

TRANSFER OF LAND AMENDMENT BILL 2018

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Stephen Dawson (Minister for Environment)**, read a first time.

Second Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [1.29 pm]: I move —

That the bill be now read a second time.

The Transfer of Land Amendment Bill 2018 will improve and streamline conveyancing in Western Australia, better enabling the Western Australian land titles register to operate in an electronic environment and providing greater speed, certainty, security and simplified handling procedures for the property industry. The implementation of electronic conveyancing in Western Australia and the amendments outlined in this bill affirm the state government's commitment to the Council of Australian Governments' national reform agenda.

Although this is not mirror legislation exactly reciprocated in other jurisdictions, the amendments proposed in this bill support electronic conveyancing processes and will further enable the benefits of electronic conveyancing to be realised. They will deliver greater procedural and administrative efficiencies in the lodgement and registration of documents relating to land transactions and related land dealings across Western Australia. These amendments will reduce reliance on paper documentation, improving electronic conveyancing processes into the twenty-first century and meeting public expectations regarding modern business practices.

The Transfer of Land Amendment Bill 2018 makes changes to three key areas of the current Transfer of Land Act. The bill will modify the definition of "counterpart" documents to improve the processing of mortgages electronically; enable more notices served under the Transfer of Land Act to be done electronically, without forcing people to provide details for electronic service if they do not want to; and remove the requirement to issue and produce duplicate certificates of title, resulting in a greater ability to conduct land transactions in a fully electronic environment. The current definition of "counterpart" in relation to mortgage documents under the existing legislation is an impediment to signing mortgages in an electronic format. The bill proposes to modify the description of counterpart documents to reference the document being "substantially the same", in line with other participating jurisdictions to the national electronic conveyancing regime. The proposed amendments regarding counterpart documents will better account for differences in the same document that has been created in both a paper and a digital medium.

Under the existing legislation, there is a lack of clarity about the types of notices that may be served on registered owners electronically and the processes for doing so. Certain notices under the Transfer of Land Act must be formally served in paper, creating an additional administrative burden and resulting in time delays. With advancements in technology and a reduction in paper-based mail as a method of service, the current notice provisions in the Transfer of Land Act do not sufficiently provide for modern operation of the land registry. This can result in an inability to serve notices, a lack of clarity about when a notice has been delivered, and extended delays in processing documents. The proposed amendments will introduce general provisions for electronic service of notices when customers have provided their details for electronic service. This amendment will streamline processes for formal and informal notices served under the Transfer of Land Act.

The current act also provides for the issuing of duplicate certificates of title, which are certified duplicates of the original title held on the land register. Whenever a mortgage is registered, the mortgagee is entitled to a duplicate certificate of title. In practice, the vast majority of mortgagees no longer require a duplicate certificate of title and they instruct the Registrar of Titles that "no duplicate is issued". Financial institutions now actively discourage the issue of duplicate certificates of title as security against a mortgage, and other jurisdictions such as Queensland and South Australia have already removed provisions for duplicate certificates of title. Amendments proposed under this bill remove the requirement to issue and produce duplicate certificates of title under the Transfer of Land Act and other state legislation. Search copies of certificates of title will still be made available, providing an accurate copy of the current ownership information as it is recorded on the Western Australian Register of Titles. All existing duplicate certificates of title that are currently issued will have no legal effect from the date of proclamation of this bill.

Landgate will run a community awareness campaign to prepare industry and the community for the change ahead of proclamation. Electronic conveyancing is a progressive initiative that has increased productivity, improved the security and integrity of land tenure information, and brought the conveyancing industry into the digital age. These amendments will further enhance electronic conveyancing.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the Transfer of Land Amendment Bill to the house and table an explanatory memorandum.

[See paper 3427.]

Debate adjourned, pursuant to standing orders.

House adjourned at 1.33 pm
