be more than recouped by inflows from owners paying the levy where they are liable.

Consistency with Fundamental Legislative Principles (FLPs)

This legislation engages several fundamental legislative principles, as defined in section 4 of the *Legislative Standards Act 1992* (Qld) (the LS Act).

This legislation has sufficient regard to rights and liberties of individuals in accordance with the LS Act, although it engages rights to property by disincentivising investment practices counter to the public good and a sustainable housing market.

The law has a long history of endowing owners of property with not only rights, but also responsibilities (such as a duty of care to others entering the property, or responsibility to contribute to the public good by paying council rates). This bill puts an onus on owners to put

[6] Generalising the effects of the Vancouver Empty Homes Levy to Queensland. Reduction rate of vacancies in Vancouver (23.7% - City of Vancouver, Empty Homes Tax Annual Report, 2021) multiplied by number of vacancies in Queensland (87,000).

their investments to responsible use or contribute to the public good an amount commensurate to the value and rights that their investment entails.

Further, it has sufficient regard to the institution of Parliament.

Basis for introduction

Section 68 of the *Constitution Of Queensland Act 2001* provides:

> ***Governor's recommendation required for appropriation***
>
> *(1)The Legislative Assembly must not originate or pass a vote, resolution or Bill for the appropriation of—*
> *(a) an amount from the consolidated fund; or*
> *(b) an amount required to be paid to the consolidated fund;*
> *that has not first been recommended by a message of the Governor.*
>
> *(2)The message must be given to the Legislative Assembly during the session in which the vote, resolution or Bill is intended to be passed.*

Standing Orders currently provide:

> *174. Appropriation proposal to be recommended*
>
> *(1) No proposal (including a Bill or a motion) for an appropriation that falls within the meaning of s.68 of the Constitution of Queensland 2001 shall be introduced unless first recommended by a message of the Governor as required by that section.*
>
> *(2) No amendment of a proposal recommended by a message of the Governor shall be moved which would increase, or extend the objects and purposes or alter the destination of the appropriation so recommended, unless a further message is received.*
>
> *175. Governor's message to be read prior to first reading*
>
> *(1) When a message from the Governor, recommending that an appropriation of money be made for a Bill is required, the message shall be presented to the Speaker and read to the House immediately prior to the question for the first reading of the Bill.26*
>
> *(2) When a message from the Governor, recommending an amendment be moved to a Bill for the appropriation of money is required, the message shall be presented to the Speaker and read before the amendment is moved.*

On 16 June 2011 the Legislative Assembly amended the Standing Rules and Orders by (a) replacing Parts 5, 6, and 7. This included the new SO 174 above.

Previous to these amendments Standing Orders had provided:

> ***164 Appropriation proposal to be recommended***
>
> *(1) No proposal (including a Bill or a motion) for the appropriation of any public moneys or the relief of any debt owed to the public shall be made unless the purpose of the appropriation has in the same session been recommended to the House by message of the Governor.[1]*
>
> *(2) No amendment of a proposal by the Governor shall be moved which would increase, or extend the objects and purposes or alter the destination of the appropriation so recommended, unless a further message is received.*
>
> ***165 Appropriation Bills and other proposals require Governor's message***
>
> *(1) When a message from the Governor, recommending that an appropriation of money be made for a Bill is required, the message shall be presented to the Speaker and read to the House immediately prior to the question for the first reading of the Bill.[2]*
>
> *(2) When a message from the Governor, recommending an amendment be moved to a Bill for the appropriation of money is required, the message shall be presented to the Speaker and read before the amendment is moved.*
>
> *(3) Only a Minister in accordance with a message from the Governor may introduce an Appropriation Bill or propose the imposition of a tax, rate, duty or impost or increase or alter the incidence of a charge.*
>
> *(4) Only a Minister in accordance with a message from the Governor may move an amendment to increase, or extend, the incidence of a charge unless the charge so increased or the incidence of the charge so increased shall not exceed that already existing by virtue of any law of Queensland.*

<u>Other jurisdictions</u>

Clause 53 of the Commonwealth Constitution provides:

> ***53. Powers of the Houses in respect of legislation***
>
> Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or

> moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.
>
> The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.
>
> The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.
>
> The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.
>
> Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

By contrast with their Queensland equivalents, the Commonwealth House of Representatives Standing Order 179 provides:

