

Serial 174
Stamp Duty Amendment (First Home Owner Discount) Bill 2016
Mr Tollner

A Bill for an Act to amend the *Stamp Duty Act* to provide for a first home owner discount and to consequentially amend the *First Home Owner Grant Act*

NORTHERN TERRITORY OF AUSTRALIA

STAMP DUTY AMENDMENT (FIRST HOME OWNER DISCOUNT)
ACT 2016

Act No. [] of 2016

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2016

An Act to amend the *Stamp Duty Act* to provide for a first home owner discount and to consequentially amend the *First Home Owner Grant Act*

[Assented to [] 2016]
[Second reading [] 2016]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Stamp Duty Amendment (First Home Owner Discount) Act 2016*.

Part 2 Amendment of Stamp Duty Act

2 Act amended

This Part amends the *Stamp Duty Act*.

3 Section 88 amended

Section 88(1)

insert (in alphabetical order)

established home means a home that is not a qualifying home as defined in section 90AA.

first home owner discount means a concession from the payment of duty on a conveyance of land equal to:

- (a) an amount prescribed by regulation; or
- (b) if no amount is prescribed as mentioned in paragraph (a) – the lesser of:
 - (i) 50% of the duty assessed as payable on the conveyance; or
 - (ii) \$10 000.

4 Section 89AA inserted

After section 89

insert

89AA First home owner discount

- (1) This section applies in relation to a conveyance first executed in the period that starts on 24 May 2016 and ends on:
 - (a) a date, later than 30 June 2017, prescribed by regulation; or
 - (b) if no date is prescribed as mentioned in paragraph (a) – 30 June 2017.
- (2) A conveyee of land is entitled to the first home owner discount if, on an application for the discount, the Commissioner is satisfied that:
 - (a) the conveyee is an individual; and
 - (b) subject to subsection (9), the conveyee is at least 18 years of age at the relevant time; and
 - (c) the conveyee is an Australian citizen, or a permanent resident, at the time the conveyee gives the declaration mentioned in subsection (8); and
 - (d) neither the conveyee, nor a spouse of the conveyee at the relevant time, has previously received any of the following:
 - (i) a first home owner grant;
 - (ii) the first home owner discount;
 - (iii) the first home owner concession;
 - (iv) the senior, pensioner and carer concession;

- (v) the principal place of residence rebate;
- (vi) a corresponding grant, discount, concession or rebate under an earlier enactment; and
- (e) neither the conveyee, nor a spouse of the conveyee at the relevant time, has previously had a relevant interest in a residential property; and
- (f) the conveyee has no beneficial interest in the land the subject of the conveyance; and
- (g) the conveyee will acquire the whole beneficial interest in the land the subject of the conveyance; and
- (h) the conveyee will not acquire an interest in the land in the capacity of a trustee; and
- (i) subject to subsection (10), the conveyee will occupy an established home on the land as the conveyee's principal place of residence for the prescribed period commencing within the period for occupancy; and
- (j) the conveyee becomes entitled to possession of the land within:
 - (i) 12 months after settlement of the conveyance; or
 - (ii) the longer period approved by the Commissioner under subsection (11); and
- (k) the conveyee is not entitled to, and will not become entitled to:
 - (i) a first home owner grant in relation to the conveyance or the construction of a home on the land; or
 - (ii) the senior, pensioner and carer concession or principal place of residence rebate in relation to the conveyance.

Note for subsection (2)

See subsection (12) for how these requirements apply if there are multiple conveyees under a conveyance.

- (3) Subsection (2)(d) does not apply if:
 - (a) the previous grant has been repaid; or
 - (b) the duty that would have been payable but for the previous discount, concession or rebate, has been paid.

- (4) In deciding for subsection (2)(e) whether a conveyee or spouse had a relevant interest in residential property at a particular time, the Commissioner must include a relevant interest the conveyee or spouse would have had if the occupation of the property had not been deferred because the property was subject to a lease.
- (5) Subsection (6) applies if the conveyee fails, or will fail, to occupy an established home on the land as the conveyee's principal place of residence:
- (a) within the period for occupancy; or
 - (b) for the prescribed period in accordance with this section.
- (6) The conveyee must, within 30 days after the date on which it first becomes apparent that a failure mentioned in subsection (5) will occur, give written notice to the Commissioner of the failure or impending failure.

Maximum penalty: 50 penalty units.

Note for subsection (6)

This subsection does not apply to a conveyee who has an exemption from the relevant occupancy requirement.

- (7) If a person acquires land or an interest in land as guardian of a person under a legal disability, this section applies as if the person under the legal disability were:
- (a) the conveyee of the land or interest; and
 - (b) the applicant for the first home owner discount; and
 - (c) if the discount is granted – the recipient of the discount.
- (8) A conveyee applying for the first home owner discount, and the conveyee's spouse (if any), must give the Commissioner a declaration, in the approved form, providing the information relating to the application that the Commissioner requires.
- (9) The Commissioner may exempt a conveyee from the requirement that the conveyee be at least 18 years of age at the relevant time if the Commissioner is satisfied that the conveyance does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to the first home owner discount.

- (10) If satisfied there are special reasons to do so, the Commissioner may:
- (a) approve either or both of the following for a conveyee:
 - (i) an extension of the period for occupancy;
 - (ii) a reduction of the prescribed period; or
 - (b) exempt a conveyee from the requirement under subsection (2)(i).
- (11) If satisfied there are special reasons to do so, the Commissioner may approve an extension of the period in which a conveyee is required under subsection (2)(j) to become entitled to possession of the land.
- (12) If there are 2 or more conveyees under a conveyance:
- (a) subject to paragraphs (b) to (e), this section applies as if a reference in this section to a conveyee were a reference to each conveyee; and
 - (b) the requirements of subsection (2)(b), (c) and (i) are satisfied if at least one of the conveyees meets those requirements; and
 - (c) subsection (2)(g) applies as if a reference in that subsection to the conveyee were a reference to the conveyees together; and
 - (d) subsection (6) applies only if all of the conveyees fail, or will fail, to occupy an established home on the land as mentioned in subsection (5); and
 - (e) a conveyee need not comply with subsection (6) if another conveyee has already complied with that subsection.

5 Part 12 inserted

After section 110

insert

Part 12 Transitional matters for Stamp Duty Amendment (First Home Owner Discount) Act 2016**111 First home owner discount**

- (1) This section applies to a conveyance of land if:
- (a) the conveyance replaces an earlier conveyance, first executed before 24 May 2016, of the same or substantially similar land; or
 - (b) the conveyees entered into a contract or option, before 24 May 2016, to purchase the same or substantially similar land; or
 - (c) the conveyer had an option, granted before 24 May 2016, to require the conveyees to purchase the same or substantially similar land.
- (2) If this section applies to a conveyance, the conveyance is taken, for section 89AA, to have been first executed before 24 May 2016.

Part 3 Consequential amendment of First Home Owner Grant Act**6 Act amended**

This Part amends the *First Home Owner Grant Act*.

7 Section 10 amended

- (1) Section 10, heading, after "**grant**"

insert

or discount

(2) After section 10(3)

insert

(4) An applicant is ineligible for a first home owner grant if:

- (a) the applicant, or the applicant's spouse or de facto partner, received the first home owner discount under section 89AA of the *Stamp Duty Act* in relation to an earlier conveyance; and
- (b) the duty that would have been payable under that Act but for that discount has not been paid.

Part 4 Expiry of Act

8 Expiry of Act

This Act expires on the day after it commences.