

House of Assembly

As passed all stages and awaiting assent.

This is an unofficial copy and is subject to correction.

South Australia

Stamp Duties (Tax Reform) Amendment Bill 2009

A BILL FOR

An Act to amend the *Stamp Duties Act 1923* and to make related amendments to the *Statutes Amendment (Budget 2005) Act 2005*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Stamp Duties Act 1923*

- 4 Amendment of section 7—Distribution of stamps, commission etc
- 5 Amendment of section 16—Duty in force when instrument produced for stamping to apply
- 6 Amendment of section 31B—Interpretation
- 7 Insertion of section 31N
31N Repeal of Division
- 8 Repeal of Part 3 Division 5
- 9 Amendment of section 71—Instruments chargeable as conveyances
- 10 Amendment of section 71C—Concessional rates of duty in respect of purchase of first home etc
- 11 Amendment of section 71D—Concessional duty to encourage resource exploration activity
- 12 Repeal of Part 3 Division 9
- 13 Amendment of section 79—Mortgage securing future and contingent liabilities
- 14 Insertion of section 82A
82A Repeal of Division
- 15 Insertion of Part 4A
Part 4A—Abolition of various duties
Division 1—Abolition of duty on rental business
103 Abolition of duty on rental business (1 July 2009)
Division 2—Abolition of duty on mortgages
104 Abolition of duty on mortgages (1 July 2009)
- 16 Amendment of section 107—Transfer of property to correct error
- 17 Amendment of Schedule 1—Transitional provisions
2 No refund of duty on cheque forms
- 18 Amendment of Schedule 2—Stamp duties and exemptions

Schedule 1—Related amendments

Part 1—Amendment of *Statutes Amendment (Budget 2005) Act 2005*

- 1 Amendment of section 2—Commencement
 - 2 Repeal of Part 7
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Stamp Duties (Tax Reform) Amendment Act 2009*.

2—Commencement

- (1) Subject to subsection (2), this Act will come into operation on the day on which it is assented to by the Governor.
- (2) Section 13 will come into operation on 1 July 2009.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Stamp Duties Act 1923*

4—Amendment of section 7—Distribution of stamps, commission etc

Section 7(3)—delete subsection (3)

5—Amendment of section 16—Duty in force when instrument produced for stamping to apply

Section 16—delete "The duty" and substitute:

Subject to this Act, the duty

6—Amendment of section 31B—Interpretation

Section 31B, definition of *dutiable rental business*—delete "but does not include such business arising from contracts, agreements or arrangements entered into on or after 1 July 2009;"

7—Insertion of section 31N

After section 31M insert:

31N—Repeal of Division

- (1) After 1 July 2009, the Governor may, by proclamation, fix a date for the repeal of this Division.
- (2) On the date fixed under subsection (1), this Division (including this section) is repealed.

8—Repeal of Part 3 Division 5

Part 3 Division 5—delete the Division

9—Amendment of section 71—Instruments chargeable as conveyances

Section 71(14)—delete "an amount equal to the difference between the amount of the duty and ten dollars" and substitute:

the amount of the duty

10—Amendment of section 71C—Concessional rates of duty in respect of purchase of first home etc

Section 71C—after subsection (3) insert:

- (3a) For the purposes of subsection (3), property values are to be expressed to the nearest multiple of \$1 000 and if a property value lies exactly at the mid point between 2 multiples of \$1 000, the property value is to be rounded down to the lower of those multiples.

11—Amendment of section 71D—Concessional duty to encourage resource exploration activity

- (1) Section 71D(1)—delete "Minister of Mines and Energy" and substitute:

Minister to whom the administration of the *Mining Act 1971* is committed

- (2) Section 71D(3), definition of *exploration tenement*, (b)—delete paragraph (b) and substitute:

(b) an exploration licence granted under the *Petroleum Act 2000*; or

12—Repeal of Part 3 Division 9

Part 3 Division 9—delete the Division

13—Amendment of section 79—Mortgage securing future and contingent liabilities

Section 79(6) and (7)—delete subsections (6) and (7)

14—Insertion of section 82A

After section 82 insert:

82A—Repeal of Division

- (1) After 1 July 2009, the Governor may, by proclamation, fix a date for the repeal of this Division and Schedule 2 clause 11.
- (2) On the date fixed under subsection (1), this Division (including this section) and Schedule 2 clause 11 are repealed.

15—Insertion of Part 4A

After Part 4 insert:

Part 4A—Abolition of various duties

Division 1—Abolition of duty on rental business

103—Abolition of duty on rental business (1 July 2009)

- (1) No liability to duty arises in relation to an amount received in respect of rental business (within the meaning of Part 3 Division 2) after 30 June 2009.
- (2) Despite the provisions of Part 3 Division 2, registration under that Division is not required or to be granted on or after 22 July 2009 and the registration of a person who is registered immediately before 22 July 2009 is to be taken to have been cancelled on that date.
- (3) For the avoidance of doubt, a person is not entitled to a refund of duty paid in relation to an amount received in respect of rental business before 1 July 2009 only because the contract or agreement under which the amount was received expires on or after that date.

Division 2—Abolition of duty on mortgages

104—Abolition of duty on mortgages (1 July 2009)

- (1) No liability to duty arises under Schedule 2 clause 11 in relation to—
 - (a) a mortgage, bond, debenture, covenant or warrant of attorney executed, or that first affects property in this State, on or after 1 July 2009; or
 - (b) a mortgage executed, or that first affects property in this State, before 1 July 2009 if no advance secured under the mortgage is made before that day; or
 - (c) an advance or further advance on or after 1 July 2009 under a mortgage executed, or that first affects property in this State, before that day.
- (2) Despite section 16, if a mortgage, bond, debenture, covenant or warrant of attorney executed before 1 July 2009 but produced to the Commissioner for the purpose of being stamped on or after that day is dutiable under Schedule 2 clause 11, the duty will be calculated according to the rates in force as at the day on which the instrument became liable to duty (or further duty).

16—Amendment of section 107—Transfer of property to correct error

Section 107(3)—delete "ten dollars plus"

17—Amendment of Schedule 1—Transitional provisions

Schedule 1—after clause 1 insert:

2—No refund of duty on cheque forms

Despite any other provision of this Act or the *Taxation Administration Act 1996*, no refund of duty on cheque forms is allowed.

18—Amendment of Schedule 2—Stamp duties and exemptions

- (1) Schedule 2 clause 10—delete clause 10
- (2) Schedule 2 clause 13—delete clause 13

Schedule 1—Related amendments

Part 1—Amendment of *Statutes Amendment (Budget 2005) Act 2005*

1—Amendment of section 2—Commencement

Section 2(5)—delete subsection (5)

2—Repeal of Part 7

Part 7—delete the Part