> *(a) Only a Minister may initiate a proposal to impose, increase, or decrease a tax or duty, or change the scope of any charge.*
>
> *(b) Only a Minister may move an amendment to the proposal which increases or extends the scope of the charge proposed beyond the total already existing under any Acts of Parliament.*
>
> *(c) A Member who is not a Minister may move an amendment to the proposal which does not increase or extend the scope of the charge proposed beyond the total already existing under any Acts of Parliament.*

This position is reinforced in the Commonwealth jurisdiction by *House of Representatives Practice (7th ed.).*

> *"Financial initiative of the Executive*
>
> *What is called the 'financial initiative of the Executive'—that is, the constitutional and parliamentary principle that only the Government may initiate or move to increase*

appropriations or taxes—plays an important part in procedures for the initiation and processing of legislation.

The principle of the financial initiative may be paraphrased as follows:

- *The Executive Government is charged with the management of revenue and with payments for the public service.*
- *It is a long established and strictly observed rule which expresses a principle of the highest constitutional importance that no public charge can be incurred except on the initiative of the Executive Government.*
- *The Executive Government requests money, the Parliament grants it, but the Parliament does not vote money unless required by the Government, and does not impose taxes unless needed for the public service as declared by Ministers.[5]*

The reference to 'public charge' in this context means a charge on public funds (an appropriation) or a charge on the people (a tax). The traditional position is expressed in May—'A charge of either kind cannot be taken into consideration unless it is sought by the Crown or recommended by the Crown'.

The financial initiative in regard to appropriation is expressed in, and given effect by, section 56 of the Constitution:

> *A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.*

The principle of the financial initiative is also expressed in, and given effect by, the constitutional restrictions on the powers of the Senate to initiate and amend appropriation and taxation legislation, as outlined below.

The standing orders of the House in relation to financial legislation reflect the principle of the financial initiative. In some matters the House has imposed on itself restrictions that appear to go beyond the letter of the Constitution, but which are based on constitutional convention. In 2013 the Speaker presented to the House a paper prepared by the Clerk's Office on the background to the constitutional provisions and their application: The law making powers of the Parliament: three aspects of the financial initiative—updated notes for Members."

In the context of the Westminster Parliament, Erskine May provides:

> *"It was a central factor in the historical development of parliamentary influence and power that the Sovereign was obliged to obtain the consent of Parliament (and particularly of the House of Commons as representatives of the people) to the levying of*

taxes to meet the expenditure of the State. But the role of Parliament in respect of State expenditure and taxation has never been one of initiation: it was for the Sovereign to request money and for the Commons to respond to the request. The development of responsible government and the assumption by the Government of the day of the traditional role and powers of the Crown in relation to public finance have not altered this basic constitutional principle: the Crown requests money, the Commons grant it, and the Lords assent to the grant. In more modern terms, the Government presents to the House of Commons its detailed requirements for the financing of the public services; it is for the Commons, acting on the sole initiative of Ministers, first to authorise the relevant expenditure (or 'Supply') and, second, to provide through taxes and other sources of public revenue the 'Ways and Means' deemed necessary to meet the Supply so granted. The role of the House of Lords is confined to assenting to such financial provisions of the House of Commons as require statutory authorisation.

The financial control of the House of Commons is exercised at two different levels. So far as policy is concerned, it authorises the various objects of expenditure and the resources to be used and the sums to be spent on each; it also authorises the levying of taxes. On the level of administration, it satisfies itself that its expenditure decisions have been duly carried out—in other words, that the amounts it has authorised, and no more, have been used for the purposes for which they were granted, and for no other purposes. For both sets of functions the House of Commons has, partly through its own procedure and partly through legislation and administrative practice, devised appropriate machinery."

Accordingly, the *Constitution of Queensland Act 2001* and the Standing Orders of the Queensland Parliament do not prevent Private Members' Bill proposing revenue measures.

Of course, our system of government consists of many fundamental conventions that are not expressed in statute or standing orders but must still be preserved.

However, the explicit words of the Constitution Act and the Standing Orders have narrowed the scope of any convention which holds that the Executive has sole power to initiate revenue Bills.

In the context of the Commonwealth Standing Orders which so clearly include revenue Bills in the convention, and the Commonwealth Constitution which makes a distinction between the powers of the Senate and the House of Representatives (where governments are formed) in relation to both appropriations and revenue Bills, it is implausible that the Queensland Constitution and Standing Orders could be drafted to exclude revenue Bills other than intentionally.

