

Revenue Laws Amendment Bill 2015

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Western Australia

LEGISLATIVE ASSEMBLY

Revenue Laws Amendment Bill 2015

A Bill for

An Act to amend —

- **the *Duties Act 2008*; and**
- **the *First Home Owner Grant Act 2000*; and**
- **the *Rates and Charges (Rebates and Deferments) Act 1992*.**

The Parliament of Western Australia enacts as follows:

1
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7
8

Part 1 — Preliminary

1. Short title

This is the *Revenue Laws Amendment Act 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the rest of the Act — on the day after assent day.

1 **Part 2 — Amendments about first home owners**

2 **Division 1 — *First Home Owner Grant Act 2000* amended**

3 **3. Act amended**

4 This Division amends the *First Home Owner Grant Act 2000*.

5 **4. Section 3 amended**

6 In section 3(1) in the definition of *eligible transaction* delete
7 “section 14(1);” and insert:

8

9 section 14;

10

11 **5. Section 14 amended**

12 After section 14(4) insert:

13

14 (5A) A contract is not an eligible transaction if —

15 (a) it is for the purchase of an established home;
16 and

17 (b) it has a commencement date on or after the day
18 on which the *Revenue Laws Amendment*
19 *Act 2015* Part 2 Division 1 comes into
20 operation.
21

22 **6. Section 14AA amended**

23 In section 14AA(2)(a)(ii) delete “if the” and insert:

24

25 unless the interest in the land on which the home is built is a
26 relevant interest mentioned in section 6(1)(e), if the
27

1 **7. Section 19 amended**

2 (1) In section 19(1) insert in alphabetical order:

3

4 *second amendment day* means the day on which the
5 *Revenue Laws Amendment Act 2015* Part 2 Division 1
6 comes into operation.

7

8 (2) In section 19(1) in the definition of *amendment day* delete
9 “operation.” and insert:

10

11 operation;

12

13 (3) In section 19(2B) delete “day,” and insert:

14

15 day but before second amendment day,

16

17 (4) After section 19(2B) insert:

18

19 (2CA) If the commencement date of an eligible transaction is
20 on or after second amendment day, the amount of a
21 first home owner grant is the lesser of the following —

22

(a) \$10 000;

23

(b) the consideration for the transaction.

24

25 (5) In section 19(2C) delete “subsection (2B),” and insert:

26

27 subsections (2B) and (2CA),

28

1 (6) In section 19(2) delete “subsections (2A), (2B) and (2C),” and
2 insert:

3

4 anything else in this section,

5

6 **Division 2 — Duties Act 2008 amended**

7 **8. Act amended**

8 This Division amends the *Duties Act 2008*.

9 **9. Section 141 amended**

10 (1) In section 141(1) delete the definition of *FHOG concessional*
11 *transaction*.

12 (2) In section 141(1) insert in alphabetical order:

13

14 *concessional first home owner* has the meaning given
15 in section 142A;

16 *deposit*, in relation to a terms contract, includes any
17 part of the purchase price which the contract specifies
18 as being a deposit and provides is to be paid, whether
19 in one or more payments, within 28 days of the
20 execution of the contract;

21 *first home owner concessional rate* of duty means the
22 concessional rate of duty applicable under section 143;

23 *first home owner concessional transaction* has the
24 meaning given in section 142(1);

25 *terms contract* means a contract for the sale and
26 purchase of land under which the purchaser is obliged
27 to make 2 or more payments to the vendor (over and
28 above any deposit) before the purchaser is entitled to a
29 conveyance or transfer of the land;

30

- 1 (3) In section 141(1) in the definitions of *first FHOG concessional*
2 *transaction* and *further FHOG concessional transaction* delete
3 “*FHOG*”.

4 **10. Section 142A inserted**

5 After section 141 insert:
6

7 **142A. Concessional first home owners**

- 8 (1) A reference in this Division to a concessional first
9 home owner, in relation to the transfer of, or an
10 agreement for the transfer of, dutiable property
11 means —
12 (a) a transferee who is paid a first home owner
13 grant in relation to the property or to whom a
14 first home owner grant is or will be payable in
15 relation to the property; or
16 (b) a transferee to whom a first home owner grant
17 would be, or would have been, payable in
18 relation to the property had the requirements of
19 either, or both, of the paragraphs of
20 subsection (2) applied.
21 (2) The requirements are —
22 (a) consideration had been given for the transfer of
23 the property;
24 (b) if the transaction is a contract for the purchase
25 of an established home, the transaction would
26 be, or would have been, an eligible transaction
27 but for the FHOG Act section 14(5A).
28 (3) If a transaction described in subsection (2)(b) is a terms
29 contract then, for the purposes of this section —
30 (a) the interest in the property of the transferee as
31 purchaser under the contract is to be taken to be

