

SOUTH AUSTRALIA

HOMES ACT, 1941

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HOMES ACT, 1941

being

Homes Act, 1941, No. 36 of 1941
[Assented to 20 November 1941]

as amended by

Homes Act Amendment Act, 1947, No. 9 of 1947 [Assented to 16 October 1947]
Homes Act Amendment Act, 1949, No. 18 of 1949 [Assented to 27 October 1949]
Homes Act Amendment Act, 1950, No. 30 of 1950 [Assented to 30 November 1950]¹
Homes Act Amendment Act, 1951, No. 17 of 1951 [Assented to 11 October 1951]
Homes Act Amendment Act, 1952, No. 38 of 1952 [Assented to 4 December 1952]
Homes Act Amendment Act, 1956, No. 15 of 1956 [Assented to 1 November 1956]
Homes Act Amendment Act, 1957, No. 18 of 1957 [Assented to 24 October 1957]
Homes Act Amendment Act, 1958, No. 27 of 1958 [Assented to 6 November 1958]
Homes Act Amendment Act, 1962, No. 24 of 1962 [Assented to 25 October 1962]
Homes Act Amendment Act, 1968, No. 10 of 1968 [Assented to 3 October 1968]

¹ Came into operation 20 November 1941: s. 2(2).

An Act to empower the Treasurer to give guarantees for the purpose of encouraging the building and purchase of dwelling-houses, and to confer upon certain institutions powers with respect to building, selling and enlarging dwelling-houses, and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Homes Act, 1941*.

Interpretation

2. In this Act, unless the context otherwise requires, or some other meaning is clearly intended—

"dwelling-house" includes the land on which a dwelling-house is erected and all appurtenances of the dwelling-house, outbuildings, fences and permanent provision for lighting, water supply, drainage and sewerage:

"guarantee" means guarantee given by the Treasurer under this Act:

"institution" means any of the following bodies, namely:—

The Co-operative Building Society of South Australia

The Hindmarsh Loan Land and Building Investment Society on the Permanent Principle Incorporated:

The Permanent Economic Loan Land Building and Investment Society Incorporated:

The Imperial Permanent Building and Investment Society Incorporated:

The Savings Bank of South Australia; and

South Australian Superannuation Fund Board:

and any of the following friendly societies, namely:—

The Independent Order of Oddfellows Manchester Unity Friendly Society in South Australia:

The South Australian Ancient Order of Foresters Friendly Society:

The South Australian Grand United Order of Oddfellows Friendly Society:

The South Australian United Ancient Order of Druids Friendly Society:

The Independent Order of Odd Fellows:

The South Australian District, No. 81, Independent Order of Rechabites, Friendly Society:

3.

The Albert District, No. 83, Independent Order of Rechabites, Salford Unity:

The Sons of Temperance, South Australian Grand Division, No. 24:

Australian Natives' Association:

Hibernian Australasian Catholic Benefit Society, Adelaide District, No. 7:

"Treasurer" means the person for the time being holding or acting in the office of Treasurer of the State:

"value" means value fixed by an officer appointed by the Treasurer as a valuer for the purposes of this Act or, in the case of The Savings Bank of South Australia, the value fixed by that bank.

Guarantees by the Treasurer

Guarantee by Treasurer

3. (1) Subject to this Act, the Treasurer with the approval of the Governor may execute a guarantee in favour of any institution for—

- (a) the repayment of part of any loan made by the institution on the security of a dwelling-house; or
- (b) the payment of part of any purchase money due to the institution under any contract made by the institution for the sale and purchase of a dwelling-house.

(2) Any such guarantee shall contain such provisions as are mutually agreed upon between the Treasurer and the institution.

Limit of guarantee

4. The part of any loan or purchase money for which a guarantee is given—

- (a) shall not exceed the amount by which the loan or the amount of purchase money, exclusive of any sum paid as a deposit, exceeds seven-tenths of the value of the dwelling-house to be mortgaged or to be sold under the contract for sale and purchase; and
- (b) shall not exceed one-quarter of that value.

