

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

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Western Australia

LEGISLATIVE ASSEMBLY

**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

25                   (b) the land ceases to be eligible for an exemption  
26                   under that Division in relation to the  
27                   development, or becomes excluded land as  
28                   defined in section 39E, for an assessment year

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

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 the construction of a building or  
25           buildings on the land, or the substantial  
26           renovation of the whole or a substantial part of  
27           a building or buildings on the land, that are not  
28           used for residential purposes (including aged  
29           care); and

30           (d) all of the dwellings become able to be lawfully  
31           occupied as dwellings on or after 12 May 2022  
32           and before 1 July 2032 and within a 5-year  
33           period; and

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



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

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

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

- (1) The owner of land is not required to be the management entity responsible for providing management services to an exempt development.
- (2) Section 39F does not require the management entity responsible for providing management services to an exempt build-to-rent development to be the management entity responsible for providing management services to an exempt expansion build-to-rent development on the same lot or parcel of land.

**39I. Exemption for build-to-rent developments**

- (1) Land is exempt for an assessment year, to the extent set out in subsection (2), if at midnight on 30 June in the

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

- 1 (c) it is reasonable in all the circumstances to treat  
2 the land as exempt under this Division for the  
3 assessment year.
- 4 (4) The Commissioner may make the determination —  
5 (a) on the Commissioner’s own initiative; or  
6 (b) on the application of the owner or all joint  
7 owners of the land.
- 8 (5) For the purposes of subsection (2)(b), development on  
9 land that is the subject of a determination by the  
10 Commissioner under subsection (3) is taken to meet the  
11 requirements of section 39F for the assessment year to  
12 which the determination applies.

13 **39K. Exemption percentage where buildings partially**  
14 **used for build-to-rent dwellings**

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

24 
$$0.5 \times \frac{F}{A}$$

25 where —

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

29 A is the total floor area in square metres of all of the  
30 building or buildings on the land used for

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1 residential, commercial, professional, industrial or  
2 mixed development purposes.

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

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

12 **39L. Taxable value of land subject to partial**  
13 **build-to-rent exemptions**

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

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

25 **39M. Application for build-to-rent exemption**

26 (1) An application for an exemption under this Division  
27 must —  
28 (a) be in an approved form; and  
29 (b) be received by the Commissioner on or before  
30 30 June in the assessment year unless the  
31 Commissioner gives an extension under  
32 subsection (2).

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

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

8           At the end of Schedule 1 insert:  
9

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

12   **26.       Application of amendments**

13           The amendments made to this Act by the *Land Tax*  
14           *Assessment Amendment (Build-to-Rent) Act 2023* apply in  
15           relation to assessment years that begin on or after  
16           1 July 2023.  
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