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STATE REVENUE LEGISLATION AMENDMENT (ELECTRONIC TRANSACTIONS) BILL 2014

Second Reading

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [11.17 a.m.]: I move:

That this bill be now read a second time.

The State Revenue Legislation Amendment (Electronic Transactions) Bill 2014 is part of the Government's ongoing program of maintaining legislation that governs taxes administered by the Office of State Revenue. This is the third bill on State taxes to be dealt with in the current session of Parliament. It addresses upcoming changes in market practice as electronic conveyancing becomes a reality. I seek leave to have the remainder of my second reading speech incorporated in *Hansard*.

Leave granted.

The State Revenue Legislation Amendment (Electronic Transactions) Bill 2014 is part of the Government's ongoing program of maintaining legislation that governs taxes administered by the Office of State Revenue [OSR].

This is the third bill on state taxes to be dealt with in the current session of Parliament. It addresses upcoming changes in market practice as electronic conveyancing becomes a reality.

Property Exchange Australia Limited [PEXA] was formed in 2010 to fulfil a Council of Australian Governments [COAG] initiative to deliver a national electronic conveyancing solution to the property industry.

A national electronic system for the preparation, settlement and lodgement for registration of land transactions is anticipated to commence in New South Wales in the last quarter of this year.

PEXA will connect all participants in the conveyancing process including banks, lawyers, conveyancers, land titles offices and revenue offices. This will streamline the current paper based process.

The Office of State Revenue has been preparing for this for some time, and is well placed to integrate with PEXA.

Stamp duty assessments will not be done directly from PEXA. OSR systems will interact with PEXA to verify a transaction's details and ensure the payment of the stamp duty.

PEXA transactions will not be able to progress without a successful OSR confirmation.

PEXA transactions will be settled electronically with electronic stamp duty payments eliminating both cheques and red tape for Government and industry.

To move from paper to an electronic transaction environment, a number of changes are required to the Duties Act and the Taxation Administration Act.

All jurisdictions are making changes to their Acts to accommodate electronic conveyancing. The changes being made are based on changes made to Western Australian legislation.

These proposals have been the subject of consultation with the Law Society of New South Wales.

In relation to the Duties Act, this bill makes it clear that electronic instruments that are prepared and signed in PEXA are to be regarded as written instruments for duties purposes. These will be consistent with existing paper instruments.

This bill will allow for the Chief Commissioner of State Revenue to approve procedures for the payment of duty and the stamping of electronic registry instruments.

To ensure that PEXA participants are aware of these payment procedures, this bill provides for them

to be published on OSR's website.

To ensure compliance with the Duties legislation, the OSR system will verify that both the transaction data held in the PEXA system and the amount of duty to be paid at settlement do indeed match.

- The bill therefore permits the disclosure of information to PEXA allowing the verification to take place.

The "stamp" on documents has long been recognised as an indicator that the stamp duty has been paid and that the document is available for use.

- In the electronic environment, the "stamp" will be the unique transaction identifier produced by the OSR system which is unique to the transaction. The bill therefore recognises this development by including the identifier as a "stamp".

Regarding the changes to Tax Administration, most stamp duty is paid by agents on behalf of taxpayers who are approved to self-assess the documents and pay the duty by way of return.

The provisions in the Taxation Administration Act have been revised to more clearly outline the scope of these arrangements.

Under these special return arrangements, the agent is approved to pay the duty on behalf of their client.

This bill provides for offences for not complying with self-assessment procedures. The current offences can apply to both the agent and the taxpayer.

The bill removes the taxpayer offence as in most cases the process will be outside the taxpayer's control.

- However, the liability to pay the stamp duty will remain with the taxpayer.

The changes which are coming into place through PEXA will also provide administrative efficiencies. Currently, the agent has to apply to OSR to self-assess stamp duty.

- To allow the OSR to take full advantage of the new environment, the proposed amendments will allow the Chief Commissioner to require a person to self-assess the stamp duty themselves, without applying to OSR.

The bill also includes a provision to allow the Chief Commissioner to require a person to pay tax by electronic means. This change is simply streamlining the tax paying process and will help save time across the board.

In summary, the amendments to the Duties Act and Taxation Administration Act aim to accommodate the incoming electronic conveyancing system and provide real benefits to the conveyancing industry.

I commend the bill to the House.