Read together, the Commonwealth Standing Orders and the Commonwealth Constitution are a clear codification of an old convention. By contrast, the drafters of the *Constitution Of*

Queensland Act and the current Queensland Standing Orders clearly elected to deviate from the previously existing convention.

Further to the words in the relevant Queensland provisions, there are several key distinctions between appropriations and revenue Bills which weigh in favour of allowing non-Government MPs to introduce revenue Bills:

- Responsible government, which sits at the heart of the convention, rests on confidence in supply, rather than in every tax issue which comes before Parliament. Parliament can block any tax bill without affecting confidence.
- Practically, the government depends on the ability to spend money via appropriations, whereas tax measures are more discreet.
- Passage of an appropriations Bill is "all or nothing". Fluctuations in revenue by contrast do not affect the government in same way because the government can always borrow money to make up any shortfall and bond markets fluctuate to compensate.
- Some bills imposing levies are at least as much direct social policy (eg tax breaks on local production) as revenue measures.
- The Executive government alone has access to the information to draft appropriations Bills, drawing input from all agencies. The same is not true of revenue Bills.

Queensland is somewhat unique as a unicameral Westminster Parliament. In that context, and given the words of the *Constitution of Queensland Act*, opportunities for broad discussion and scrutiny of government revenue policy should be prioritised, including by allowing non-Government MPs to propose revenue Bills.

Extrinsic material relevant to the *Constitution Of Queensland Act* discusses the convention of the financial initiative of the Executive extensively, but does so only in the context of appropriations Bills, never in the context of revenue Bills. Among a long list of examples:

- Electoral and Administrative Review Commission, Report on Consolidation and Review of the Queensland Constitution, Government Printer, Brisbane, August 1993.
    - EARC's recommendation for the drafting of a new constitution [para 6.221 and 6.222] does not include revenue Bills, only recommending that the new constitution should "provide that no monies shall be spent without authorisation by an Act of Parliament." and that it should "ensure that the Executive cannot disburse public funds without appropriation of the Parliament, which in turn requires the authority of the Governor to make an appropriation."
- Legislative Assembly of Queensland, Legal, Constitutional and Administrative Review Committee, Consolidation of the Queensland Constitution: Final Report, Report No 13, April 1999
    - Includes the following commentary on then-draft Cl 67 in the *Constitution of Queensland Bill 1999 (Final Draft)*: *"Clause 67 (CA s 18) represents a further balance between the Executive and Parliament in relation to finance. While cl 65*

provides that the Executive must not spend public money without the Legislative Assembly's authorisation, cl 67 provides that the Legislative Assembly must not originate or pass a vote, resolution or Bill for the appropriation of an amount from, or an amount required to be paid to, the consolidated fund unless it has first been recommended by message of the Governor. The clause further provides that the message must be given to the Legislative Assembly during the session of Legislative Assembly in which the vote, resolution or Bill will be passed."

- This commentary characterises the convention as applying only to appropriations Bills.

Index of extrinsic material

Below is a full index of extrinsic material to the *Qld Constitution Act 2001* including selected page references:

1. EARC, Issues Paper No. 21: *Consolidation and Review of the Queensland Constitution*, Government Printer, Brisbane, February 1993.
    a. See Page 51 (PDF page 58), paragraphs 4.44 and 4.45.
2. Electoral and Administrative Review Commission, Report on Consolidation and Review of the Queensland Constitution, Government Printer, Brisbane, August 1993.
    a. See page 99 (PDF page 110), para 6.209 to 6.222
    b. See Annexure B on PDF page 223 re cl 34 of *Queensland Constitution Bill 1993*.
3. Parliamentary Committee for Electoral and Administrative Review, *Report on Consolidation and Review of the Queensland Constitution, Report No 24, Government Printer, Brisbane, November 1994.*
4. Legislative Assembly of Queensland, Legal, Constitutional and Administrative Review Committee, Consolidation of the Queensland Constitution: Interim Report, Report No 10, May 1998
    a. See Part II, page 25-26 re clauses 58-61
5. The 1999 Queensland Constitutional Review Commission (QCRC) publication, Issues Paper for the possible reform of and changes to the Acts and laws that relate to the Queensland Constitution
    a. See draft Cl 66 (similar to the final wording) on page 520 (PDF page 98).
6. Legislative Assembly of Queensland, Legal, Constitutional and Administrative Review Committee, Consolidation of the Queensland Constitution: Final Report, Report No 13, April 1999
    a. See Part II Ch 5, pages 25-26 (re clauses 63-67) (PDF pages 120 and 121)
    b. See PDF page 159 - table of provisions
7. Legislative Assembly of Queensland, Legal, Constitutional and Administrative Review Committee, Review of the Queensland Constitutional Review Commission's

recommendations relating to a consolidation of the Queensland Constitution, Report No 24, July 2000
    a. See PDF page 65

