

Land Tax Assessment Amendment (Build-to-Rent) Bill 2023

Contents

| | | |
|----|-----------------------------------------------------------------------------------------------------|----|
| 1. | Short title | 2 |
| 2. | Commencement | 2 |
| 3. | Act amended | 2 |
| 4. | Section 15B inserted | 2 |
| | 15B. Tax payable on land containing former exempt build-to-rent developments | 2 |
| 5. | Part 3 Division 4B inserted | 4 |
| | Division 4B — Land used for build-to-rent developments | |
| | 39E. Terms used | 4 |
| | 39F. Requirements for exemption relating to build-to-rent development | 5 |
| | 39G. Exceptions to leasing restrictions for exempt development | 7 |
| | 39H. Managing entities for exempt development | 7 |
| | 39I. Exemption for build-to-rent developments | 8 |
| | 39J. Limits on eligibility for build-to-rent exemption | 8 |
| | 39K. Exemption percentage where buildings partially used for build-to-rent dwellings | 9 |
| | 39L. Taxable value of land subject to partial build-to-rent exemptions | 10 |
| | 39M. Application for build-to-rent exemption | 10 |
| 6. | Schedule 1 Division 8 inserted | 11 |
| | Division 8 — Provision for <i>Land Tax Assessment Amendment (Build-to-Rent) Act 2023</i> | |
| | 26. Application of amendments | 11 |

Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

**Land Tax Assessment Amendment
(Build-to-Rent) Bill 2023**

A Bill for

An Act to amend the *Land Tax Assessment Act 2002*.

The Parliament of Western Australia enacts as follows:

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1 **1. Short title**

2 This is the *Land Tax Assessment Amendment (Build-to-Rent)*
3 *Act 2023*.

4 **2. Commencement**

5 This Act comes into operation as follows —

6 (a) sections 1 and 2 come into operation on the day on
7 which this Act receives the Royal Assent (*assent day*);

8 (b) the rest of the Act —

9 (i) if assent day is 1 July 2023 or earlier — comes
10 into operation on 1 July 2023; or

11 (ii) otherwise — is deemed to have come into
12 operation on 1 July 2023.

13 **3. Act amended**

14 This Act amends the *Land Tax Assessment Act 2002*.

15 **4. Section 15B inserted**

16 After section 15A insert:

17

18 **15B. Tax payable on land containing former exempt**
19 **build-to-rent developments**

20 (1) Land tax is payable on land in accordance with this
21 section if —

22 (a) the land has been subject to an exemption under
23 Part 3 Division 4B in relation to a development
24 for 1 or more assessment years; and

- 1 (b) the land ceases to be eligible for an exemption
2 under that Division in relation to the
3 development, or becomes excluded land as
4 defined in section 39E, for an assessment year
5 that is within 15 financial years (the *relevant*
6 *financial years*) reckoned prospectively from
7 and including the financial year in which the
8 land first became exempt under that Division in
9 relation to the development.
- 10 (2) The land tax is payable on the land by the owner of the
11 land for each of the relevant financial years in which
12 the land was subject to an exemption under Part 3
13 Division 4B.
- 14 (3) The amount of land tax payable for each of the relevant
15 financial years is assessed, at the rate applicable for
16 that year under the *Land Tax Act 2002*, as if the land
17 were the only land of the owner on which land tax was
18 payable for that year.
- 19 (4) For the purposes of subsection (1), land that is the
20 subject of a determination by the Commissioner under
21 section 39J(3) is taken to be eligible for an exemption
22 under Part 3 Division 4B for the assessment year to
23 which the determination applies.
- 24 (5) The amount of land tax payable under this section on
25 the land for any of the relevant financial years is
26 reduced by the amount already charged on any part of
27 the land for that year.
- 28 (6) Despite the *Taxation Administration Act 2003*
29 section 17(4), the Commissioner must make any
30 reassessment necessary to give effect to this section.
31

1 **5. Part 3 Division 4B inserted**

2 After Part 3 Division 4A insert:

3

4 **Division 4B — Land used for build-to-rent**
5 **developments**

6 **39E. Terms used**

7 In this Division —

8 *community title lot* means a lot referred to in
9 paragraph (a)(via) of the definition of *lot* in the
10 Glossary clause 2(1);

11 *excluded land* means land, other than land used for
12 exempt development or a purpose solely related to
13 exempt development, that is —

