

Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [8.32 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The New South Wales Government is committed to having best practice revenue laws.

The State Revenue Legislation Amendment Bill 2011 makes important amendments to the Duties Act 1997 to ensure the legislation is current and consistent with best practice tax administration.

The bill also amends the First Home Owner Grant Act 2000 to improve one aspect of the administration of the First Home Owner Grant scheme.

I will deal first with the amendments to the Duties Act.

The first two provisions deal with duty on superannuation transactions.

The duties concession for persons changing complying superannuation funds extends to apply to transfers of marketable securities to a life company from a trustee of a complying superannuation fund.

While the current concession allows transfers of property from a life company to the trustee, it does not allow a reverse transaction, that is, a transfer of property to a life company from a trustee of a complying superannuation fund in connection with members changing funds.

The stamp duty cost is prohibitive in the absence of a concession. Extending the concession will enable funds to take advantage of the Commonwealth concession.

A transfer of members between funds arising from a merger of superannuation funds may result in a liability to landholder duty if there is an acquisition of a significant interest in a company or unit trust that holds land.

The bill provides consistency with the transfer duty concessions by providing for a concessional duty of \$500 on an acquisition of an interest in a landholder that results from members ceasing to become entitled to benefits in one complying superannuation fund and becoming entitled to benefits in another complying superannuation fund.

The next duties amendment deals with special disability trusts, which are established by families to provide for the care and accommodation needs of a family member with a severe disability.

The current duties exemptions for the establishment of the trust and the transfer of property to the trust apply to special disability trusts established under the Commonwealth Social

Security Act 1991.

However, special disability trusts may also be established under the Commonwealth Veterans' Entitlements Act 1986. The bill removes an impediment to establishment of these trusts in New South Wales by extending the duties exemptions to special disability trusts established under the Veterans' Entitlements Act.

The bill also contains a statute law amendment to the Duties Act to correct a reference to a Commonwealth Act.

Finally, the bill amends the First Home Owner Grant Act to improve recovery of grants that are required to be repaid.

Some recipients of the first home owner grant are subsequently required to repay the grant, usually because of the person's failure to satisfy the eligibility requirements such as the requirement to occupy the home as his or her principal place of residence.

The liability to repay the grant and any penalty imposed is a charge on the land, entitling the Chief Commissioner of State Revenue to lodge a caveat on title.

At present, the debt owed to the Office of State Revenue ranks behind the interest of the mortgagee or any other holder of an interest that is registered prior to lodgement of the caveat. As a result, there are often insufficient funds available upon the sale of the property, including sale by a mortgagee in possession, for OSR to recover the debt.

The bill provides that a grant recipient's liability to repay the grant and any penalty is a first charge on the land, with priority over all other encumbrances except land tax.

This is consistent with the grant legislation of every other State and Territory.

The amendment would only apply prospectively to grants paid on transactions occurring after 1 October 2011.

I commend the bill to the House