There is no extrinsic material available in relation to the 2011 changes to Queensland Standing Orders. The Secretariat of the Committee of the Legislative Assembly has confirmed to the Member for Maiwar's office that while the Committee did consider the 2011 changes, no public report was issued. The Secretariat was unable to provide any documents relevant to the 2011 changes to Standing Orders. The Hansard records of Parliamentary debate on 16 June 2011 show no substantive debate, with the changes passing in just two minutes (see pages 1915-1936).

Consultation

Since being elected in 2020, Dr Amy MacMahon has liaised with thousands of renters in the Queensland private rental market, both from the South Brisbane electorate and other electorates. This has taken the form of hosting forums, conducting surveys, personal advocacy, casework, social media communications and email.

The thousands of personal stories she has heard are the reason she has prepared this private member's bill, and these testimonials are amply supported by data showing unprecedented rent rises and low rental availability in Queensland.

Dr MacMahon has also liaised extensively with stakeholder organisations who are working to progress rental reform, including Tenants Queensland, as well as land tax reform organisations like Prosper.[7]

Levies on vacant housing and land have been implemented in Australia and internationally and numerous studies have been conducted on their practice and efficacy. This bill draws on the best practices advocated by institutions such as the World Bank.[8]

Consistency with legislation of other jurisdictions

Vacancy levies on empty residential properties as well as on vacant land have been implemented globally in the United States, Canada, Spain, France, Korea, Australia, and most recently, the Netherlands, at municipal, state/regional, and national levels.

[7] https://www.prosper.org.au/wp-content/uploads/2021/01/Prosper_SpeculativeVacancies_FINAL_web23.pdf

[8] https://urban-regeneration.worldbank.org/about

The tools of implementation vary wildly: some jurisdictions, such as Barcelona, impose heavy fines of up to €2.8 million and repossession of vacant residential buildings in extreme cases. Less heavy handed approaches, which minimize costly and prolonged legal disputes, apply a broader less acute disincentive to anti-social investment and property usage by way of a general acting vacancy levy on empty homes and vacant land.

The Victorian State legislature introduced a vacancy tax on empty residential property in 2017. Much of the provisions contained within the present bill which amend the Queensland *Land Tax Act 2010* borrow from the Victorian *Land Tax Act 2005* in providing criterion for vacant residential land, implementing a levy, and including appropriate exemptions to a levy imposed. The present amendments expand upon the purview of the Victorian legislation to also impose a levy on vacant undeveloped land, like that implemented previously in South Korea, which was used to encourage land utilization and urban regeneration.

The Victorian legislation is also deficient in a number of regards, largely related to enforcement, reporting, amount of liability imposed, and over exempting owners. Compared to other jurisdictions, such as France and Vancouver, the Victorian legislation has proven less effective at fulfilling its aims and differs in a number of important regards. In recognition of this, the present bill borrows from jurisdictions which have implemented vacancy levies to greater effect, such as France and Vancouver.

Vancouver, which has seen a 24% reduction in vacant properties since the implementation of their Empty Homes Levy in 2017, now levies 3% of the capital improved value of an empty residential property, increasing from 1% since 2019, and rising to 5% in 2023. The Victorian amount is far too low to appropriately incentivise appropriate use of residential land and the *ramping up* approach of Vancouver is inappropriate to the present housing crisis facing Queensland. However, an amount of 5% on capital improved value of a property directly parallels Vancouver's rate as of 2023.

The inclusion of a valuation for capital improved value through amendments to the Queensland *Land Valuation Act 2010* made by this bill borrows directly from the definition used in the Victorian *Valuation of Land Act 1960* s 2(1).

Notes on provisions

Chapter 1 Preliminary

Clause 1 sets out the short title of the Act this Bill would create.

Clause 2 provides for the commencement of the Act.

Chapter 2 Amendment of Land Tax Act 2010

Act amended

Clause 3 specifies Part 2 of the Act would amend the *Land Tax Act 2010*.

