

2018

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**Land Tax (Community Housing Exemption) Amendment Bill
2018**

EXPLANATORY STATEMENT

Presented By
Mark Parton MLA
Shadow Minister for Housing

Land Tax (Community Housing Exemption) Amendment Bill 2018

This explanatory statement is provided to assist the reader's understanding of the *Land Tax (Community Housing Exemption) Amendment Bill 2018* and to help inform debate on it. It does not form part of the bill and has not been endorsed by the Assembly.

This Statement must be read in conjunction with the Bill and does not purport to be a comprehensive description of it. Whatever is said about a provision in this Bill is not to be taken as an authoritative guide to the meaning of a provision as this is a task for the courts.

Intent of Bill

This Bill aims to create an incentive for residential housing owners to provide rental properties to the ACT community housing sector by exempting them from the obligation to pay land tax under the *Land Tax Act 2004*. The intended outcome is an uplift in supply of affordable housing for which there is a high and increasing demand in Canberra.

In order to achieve the intent, this Bill amends the *Land Tax Act 2004* to create a specific exemption, and the conditions for exemption, for property owners who pass their land over to a registered community housing provider for the purpose of renting it out as affordable housing.

Overview

The *Land Tax Act 2004* (the Act) imposes a tax obligation on land owners (unless they are exempt), who rent a property to a tenant (see the Act Part 2, S9). Section 8A states that land tax is payable for a quarter, if payable on the first day of the quarter, where it is not exempt under this part of the Act.

Section 10 of the Act sets out the kinds of land that are exempt from land tax liability, for example, a principal place of residence is exempt as are parcels of land¹ used for nursing homes or retirement villages. In this regard, Section 11 (1) (b) of the Act specifically exempts parcels of residential land owned by a not-for-profit housing corporation.

¹ The Land Tax Act 2004 Dictionary states that a parcel includes part of a parcel of land that is separately held by an occupier, tenant, lessee or owner. For the purpose of this explanatory statement, the terms 'parcel' and 'property' are used inter-changeably.

The Bill exempts a property owner who enters into an agreement with a registered community housing provider to make their property available for the purpose of community housing. The agreement will require the registered community housing provider to take all reasonable steps to rent the parcel of land ('parcel of land' being the terminology used in the *Land Tax Act 2004*), for community housing.

Additionally, the agreement will also require the community housing provider to notify the commissioner² before the first day of a quarter if the parcel of land is rented or not. If the property has not been rented within three months after the parcel is made available to the registered community provider, or after a previous rental, the exemption lapses. The exemption also stops if any part of the parcel of land is rented for a purpose other than community housing.

Consistent with the application of Section 8A of the Act, the exemption will effectively apply from the first day of the next quarter after notification of the Act.

In conclusion, this Bill makes a positive contribution towards increasing the supply of affordable housing for those most in need in the Canberra community.

Human Rights

This Bill does not have any human rights implications.

² The Land Tax Act 2004 Dictionary states that 'commissioner' means the commissioner for revenue.

Details of provisions - Land Tax (Community Housing Exemption) Amendment Bill 2018

The following is a brief summary of each provision headed by the clauses and section numbers contained in the Bill. It must be stressed that the following is a general summary only and that the reader should refer to the relevant clause and section of the Bill for exact prescriptions, meanings and context.

Clause 1 – Name of Act

This clause provides that the name of the Act is the *Land Tax (Community Housing Exemption) Amendment Act 2018*.

Clause 2 – Commencement

Clause 2 provides that the Act commences on the day after its notification day. In addition, Section 8A of the *Land Tax Act 2004* has the effect that the exemption will apply from the first day of the next quarter after notification of the Act.

Clause 3 – Legislation amended

This clause reiterates that the legislation to be amended is the *Land Tax Act 2004*.

Clause 4 – Land exempted from S9 generally – New Section 10 (1) (ba)

This clause adds a new sub-section within Section 10 (1) of the Act to create an exemption for a parcel of land referred to under the new Section 13A (see following Clause 5).

Clause 5 – New section 13A

This clause inserts two new sections in Part 2 of the Act to set out the requirements for an owner of a parcel of land (or property) to obtain a community housing land tax exemption and to provide for a review of that exemption after two years. The exemption under Section 13A, applies where an owner enters into an agreement under Sub-section (1) with a registered community housing provider to make that parcel of land available under the agreement for the purpose of community housing.

Sub-section (2) exempts that parcel of land. However, Section 14 of the Act provides that if there is a change in circumstances that would cause land tax to become payable for the parcel, such as the parcel no longer being made available for community housing, the commissioner must be told within 30 days by the owners, to enable the commissioner to properly assess a person's liability for land tax.

Sub-section (3) requires the registered community housing provider to take all reasonable steps to rent the parcel of land for community housing; and before the first day of the quarter, notify the commissioner as to whether the parcel of land is rented or not.

If the parcel of land is not rented within 3 months after the date the parcel is made available under the agreement, or after the previous rental, then Sub-section (4) provides that the exemption ceases to apply. In addition, the exemption ceases if any part of the parcel of land is rented out for a non-community housing purpose.

Sub-section (5) defines the terminology used for community housing, Community Housing National Law (ACT) and registered community housing providers.

Clause 5 – New section 13B

Clause 5 also inserts a new Section 13B requiring the Minister to review the operation of Section 13A as soon as practicable after the second year of operation. The Minister is also required to present a report on that review to the Legislative Assembly within three months after the day the review is started. Section 13B expires three years after the day that it commences.

September 18