

DRAFT SECOND READING SPEECH

HON GUY BARNETT MP

Land (Miscellaneous Amendments) Bill 2020

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Madam Speaker, I move that the Bill now be read a second time.

The purpose of this Bill is to improve and amend land related legislation. This creates clarity and consistency within legislation whilst improving, modernising and streamlining processes in preparation of the introduction of national electronic conveyancing in Tasmania.

Key legislation administered by the Recorder of Titles amended by this Bill includes the *Land Titles Act 1980* and *Land Titles Regulations 2012*. There are also minor consequential amendments to other land related legislation where powers and functions of the Recorder of Titles apply. The *Land Acquisition Act 1993*, administered by the Valuer-General, is also amended by this Bill.

The *Land Titles Act 1980* has been in force for around 40 years. I am pleased to announce on behalf of the government that the 60 day period for the duration of a priority notice under section 52 of the *Land Titles Act* will now be extended to 90 days.

A priority notice provides crucial protection on a property title for the period between signing a contract to buy a new home, settlement day and until lodgement of documents with the Land Titles Office to give effect to the transfer of the title to the property.

The increased period of 90 days period provides adequate time for all necessary steps to be perfected. It aligns with real time requirements in a conveyancing transaction. The prescribed period will be removed from the *Land Titles Act* and be included in the *Land Titles Regulations* and the commencement and expiration of a priority notice will be clearly defined.

This move has had support from the legal fraternity and I am pleased to announce that it will now be implemented by this Bill.

The Bill will also clarify the operation of section 63 of the *Land Titles Act* which deals with the process and effect of severing joint tenancies between land owners.

If a joint tenant dies, the surviving joint tenant inherits the whole of the property, despite the contents of that person's Will. A tenancy in common has the opposite effect to a joint tenancy and allows a tenant in common to deal with their share under their Will.

Section 63 provides a way for a joint tenancy to be ended by the decision of one owner which is an important right. The intended changes clarify the operation of section 63 where there are more than 2 joint tenants and reflects the common law position.

The Bill will clarify that if an owner in a joint tenancy relationship of more than 2 owners severs their interest to become a tenant in common, their actions will now leave untouched the joint tenancy relationship between the remaining owners.

Therefore, the Bill will address any unintended consequences by not ending the whole joint tenancy between the remaining owners. This upholds the rights of the remaining joint tenants to decide what they wish to do between themselves. This is a sensible protective measure so that their joint tenancy and estate planning decisions are not automatically changed by default by the actions of one owner.

Another major accomplishment of this Bill will be refinement of the language throughout land related legislation regarding the use and issue of paper certificates of title which introduces consistency. This will allow for future change and is another step towards continuous improvement in the digital transformation of a heavily paper-based process.

The Bill will also modify terminology and remove confusion around the need to lodge dealings in duplicate with the Recorder of Titles. For a number of years the Recorder of Titles has not required documents to be lodged in duplicate. Despite this, the *Land Titles Act* and numerous other pieces of land related legislation continue to refer to 'duplicate registered dealings' on the assumption that duplicates are either required or have been lodged.

The Bill will generally improve the *Land Titles Act* and *Land Titles Regulations* and achieve greater clarity and consistency. The amendments also continue to uphold the integrity of documents lodged with the Recorder of Titles such as by requiring appropriate amendment and initialling of alterations and appropriate certification and translation of documents that are not in the English language.

The Bill will improve the *Land Acquisition Act 1993* which is administered by the Valuer-General. This Act has been force for over 27 years and sets out the process for acquisition of land in Tasmania by both Crown and non-Crown acquiring authorities.

Consistent timeframes within that Act will also be clarified, including allowing a mortgagee a longer period of 6 months to lodge a claim for compensation or notice of election instead of the currently prescribed 60 day period. This will insure consistency with timeframes that apply for other interested parties such as the property owner.

The Office of the Valuer-General is building an electronic process for land acquisition aligning with practices in other jurisdictions. I am pleased to announce that this Bill will now allow electronic signatures on notices on behalf of the Minister and allow electronic service of notices between the land owner and the acquiring authority. This will streamline the acquisition process significantly and achieve greater administrative efficiency.

Madam Speaker, I commend the Bill to the House.