Insertion of new Part 2A (Imposition of empty homes levy)

Clause 4 inserts a new part 2A which imposes an empty homes levy:

- Section 8A sets out the meaning of *residential land* which when vacant, the owner will be liable for the levy.
- Section 8B sets out when residential land is vacant
- Section 8C imposes the empty homes levy each financial year on vacant residential land in Queensland, in addition to any other land tax imposed under the Land Tax Act.
- Section 8D sets out that liability for the empty homes levy arises at 30 June immediately preceding the financial year.
- Section 8F makes the owner of vacant residential land liable for the empty homes levy in accordance with the existing land tax regime.

The definition of residential land is wide, including not only properties that can reasonably be used as residences but land that can reasonably be made usable for residential purposes. This captures property that the average person would ordinarily consider to be fit for residential use as well as properties that the ordinary person would regard as being suitable to be developed into housing. Subsection (2) precludes the cost of construction as a factor in reasonableness to preclude the financial circumstances of the owner of property suitable for to be developed into housing exempting the land from the definition. The effect of this is to encourage owners of housing assets and potential housing assets to make use of their land and to encourage investment in land where the intent is to make use of the land and not merely as a speculative investment seeking to profit on capital gains.

The definition of ‘residential land that is vacant’ in 8B sets out a criterion for types and length of occupancy that would not make residential land vacant.

Provisions pertaining to short-term letting (eg Airbnb) provide that land used in such a manner is liable for the levy to incentivise the return of these properties to the long-term rental market. It further asserts the role of bona fide commercial residential premises in catering to tourists and other visitors, mitigating the adverse effect the short-stay rental market has had on neighborhoods and displaced residents.

Amendment of s 16 (Taxable value)

Clause 5 provides that the taxable value of land liable for the levy is to be determined under the Land Valuation Act.

Insertion of new pt 5A - Rate of empty homes levy

Clause 6 inserts a new part 5A and inserts new s 34A setting the rate of the empty homes levy as 5% of the taxable value of the land under the Land Valuation Act.

Insertion of new pt 6B - Exemptions from empty homes levy

Clause 7 inserts a new part 6B setting out exemptions from the empty homes levy:

- Section 58K provides an exemption where the land has changed ownership in the preceding financial year.
- Section 58L provides an exemption where a residence was being constructed or renovated during the previous financial year, without being completed, and the Commissioner of State Revenue is satisfied that the construction or renovation wasn't carried out to avoid the levy, and wasn't delayed by the owner.
- Section 58M provides an exemption where the land has been used as a wildlife habitat during the previous year.
- Section 58N provides an exemption where the owner of the land in question passed away in the previous year.
- Section 58O provides an exemption where it was occupied by the owner, their permitted occupant or a tenant for 6 months or less, and all of the occupants moved into an aged care facility, hospital or supported accommodation service in the previous year.
- Section 58P provides an exemption where the land in question was not lawfully able to be used as a principal place of residence in the previous year, due to a court order, or order of a government authority arising from circumstances unable to be addressed by the owner.
- Section 58Q provides an exemption for land, or part of land, if it was used for primary production in the previous year.
- Section 58R Provides an exemption for circumstances where the Commissioner of State Revenue is satisfied that imposing the levy would be unfair and would not further the aims of the levy.

Insertion of new 77 A - Notice of assessment and applying for exemption

Clause 8 inserts new s 77A which provides that an owner being given a notice of assessment to pay the empty homes levy may apply for exemption under the any above grounds or because it was not vacant or because it is not residential land.

Amendment of sch 4 (Dictionary)

Clause 9 updates the Dictionary in schedule 4 with references to the empty homes levy, residential land, residential tenancy agreement and rooming accommodation agreement.

Chapter 3 Amendment of Land Valuation Act 2010

Act amended

Clause 10 specifies Part 3 of the Act would amend the *Land Valuation Act 2010*.

Amendment of s 6 (statutory purposes of valuations)

Clause 11 amends s 6 to extend the statutory purpose of valuations to include valuations for the empty homes levy.

Amendment of s 7 (What is the *value* of land)

Clause 12 inserts new s 7 (2) to provide that the value of land for the purposes of an empty homes levy is its capital improved value.

Insertion of *Capital improved value of land*

Clause 13, 14, and *15* create a new measure for determining the value of land, *capital improved value*, which is the expected value of land under a bona fide sale.

Amendment of schedule (Dictionary)

Clause 16 updates the Dictionary with references to *capital improved value*, *empty homes levy*, *empty homes levy valuation* and extends the definition of *owner*.