



## EXPLANATORY MEMORANDUM

Land Legislation Amendment (Taxing) Bill 2014

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### Background

The *Land Legislation Amendment (Taxing) Bill 2014* operates in conjunction with clauses 6, 8, 10 and 12 of the *Land Legislation Amendment Bill 2014* which amend the *Registration of Deeds Act 1856*, *Strata Titles Act 1985*, *Transfer of Land Act 1893* and *Valuation of Land Act 1978* respectively.

The amendments to these Acts authorise fees prescribed under those Acts to exceed the amount, or an estimate of the amount, needed to recover the costs incurred in relation to products and services in relation to which the fee relates.

Where the fee is greater than the costs incurred or estimate of the costs incurred, the over-recovery is characterised as a tax. Section 46(7) of the *Constitution Acts Amendment Act 1899 (WA)* requires a separate bill to impose the tax.

This Bill imposes the tax.

### The Bill

#### Part 1 – Preliminary

##### Clause 1      Short Title

The short title will be the *Land Legislation Amendment (Taxing) Bill 2014*.

##### Clause 2      Commencement

Provides that Part 1 comes into operation on the day of Royal Assent and the rest of the Act when section 3 of the the *Land Legislation Amendment Act 2014* comes into operation.

#### Part 2 – *Registration of Deeds Act 1856* amended

##### Clause 3      Act amended

Provides that Part 2 amends the *Registration of Deeds Act 1856* as that Act is amended by the *Land Legislation Amendment Act 2014*.

##### Clause 4      Section 22AA amended

Inserts a new section 22AA(2A) in the *Registration of Deeds Act 1856* providing that to the extent that fees prescribed in regulations under that Act include an amount that is characterised as a tax, the regulations may impose the tax.

### **Part 3 – *Strata Titles Act 1985* amended**

#### **Clause 5     Act amended**

Provides that Part 3 amends the *Strata Titles Act 1985* as that Act is amended by the *Land Legislation Amendment Act 2014*.

#### **Clause 6     Section 131A amended**

Inserts a new section 131A(2A) in the *Strata Titles Act 1985* providing that to the extent that fees prescribed in regulations under that Act include an amount that is characterised as a tax, the regulations may impose the tax.

### **Part 4 – *Transfer of Land Act 1893* amended**

#### **Clause 7     Act amended**

Provides that Part 4 amends the *Transfer of Land Act 1893* as that Act is amended by the *Land Legislation Amendment Act 2014*.

#### **Clause 8     Section 182AA amended**

Inserts a new section 182AA(2A) in the *Transfer of Land Act 1893* providing that to the extent that fees prescribed in regulations under that Act include an amount that is characterised as a tax, the regulations may impose the tax.

### **Part 5 – *Valuation of Land Act 1978* amended**

#### **Clause 9     Act amended**

Provides that Part 5 amends the *Valuation of Land Act 1978* as that Act is amended by the *Land Legislation Amendment Act 2014*.

#### **Clause 10    Section 50 amended**

Inserts a new section 50(2A) in the *Valuation of Land Act 1978* providing that to the extent that fees prescribed in regulations under that Act include an amount that is characterised as a tax, the regulations may impose the tax.