- 14 (a) vacant land or land used for residential,
15 commercial, professional, industrial or mixed
16 development purposes; or
- 17 (b) land on which clearing or other work is
18 undertaken for the purpose of developing the
19 land; or
- 20 (c) land used for prescribed purposes; or
- 21 (d) land that the Commissioner considers is not
22 used for the purposes of an exempt
23 development;

24 *exempt build-to-rent development* means a
25 development that meets the requirements for
26 exemption as a build-to-rent development set out in
27 section 39F(1);

28 *exempt development* means an exempt build-to-rent
29 development or an exempt expansion build-to-rent
30 development;

1 *exempt expansion build-to-rent development* means a
2 development that meets the requirements for
3 exemption as an expansion build-to-rent development
4 set out in section 39F(3);

5 *exemption percentage* means the percentage specified
6 under section 39I(2);

7 *residential tenancy agreement* has the meaning given
8 in the *Residential Tenancies Act 1987* section 3;

9 *social housing premises* has the meaning given in the
10 *Residential Tenancies Act 1987* section 71A;

11 *strata lot* means a lot referred to in paragraph (a)(vii)
12 of the definition of *lot* in the Glossary clause 2(1).

13 **39F. Requirements for exemption relating to**
14 **build-to-rent development**

15 (1) Development meets the requirements for exemption as
16 a build-to-rent development if —

17 (a) it is on land owned by 1 owner or joint owners;
18 and

19 (b) it is development for the purpose of providing
20 40 or more self-contained dwellings for lease
21 under residential tenancy agreements (whether
22 or not the building or buildings are used for
23 other purposes); and

24 (c) it consists of —

25 (i) the construction of a building or
26 buildings on the land; or

27 (ii) the substantial renovation of the whole
28 or a substantial part of a building or
29 buildings on the land that are not used
30 for residential purposes (including aged
31 care);

32 and

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- 1 (d) all of the dwellings become able to be lawfully
2 occupied as dwellings on or after 12 May 2022
3 and before 1 July 2032 and within a 5-year
4 period; and
- 5 (e) except as provided by section 39G(1), each of
6 the dwellings is rented or available for rent
7 under a residential tenancy agreement with a
8 term of at least 3 years; and
- 9 (f) except as permitted by section 39G(2), there is
10 no direct or indirect restriction on the class or
11 classes of persons who may occupy those
12 dwellings; and
- 13 (g) the same management entity is responsible for
14 the provision of management services to the
15 whole of the development.
- 16 (2) In subsection (1) —
17 *substantial renovation*, of a building or part of a
18 building, does not include minor works to the building
19 or part.
- 20 (3) Development meets the requirements for exemption as
21 an expansion build-to-rent development if —
- 22 (a) it is on land owned by 1 owner or joint owners;
23 and
- 24 (b) it is development for the purpose of providing
25 self-contained dwellings for lease under
26 residential tenancy agreements (whether or not
27 the building or buildings are used for other
28 purposes); and
- 29 (c) at the time all of the dwellings in the
30 development become lawfully able to be
31 occupied, it is on the same lot or parcel as an
32 existing exempt build-to-rent development; and

- 1 (d) it meets the requirements of subsection (1)(c)
2 to (g).

3 **39G. Exceptions to leasing restrictions for exempt**
4 **development**

- 5 (1) A dwelling may be rented for a term of less than
6 3 years without affecting eligibility for an exemption
7 under this Division if —
8 (a) the tenant requests the shorter term; or
9 (b) the residential tenancy agreement is entered
10 into for a term that ends in an assessment year
11 for which the land will not be exempt under this
12 Division because of section 39J(1).
- 13 (2) A restriction may be placed on the class of persons
14 who may occupy a dwelling that is part of an exempt
15 development —
16 (a) if it is necessary to ensure public health or
17 safety; or
18 (b) if the dwelling is social housing premises; or
19 (c) in prescribed circumstances.

20 **39H. Managing entities for exempt development**

- 21 (1) The owner of land is not required to be the
22 management entity responsible for providing
23 management services to an exempt development.
- 24 (2) Section 39F does not require the management entity
25 responsible for providing management services to an
26 exempt build-to-rent development to be the
27 management entity responsible for providing
28 management services to an exempt expansion
29 build-to-rent development on the same lot or parcel of
30 land.

