Queensland

STATE HOUSING AMENDMENT BILL (No. 2) 2000

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TABLE OF PROVISIONS

2000

A BILL

FOR

An Act to amend the *State Housing Act 1945*

The Parliament of Queensland enacts—

Short title

Clause **1.** This Act may be cited as the *State Housing Amendment Act (No. 2) 2000*.

Commencement

Clause **2.** This Act commences on 30 June 2000.

Act amended

Clause **3.** This Act amends the *State Housing Act 1945*.

Insertion of new pt 6C

Clause **4.** After section 29H—

insert—

‘PART 6C—TERMINATION OF HOUSING TRUSTS

‘Definitions for pt 6C

‘**29I.** In this part—

“housing trusts” means the following trusts—

(a) the Home Trust established by a deed, dated 27 June 1991, entered into by the commission and public trustee;

(b) the Home Shared Trust established by a deed, dated 27 June 1991, entered into by the commission and public trustee;

(c) the Queensland Housing Trust.

“public trustee” means The Public Trustee of Queensland.

“Queensland Housing Trust” means the trust established by a deed dated 30 June 1992, that amended a deed dated 28 June 1990 establishing the

Queensland Housing Trust No. 2, entered into by the commission and public trustee.

"transfer time" means the time immediately before midnight on 30 June 2000.

"trust assets" means the assets held, at the transfer time, by the public trustee under the housing trusts.

"trust liabilities" means the liabilities, at the transfer time, of the public trustee under the housing trusts.

'Termination

'**29J.** The housing trusts are terminated at the transfer time.

'Transfer of assets and liabilities to commission

'**29K.(1)** At the transfer time—

(a) the trust assets are transferred to the commission and become assets of the commission; and

(b) the trust liabilities are transferred to the commission and are assumed by the commission.

'**(2)** Without limiting subsection (1) and despite the *Land Title Act 1994*, all the rights, powers, privileges and liabilities of the public trustee in relation to the trust assets vest in the commission at the transfer time.

'References in documents to public trustee

'**29L.(1)** This section applies after the transfer time.

'**(2)** A reference in a document, relating to the trust assets or trust liabilities, to the public trustee may, if the context permits, be taken as a reference to the commission.

'Recording of transfer of assets

'**29M.(1)** A certificate signed by the chief executive is evidence of a trust asset having become an asset of the commission at the transfer time if the certificate—

(a) identifies the trust asset; and

(b) states the trust asset became an asset of the commission under section 29K.

‘**(2)** If the certificate is given to an entity with registration functions for assets of that kind under a law of the State, the entity must give effect to the certificate.

Example of an ‘entity with registration functions’—

- the registrar of titles.

‘**(3)** However, the entity is not required under subsection (2) to register the transfer of the trust assets.

‘**(4)** No fee or charge, under an Act, is payable to the entity for performing the act mentioned in subsection (2).

‘Powers of commission under certain transferred mortgages

‘**29N.(1)** This section applies to QHC mortgages transferred in equity by the commission to the public trustee under the trust deed for the Queensland Housing Trust (the **“transferred mortgages”**).

‘**(2)** To remove doubt, it is declared that on the termination of the Queensland Housing Trust, under section 29J, the commission has the rights, powers, privileges and liabilities, in relation to the transferred mortgages, the commission had under the Act before the transfer of the mortgages.

‘**(3)** In this section—

“QHC mortgages” means mortgages securing advances made by the commission under this Act.

‘Proceedings

‘**29O.(1)** A proceeding by or against the public trustee, relating to the housing trusts, that is not finished at the transfer time may be continued or discontinued by or against the commission.

‘**(2)** A proceeding that could have been started by or against the public trustee before the transfer time, relating to the housing trusts, may be started, continued and finished by or against the commission.

‘Unpaid remuneration or expenses of trustee under trusts

‘**29P.(1)** This section applies if, at the transfer time, there is any outstanding remuneration or expenses payable to the public trustee under a housing trust.

‘**(2)** The commission must pay the public trustee the outstanding remuneration or expenses as soon as practicable after the transfer time.

‘Costs of termination of trusts

‘**29Q.(1)** The public trustee must pay, from money held by the public trustee under a housing trust, the expenses relating to the termination of the trust under section 29J.

‘**(2)** Subsection (3) applies after the termination of a housing trust under section 29J.

‘**(3)** The commission is liable for any expenses, relating to the termination of the trust, not paid under subsection (1).

‘Part applies despite other laws, instruments etc.

‘**29R.(1)** This part applies despite another Act, an instrument or oral agreement.

‘**(2)** Nothing done under this part—

(a) makes a person liable for—

  (i) a civil wrong or contravention of a law of the State; or

  (ii) a breach of a confidence or contract; or

(b) releases a surety’s obligations, wholly or in part.

‘**(3)** If apart from this section a person’s consent would be necessary to give effect to this part, the consent is taken to have been given.’.

Insertion of new s 32AC

Clause **5.** After section 32AB—

insert—

‘**Interest rates for advances under transferred mortgages**

‘**32AC.(1)** This section applies to an advance made under a transferred mortgage.

‘**(2)** If the terms of the advance state that interest is payable on the unpaid balance of the advance at a variable interest rate, the rate is the standard variable interest rate.

‘**(3)** In this section—

“transferred mortgage” means a mortgage, securing an advance made by The Public Trustee of Queensland, transferred to the commission under section 29K.[1]

“variable interest rate” includes an interest rate that is, under the terms of the advance, to be notified by the mortgagee under the mortgage to the mortgagor under the mortgage.’.

Amendment of s 32A (Interest rates payable by borrowers and purchasers in respect of certain advances and contracts of sales, determined by Minister)

Clause **6.(1)** Section 32A, heading, ‘**sales, determined by Minister**’—

omit, insert—

‘**sale**’.

(2) Section 32A, from ‘such rate’ to ‘Treasurer’—

omit, insert—

‘the interest rate stated in subsection (2)’.

(3) Section 32A—

insert—

‘**(2)** The interest rate is—

1 Section 29K (Transfer of assets and liabilities to commission)

(a) if the terms of the advance or contract of sale state that the interest is payable at a fixed interest rate—the fixed interest rate; or

(b) otherwise—the standard variable interest rate.’.