Duty of Treasurer to establish guarantee fund

5. (1) There shall be a fund kept by the Treasurer to be called "The Home Purchase Guarantee Fund".

(2) Every institution to which a guarantee for the time being in force has been given shall pay into the said fund in each quarter in respect of every loan or the purchase money in respect of every dwelling-house for which a guarantee is given, an amount equal to one quarter of one per centum of such part of the loan or purchase money as at the last day of the preceding quarter had been advanced by the institution and for the payment of which the Treasurer was liable under the guarantee.

Payment of guaranteed amount

6. (1) Any sums which become due and payable to an institution by the Treasurer under a guarantee shall be paid to the institution out of The Home Purchase Guarantee Fund. If there are insufficient moneys in that fund, the Treasurer shall pay the deficiency to the institution out of the general revenue of the State.

(2) This section, without any other appropriation, shall be sufficient authority for making any such payment as mentioned in subsection (1) of this section.

Conditions under which guarantee to be given

7. (1) The Treasurer shall not execute a guarantee—

* * * * *

- (b) if the interest charged on the loan or purchase money in respect of any period whilst the guarantee is in force exceeds six per centum per annum in a case where the interest is paid not later than fourteen days after it becomes due, or six and a half per centum where the interest is not so paid; or
- (c) unless the loan or purchase money together with interest calculated and adjusted quarterly is repayable in fixed equal weekly, monthly or quarterly payments of such amount as will be sufficient to repay the loan or purchase money in full in a period not exceeding fifty years from the date of the mortgage or contract for sale and purchase; or
- (d) if the borrower or purchaser or the wife or husband of the borrower or purchaser already owns a dwelling-house at the date of the mortgage or contract for sale and purchase; or
- (e) unless the borrower or purchaser has declared that he intends to use the dwelling-house as a home for himself and his dependants; or
- (f) if the Treasurer has previously given a guarantee in respect of a loan made to or purchase money owing by the borrower or purchaser or the wife or husband of the borrower or purchaser:

Provided that the Treasurer may exempt the borrower or purchaser from either or both of paragraphs (d) and (f) of this section if he thinks that just cause exists for doing so.

(1a) If, before the commencement of the *Homes Act Amendment Act, 1962*, the Treasurer has executed a guarantee in favour of any institution for the repayment of any loan or the payment of any purchase-money, and it is desired by the institution to extend the term of the loan or, as the case may be, the period for the repayment of the purchase-money, beyond the original term or period thereof, but so that the term or period as extended does not exceed fifty years from the granting of the loan or the making of the contract for the payment of the purchase-money, the Treasurer may consent to such extension of the said period or term by the institution and if the said period or term is extended by the institution in accordance with that consent the guarantee shall be deemed to apply during the term of the loan or the period for repayment as so extended.

(2) The Treasurer shall not execute a guarantee unless the loan, or the amount of purchase money exclusive of any sum paid as a deposit, accords with the following provisions:—

5.

- I. If the amount of the loan or such purchase-money does not exceed six thousand dollars, the said amount shall not exceed ninety-five per centum of the value of the dwelling-house:
- II. If the amount of the loan or such purchase-money exceeds six thousand dollars, the said amount shall not exceed eighty-five per centum of the value of the dwelling-house:
- III. The amount of the loan or such purchase money shall not in any case exceed eight thousand dollars.

Abatement of guarantee

8. (1) A guarantee may provide for periodical reductions to be made in the amount for which the Treasurer is liable thereunder.

(2) Unless it is otherwise provided in the terms of the guarantee, the Treasurer's liability thereunder shall be reduced from time to time as follows:—Whenever any money is paid to the institution on account of principal money secured by the mortgage in respect of which the guarantee is in force, or purchase money payable under the contract of sale and purchase in respect of which the guarantee is in force, the amount for which the Treasurer is liable under the guarantee shall be reduced by an amount equal to one half of the money so paid.

(3) A guarantee given to an institution in respect of money secured by mortgage shall terminate if a further advance is made by the institution in respect of that mortgage without the consent of the Treasurer.

Valuation and fees

9. (1) The Treasurer may appoint any suitable person to be a valuer for purposes of this Act.

