

DRAFT SECOND READING SPEECH
HON MICHAEL FERGUSON MP

Duties Amendment Bill 2022

Mr Speaker,

The Duties Amendment Bill 2022 amends the *Duties Act 2001* to clarify the scope and operation of the Foreign Investor Duty Surcharge and to recognise and ensure that non-interest-based property transactions, such as those undertaken by members of the Islamic community, are not subject to double duty.

Mr Speaker,

In 2018 this Government introduced the Foreign Investor Duty Surcharge on foreign acquisitions of residential and primary production land in Tasmania.

To ensure that the application of the Surcharge is clear, and there is administrative effectiveness and certainty for taxpayers, several amendments to the Surcharge are proposed in this Bill.

Mr Speaker,

Feedback from industry stakeholders has suggested that there is uncertainty in the application of the Surcharge to self-managed superannuation funds and the treatment of property purchases by testamentary estates.

To remove this uncertainty the Bill amends the *Duties Act 2001* to clarify that for the purposes of the Surcharge members of self-managed superannuation funds have a beneficial interest in the capital of the fund, and that beneficiaries of testamentary estates have a beneficial interest in the capital of the trust.

This will make it simpler for those holding land in a self-managed super fund or testamentary trust to demonstrate their foreign status for the purposes of the Surcharge.

Mr Speaker,

The intent of the Surcharge was that only genuine "residential properties" are captured. Feedback from industry stakeholders has suggested that the current Surcharge provisions could create ambiguity for certain commercial properties.

To rectify this, the Bill clarifies that commercial residential properties that could be considered residential, such as hotels, boarding houses, housing provided by or on behalf of certain educational institutions, residential care services and retirement villages, are not subject to the Surcharge.

Mr Speaker,

The self-managed superannuation fund and testamentary trust amendments and the amendments clarifying the application of the Surcharge to commercial residential properties will apply retrospectively from 1 July 2018, the date on which the Surcharge commenced.

Mr Speaker,

This Bill introduces Surcharge relief for foreign owned Tasmania-based developers that make a significant contribution to the State's housing stock.

This relief will ensure that the Surcharge does not discourage foreign investment in residential property construction.

Mr Speaker,

The *Duties Act 2001* does not cater for non-interest based purchases of property, such as those undertaken in Islamic finance arrangements, for the purposes of conveyance duty.

Non-interest based purchases of property typically result in two transfers of the property, one when the property is initially purchased and another at the end of the relationship between purchaser and lender.

This often means two dutiable transactions are made before the individual eventually takes full ownership of the property. This Bill recognises these arrangements and will impose duty only once.

Mr Speaker,

I commend this Bill to the House.