

STATE REVENUE LEGISLATION AMENDMENT (SURCHARGE) BILL 2017*First Reading***Bill introduced on motion by Mr Victor Dominello, read a first time and printed.***Second Reading***Mr VICTOR DOMINELLO (Ryde—Minister for Finance, Services and Property) (16:39):**

I move:

That this bill be now read a second time.

As part of the Government's Housing Affordability Strategy announced in the 2017-18 New South Wales budget, amendments were introduced to allow for Australian corporations with foreign ownership to claim a refund of the surcharges on the sale of new homes to the public. Given that increased supply is an integral component of the strategy, and given the potential contribution to supply of Australian-based, foreign-owned developers, the amendments were designed to avoid the application of surcharges to these developers placing them at a competitive disadvantage relative to Australian-owned developers.

Subsequent discussions with building industry bodies suggested that additional flexibility would be beneficial, without encouraging land banking or weakening incentives for timely development. In particular, two key issues were raised. First, an exemption would be appropriate for reputable builders and developers and help reduce the significant up-front costs involved in property development. Secondly, corporations that "service" land—that is, they install infrastructure such as electricity, water supply and drainage systems and roads and then sell the land to home buyers who engage separately with a builder for the construction of a home—should also receive concessionary tax treatment because they are major contributors to the supply of new homes. In principle, we accept those arguments.

In relation to surcharge purchaser duty, the bill therefore amends section 104ZJA of the Duties Act in two key respects. First, it permits the Chief Commissioner of State Revenue to provide an exemption to an Australian corporation in lieu of a refund if satisfied that the corporation would be likely to satisfy requirements for obtaining a refund of the full amount of surcharge. The chief commissioner will develop guidelines setting out in more detail the criteria that applicants will need to meet, along with the documentation required to support an application, for the chief commissioner to be satisfied that an exemption should be granted.

In addition, it is important to note that an exemption may be given subject to conditions, and such conditions may be varied by the chief commissioner by notice to the applicant; an exemption remains in force until it is revoked by the chief commissioner by notice to the applicant; and revocation of an exemption can be backdated to when surcharge liability would have arisen but for the exemption, with the result that the applicant will be liable to pay the surcharge purchaser duty. The Government believes that these provisions strike an appropriate balance between ensuring Australian-based, foreign-owned developers are not placed at a competitive disadvantage, and ensuring, through robust accountability measures, that the Government's policy objectives are met, in particular, the timely undertaking of development.

The second change is to extend eligibility for concessionary tax treatment to a corporation that subdivides land for the purpose of new home construction and then sells the land after the issue of a subdivision certificate. This addresses the second concern raised by industry, that the eligibility requirements for a concession did not capture the full range of property developers that play a significant role in helping people buy a home. I draw attention to one other refinement. The current conditions for a refund of surcharge purchaser duty require the corporation to make an application to the chief commissioner no later than five years after the property has been acquired

by the corporation. The five-year period was designed to provide a disincentive to the housing industry to excessively delay the construction and sale of new homes and discourage speculation and land banking.

However, industry expressed the view that in light of the need to meet planning and other requirements, the construction of new homes may not take place for some years after the acquisition of the property, making completion of new home construction within five years of the original purchase of the property sometimes unrealistic. This is particularly the case for larger staged developments. The legislation therefore extends this five-year period to 10 years. We believe this extension accommodates industry's need for sufficient time for staged developments and to obtain planning consents and other approvals before land is developed, whilst still safeguarding against behaviour that does not support new housing supply being delivered and the Housing Affordability Strategy.

These surcharge purchaser duty reforms have been applied to land tax surcharge, and schedules 2 and 3 of the bill detail the corresponding land tax surcharge reforms. Separately, the bill amends section 259C (2) of the Duties Act to remove the requirement for a small business declaration to be made in writing in order for a small business contract of insurance to be exempt from duty. Instead, the amendment gives the chief commissioner the discretion to determine the appropriate form in which a declaration should be made. This reflects the insurance industry's increasing use of verification technologies that do not involve written declarations. The amendment also provides flexibility for any future changes in such technologies. As with other tax liabilities, the Chief Commissioner of State Revenue will rely on provisions in the Taxation Administration Act 1996 requiring taxpayers to keep records and to ensure access to those records and so on so as to address any potential non-compliance. The Act imposes penalties for breaches of these provisions. I commend the bill to the House.

Debate adjourned.