(2) The Treasurer may require any person for whose benefit a guarantee is given under this Act to pay him such reasonable fees for valuing the property in respect of which the guarantee is given, as the Treasurer fixes.

Erection, Sale and Enlargement of Dwelling-houses

Application of ss. 11 to 17

10. (1) Sections 11 to 17 (inclusive) of this Act shall apply only to The Savings Bank of South Australia and to any other of the institutions mentioned in section 2 to which the Governor by proclamation declares that those sections shall apply: Provided that in no case shall sections 11 to 17 apply to the South Australian Superannuation Fund Board.

(2) Nothing in sections 11 to 17 (inclusive) of this Act shall take away or restrict any power which any institution has apart from those sections.

(3) The powers conferred on an institution by sections 11 to 17 (inclusive) of this Act shall be in addition to any other powers which the institution has by law, and shall not be deemed to be restricted by the terms in which any other powers are conferred on the institution.

Power to acquire and use lands

11. For the purpose of carrying out all or any of the provisions of sections 12 to 17 (inclusive) of this Act an institution may—

6.

- (a) acquire any land; or
- (b) use any land held by it, whether such land was acquired under this section or not.

Power of institutions to erect and sell houses

12. An institution may at its discretion and upon such terms and conditions as it considers advisable do all or any of the following things:—

- (a) subdivide any such land into allotments;
- (b) reserve for the purpose of roads, streets and footpaths and for similar purposes any parts of any such lands and make and construct any roads, streets, and footpaths;
- (c) set apart any parts of any such land for any public purpose or as a reserve for any recreation, and sell or otherwise dispose of any land so set apart;
- (d) set apart any parts of any such land for any charitable, religious, patriotic, recreational, or educational purposes and sell or otherwise dispose of any such parts;
- (e) erect dwelling-houses on any such land or any part thereof and enter into and cause to be carried out contracts for any such erection;
- (f) insure any dwelling-houses erected or in the course of erection;
- (g) alter the levels of any such land and make provision for pipes, wires, apparatus, electric light and power, gas, sewers, drains, tunnels, conduits, poles, posts and fixtures on or under any such land and any other facilities or services;
- (h) exercise any other powers necessary or convenient to carry sections 11 to 17 (inclusive) of this Act into effect.

Maximum expenditure per house

13. The amount to be expended on any dwelling-house as aforesaid (including the value of the land) shall not exceed two thousand four hundred dollars.

Power to sell houses

14. An institution may sell any dwelling-house upon such terms and conditions and subject to the payment of such cash deposit as it thinks fit.

Sale price

15. The sale price of a dwelling-house sold pursuant to the last preceding section shall not exceed a sum equal to the value of the land together with the cost of erection of the dwelling-house: Provided that the institution may include in the cost of erection interest at a rate not exceeding five per centum per annum on any moneys expended by the institution in the erection of the dwelling-house and in the exercise of any power conferred by paragraph (g) of section 12 of this Act. Such interest may be charged to the date of the sale, and shall be calculated from the respective dates when the moneys were so expended.

Power of institutions to build and enlarge houses at request of owner

16. An institution may at the request of the owner of any land and at its discretion and upon such terms and conditions as it considers advisable—

7.

- (a) erect complete or enlarge any dwelling-house on that land;
- (b) enter into any contracts in connection therewith;
- (c) require the said owner to give a mortgage to secure to the institution the repayment of any moneys expended by the institution under this section.

Limit of capital value

17. The cost to the institution of any dwelling-house erected under the last preceding section together with the value of the land used in connection therewith and the improvements thereon, shall not exceed two thousand four hundred dollars.

General Provisions

How powers exercisable

18. The powers conferred by this Act on an institution may be exercised by the board, committee or other body in which the management of the institution is vested, or by such number of members thereof as constitute a quorum for the transaction of the ordinary business of the institution.

Regulations

19. The Governor may make any regulations which are necessary or convenient for the administration and carrying into effect of this Act and may by any such regulation prescribe fines recoverable summarily and not exceeding forty dollars for breach of any regulation.