1 a relevant interest, unless the interest does not
2 conform with the FHOG Act section 6(2); and
3 (b) the transaction is to be taken to be completed
4 for the purposes of the FHOG Act, despite
5 section 14AA(2)(a)(ii) of that Act, when the
6 purchaser becomes entitled to possession of the
7 home under the contract.
8

9 **11. Section 142 amended**

10 (1) In section 142(1) delete “FHOG” and insert:

11

12 first home owner

13

14 (2) Delete section 142(1)(a) and insert:

15

16 (a) the transferee, or if there are more than one,
17 each transferee is a concessional first home
18 owner; and
19

20 (3) In section 142(1)(b) delete “eligible transaction to which the
21 first home owner grant relates,” and insert:

22

23 transaction

24

25 (4) In section 142(2)

26 (a) delete “further FHOG concessional” (each occurrence)
27 and insert:

28

29 further concessional

30

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Part 2 Amendments about first home owners

Division 2 Duties Act 2008 amended

s. 12

- 1 (b) delete “a FHOG concessional” and insert:
2
3 a first home owner concessional
4
5 (c) delete “*first FHOG concessional*” and insert:
6
7 *first concessional*
8
9 (d) delete “first FHOG concessional” (each occurrence) and
10 insert:
11
12 first concessional
13

14 Note: The heading to amended section 142 is to read:

15 **First home owner concessional transactions**

16 **12. Section 143 amended**

17 (1) In section 143(1) delete “FHOG” and insert:

18

19 first home owner
20

21 (2) In section 143(2), (3) and (4) delete “FHOG” (each occurrence).

22 Note: The heading to amended section 143 is to read:

23 **First home owner concessional rate of duty**

24 **13. Section 144 amended**

25 (1) In section 144(2)(a) delete “FHOG” (each occurrence) and
26 insert:
27

27

28 first home owner
29

1 (2) In section 144(2)(b) delete “further FHOG” and insert:

2

3 further

4

5 (3) In section 144(2)(b)(ii) delete “of a FHOG” and insert:

6

7 of a first home owner

8

9 Note: The heading to amended section 144 is to read:

10 **Application for first home owner concessional rate of duty**

11 **14. Section 145 amended**

12 Delete section 145(1) and insert:

13

14 (1) Despite section 143, duty is not chargeable on a
15 transaction referred to in section 142 at the first home
16 owner concessional rate if —

17 (a) a transferee described in section 142A(1)(a) is
18 required to repay an amount under the FHOG
19 Act section 21(2) or 51; or

20 (b) a transferee described in section 142A(1)(b)
21 would be required to repay an amount under the
22 FHOG Act —

23 (i) section 21(2) had a first home owner
24 grant been authorised to be paid to that
25 person under the FHOG Act
26 section 21(1); or

27 (ii) section 51 had a first home owner grant
28 been authorised to be paid to that person
29 under the FHOG Act.

30 (2A) For the purposes of subsection (1)(b)(i), a first home
31 owner grant would be, or would have been, authorised

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Division 2 Duties Act 2008 amended

s. 15

- 1 to be paid under the FHOG Act section 21(1) if the
2 transaction was assessed in anticipation of compliance
3 by the transferee —
- 4 (a) with the residence requirements; or
5 (b) if the requirement under the FHOG Act
6 section 13(4) had already been complied with
7 by the transferee, with the requirement under
8 section 13(1) of that Act.
- 9 (2B) Written notice referred to in the FHOG Act
10 section 21(2)(d) must be given to the Commissioner —
- 11 (a) by a transferee referred to in
12 subsection (1)(b)(i) who would be required to
13 repay an amount under the FHOG Act
14 section 21(2), had a first home owner grant
15 been authorised to be paid to that person under
16 the FHOG Act section 21(1);
- 17 (b) as if the conditions set out in the FHOG Act
18 section 21(2)(a), (b) or (c) applied in respect of
19 that person.
20

21 **15. Schedule 3 amended**

22 In Schedule 3 clause 10(1) and (2) delete “FHOG” (each
23 occurrence).

