

2010

**The Legislative Assembly for
Australian Capital Territory**

First Home Owner Grant Amendment Bill 2010

Explanatory Statement

**Circulated by authority of
Treasurer
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First Home Owner Grant Amendment Bill 2010

Summary

This Bill amends the *First Home Owner Grant Act 2000*.

Overview

The *First Home Owner Grant Act 2000* is amended to allow an applicant to reapply for a further first home owner grant, if the original grant has been repaid including any penalties and interest. This provision applies to applicants who have an eligible transaction that commences on or after 1 January 2011 and subsequently repays that grant.

A new provision has been included that if an applicant has been convicted of an offence under the *First Home Owner Grant Act 2000* in the ACT or a corresponding First Home Owner Grant Act in another jurisdiction an applicant is ineligible to apply for a further grant.

The *First Home Owner Grant Act 2000* is amended to introduce a first home owner grant cap for eligible transactions that commence on or after 1 January 2011. The first home owner grant cap applies to eligible transactions that commence on or after 1 January 2011. The Intergovernmental Agreement on Federal Financial Relations (IGA) stipulates that the cap must not be less than 1.4 times the State's capital city median house price.

Commencement Date

The Bill's amendments will be effective from the day after its notification.



Details of the First Home Owner Grant Amendment Act 2010

Part 1 Preliminary

Clause 1 – Name of Act

This clause provides that the Act is named the *First Home Owner Grant Amendment Act 2010*.

Clause 2 – Commencement

This clause provides that the Act will commence on the day after it is notified on the ACT Legislation Register.

Clause 3 – Legislation amended

This clause provides that this Act makes amendments to the *First Home Owner Grant Act 2000 (FHOG Act)*.

Clause 4 – Entitlement to grant New Section 7 (1) (c)

This clause inserts a new section that states that the total value of an eligible transaction must not be more than the amount of the first home owner cap (the cap).

Clause 5 – Applicant (or applicant's partner) must not have received earlier grant. Section 10 (2)

This clause amends the current provision by allowing an applicant to be eligible to apply for a further grant, if the original grant is paid back together with any penalties and/or interest.

Clause 6 – New Section 12A

This clause inserts a new section that makes an applicant ineligible to apply for a further first home owner grant if the applicant has been convicted of an offence under the ACT FHOG Act or a First Home Owner Grant Act in another jurisdiction.

Clause 7 – New Section 13A and 13B

13A
This clause inserts a new section that implements the first home owner cap. The cap will apply to transactions that have a commencement date on or after 1 January 2011. The note clarifies one of the conditions of the cap and that is that a cap could only be introduced when the first home owner boost had ceased.

This clause also allows any amendments to the value of the first home owner cap to be made by regulation. No other criteria regarding the first home owner grant or the first home owner cap can be amended in this way.

13B

13B (1)

This clause defines what the total value of each eligible transaction would be for the purpose of eligibility for the first home owner cap.

Contract for the purchase of a home

The total value for a contract to purchase a home is the greater of the consideration or the unencumbered value at the commencement date of the home. The commencement date is the date when the contract is made.

Comprehensive home building contract

For a comprehensive home building contract add together the consideration for the contract and the value of the land at the commencement date. The commencement date for the contract to purchase the land is the date the contract is made. The commencement date for the comprehensive home building contract is the date the contract is made.

Home building contract

For a building of a home by an owner builder add together the unencumbered value of the home when the home is completed and the unencumbered value of the land when the transaction is completed.

13B (2)

Value of the relevant interest in land

The section provides guidance in working out the value of land on which a home is to be built.

For the value of the land for a home building contract and for an owner builder is the consideration paid or payable for the interest or the unencumbered value of the interest.

13B (3)

This section defines the unencumbered value of a home or relevant interest in land.

In working out the unencumbered value of the home or interest disregard any:

- encumbrance; or
- arrangement that results in a reduction of the value of the home or interest; or
- any scheme or arrangement that in the commissioner's opinion was for the purpose of reducing the value of the home or interest; or
- if the home or interest is held by someone on trust for another person who is under a legal disability, any liabilities of the trust, including the liability to indemnify the trustee.

13B (4)

For the purpose of determining any scheme or arrangement under subsection (3) (c) the commissioner may consider:

- the duration of the scheme; and
- if there is any commercial effect to the making of the scheme other than to reduce the value of the home or interest; and
- anything else the commissioner considers relevant.

Clause 8 – Section 20 heading is substituted

Payment in anticipation of compliance with residence requirements or the first home owner grant cap.

Clause 9 – New Section (3A) and (3B)

This clause inserts a new section that authorises the payment of the first home owner grant by the commissioner in compliance with the first home owner grant cap if the eligible transaction relates to the building of a home by an owner builder. The commissioner may pay the grant before the completion of the eligible transaction. If the grant is paid before the completion of the eligible transaction and the owner builder becomes aware that the total value of the eligible transaction will be more than the first home owner grant cap. The applicant must give written notice to the commissioner within 14 days after the applicant becomes aware of that fact. The applicant must also repay the grant.

Clause 10 – Section 20 (4)

This clause inserts (3B) into the provision so that (3B) becomes a condition of the grant and that condition must be complied with.

Clause 11 – Power to require valuation

New section 38A

This clause inserts a new section that for the purpose of deciding the total value of an eligible transaction for the cap, the commissioner may require the applicant to give a valuation by a valuer or evidence of the value of the eligible transaction that the commissioner considers appropriate. The commissioner can also have a valuation of the eligible transaction made. A definition of valuer has been added.

Clause 12 – Dictionary, new definitions

A definition of first home owner grant cap and total value of eligible transaction for the purpose of the first home owner grant cap has been added.