- 1 **39I. Exemption for build-to-rent developments**
- 2 (1) Land is exempt for an assessment year, to the extent set
- 3 out in subsection (2), if at midnight on 30 June in the
- 4 previous financial year the land is used for an exempt
- 5 development.
- 6 (2) The land is exempt to the extent of 50%, or other
- 7 percentage calculated under section 39K, of the taxable
- 8 value of the land.
- 9 (3) The exemption does not apply to any part of a lot or
- 10 parcel of land that is excluded land.
- 11 **39J. Limits on eligibility for build-to-rent exemption**
- 12 (1) Land used for an exempt development is not exempt
- 13 under this Division in relation to that development for
- 14 an assessment year that is the year 20 years after the
- 15 land first became exempt in relation to that
- 16 development or for any succeeding assessment year.
- 17 (2) Land is not exempt under this Division for an
- 18 assessment year in relation to a development that meets
- 19 the requirements of section 39F if —
- 20 (a) the land was subject to an exemption under this
- 21 Division for a previous assessment year in
- 22 relation to the development; and
- 23 (b) the development ceased to meet the
- 24 requirements of section 39F at any time after
- 25 that exemption applied.
- 26 (3) The Commissioner may determine that land is to be
- 27 treated as exempt for an assessment year under this
- 28 Division even if development on the land does not
- 29 meet the requirements of section 39F for exemption,
- 30 if the Commissioner is satisfied that —
- 31 (a) the land was exempt under this Division for the
- 32 previous assessment year; and

- 1 (b) the reasons for not meeting the requirements
2 are temporary; and
- 3 (c) it is reasonable in all the circumstances to treat
4 the land as exempt under this Division for the
5 assessment year.
- 6 (4) The Commissioner may make the determination —
7 (a) on the Commissioner’s own initiative; or
8 (b) on the application of the owner or all joint
9 owners of the land.
- 10 (5) For the purposes of subsection (2)(b), development on
11 land that is the subject of a determination by the
12 Commissioner under subsection (3) is taken to meet the
13 requirements of section 39F for the assessment year to
14 which the determination applies.

15 **39K. Exemption percentage where buildings partially**
16 **used for build-to-rent dwellings**

- 17 (1) This section does not apply to a strata lot or a
18 community title lot.
- 19 (2) If a building or buildings on land used for exempt
20 development are only partly used for self-contained
21 dwellings referred to in section 39F(1)(b) or (3)(b), the
22 exemption percentage for the land on which the
23 building or buildings are situated is calculated by using
24 the following formula and converting the result to a
25 percentage —

26
$$0.5 \times \frac{F}{A}$$

27 where —

28 F is the total floor area in square metres of all of the
29 parts of the building or buildings that are used for
30 the self-contained dwellings;

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1 A is the total floor area in square metres of all of the
2 building or buildings on the land used for
3 residential, commercial, professional, industrial or
4 mixed development purposes.

5 (3) For the purposes of determining the floor area of a
6 building or part of a building, the floor area does not
7 include carparks, storage areas, stairwells, lift towers,
8 cooling towers, machinery or plant rooms, air
9 conditioning or ventilation ducts or any other
10 prescribed part of a building.

11 (4) A calculation under this section must be made by
12 reference to land as at midnight on 30 June in the
13 financial year before the assessment year.

14 **39L. Taxable value of land subject to partial**
15 **build-to-rent exemptions**

16 (1) This section applies for the purpose of determining the
17 taxable value of a lot or parcel for an assessment year if
18 an exemption under this Division applies only partly to
19 the lot or parcel.

20 (2) For the purposes of determining the unimproved value
21 of a lot or parcel of land under section 18A(3), the
22 unimproved value of an area of the lot or parcel to
23 which an exemption under this Division applies is the
24 unimproved value of the area determined in accordance
25 with section 18A(4) and multiplied by the exemption
26 percentage for the area.

27 **39M. Application for build-to-rent exemption**

28 (1) An application for an exemption under this Division
29 must —

30 (a) be in an approved form; and

- 1 (b) be received by the Commissioner on or before
- 2 30 June in the assessment year unless the
- 3 Commissioner gives an extension under
- 4 subsection (2).

- 5 (2) The Commissioner may extend the time for lodging an
- 6 application from 30 June in the assessment year to any
- 7 date before the 1 July occurring 4 years after that
- 8 30 June if the Commissioner is satisfied that there are
- 9 reasonable grounds for extending the time.
- 10

11 **6. Schedule 1 Division 8 inserted**

12 At the end of Schedule 1 insert:

13

14 **Division 8 — Provision for *Land Tax Assessment Amendment***
15 ***(Build-to-Rent) Act 2023***

16 **26. Application of amendments**

17 The amendments made to this Act by the *Land Tax*
18 *Assessment Amendment (Build-to-Rent) Act 2023* apply in
19 relation to assessment years that begin on or after
20 1 July 2023.
21

