



Western Australia

Land Tax Assessment Amendment (Build-to-Rent) Act 2024

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Land Tax Assessment Amendment (Build-to-Rent) Act 2024

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Western Australia

Land Tax Assessment Amendment (Build-to-Rent) Act 2024

No. 22 of 2024

An Act to amend the *Land Tax Assessment Act 2002*.

[Assented to 15 May 2024]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Land Tax Assessment Amendment (Build-to-Rent) Act 2024*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 come into operation on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the rest of the Act —
 - (i) if assent day is 1 July 2023 or earlier — comes into operation on 1 July 2023; or
 - (ii) otherwise — is deemed to have come into operation on 1 July 2023.

3. Act amended

This Act amends the *Land Tax Assessment Act 2002*.

4. Section 15B inserted

After section 15A insert:

15B. Tax payable on land containing former exempt build-to-rent developments

- (1) Land tax is payable on land in accordance with this section if —
 - (a) the land has been subject to an exemption under Part 3 Division 4B in relation to a development for 1 or more assessment years; and

- (b) the land ceases to be eligible for an exemption under that Division in relation to the development, or becomes excluded land as defined in section 39E, for an assessment year that is within 15 financial years (the *relevant financial years*) reckoned prospectively from and including the financial year in which the land first became exempt under that Division in relation to the development.
- (2) The land tax is payable on the land by the owner of the land for each of the relevant financial years in which the land was subject to an exemption under Part 3 Division 4B.
- (3) The amount of land tax payable for each of the relevant financial years is assessed, at the rate applicable for that year under the *Land Tax Act 2002*, as if the land were the only land of the owner on which land tax was payable for that year.
- (4) For the purposes of subsection (1), land that is the subject of a determination by the Commissioner under section 39J(3) is taken to be eligible for an exemption under Part 3 Division 4B for the assessment year to which the determination applies.
- (5) The amount of land tax payable under this section on the land for any of the relevant financial years is reduced by the amount already charged on any part of the land for that year.
- (6) Despite the *Taxation Administration Act 2003* section 17(4), the Commissioner must make any reassessment necessary to give effect to this section.

5. **Part 3 Division 4B inserted**

After Part 3 Division 4A insert:

Division 4B — Land used for build-to-rent developments

39E. Terms used

In this Division —

community title lot means a lot referred to in paragraph (a)(via) of the definition of *lot* in the Glossary clause 2(1);

excluded land means land, other than land used for exempt development or a purpose solely related to exempt development, that is —

- (a) vacant land or land used for residential, commercial, professional, industrial or mixed development purposes; or
- (b) land on which clearing or other work is undertaken for the purpose of developing the land; or
- (c) land used for prescribed purposes; or
- (d) land that the Commissioner considers is not used for the purposes of an exempt development;

exempt build-to-rent development means a development that meets the requirements for exemption as a build-to-rent development set out in section 39F(1);

exempt development means an exempt build-to-rent development or an exempt expansion build-to-rent development;

exempt expansion build-to-rent development means a development that meets the requirements for exemption as an expansion build-to-rent development set out in section 39F(3);

exemption percentage means the percentage specified under section 39I(2);

residential tenancy agreement has the meaning given in the *Residential Tenancies Act 1987* section 3;

social housing premises has the meaning given in the *Residential Tenancies Act 1987* section 71A;

strata lot means a lot referred to in paragraph (a)(vii) of the definition of ***lot*** in the Glossary clause 2(1).

39F. Requirements for exemption relating to build-to-rent development

- (1) Development meets the requirements for exemption as a build-to-rent development if —
 - (a) it is on land owned by 1 owner or joint owners; and
 - (b) it is development for the purpose of providing 40 or more self-contained dwellings for lease under residential tenancy agreements (whether or not the building or buildings are used for other purposes); and
 - (c) it consists of —
 - (i) the construction of a building or buildings on the land; or
 - (ii) the substantial renovation of the whole or a substantial part of a building or buildings on the land that are not used for residential purposes (including aged care);
- and

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- (d) all of the dwellings become able to be lawfully occupied as dwellings on or after 12 May 2022 and before 1 July 2032 and within a 5-year period; and
 - (e) except as provided by section 39G(1), each of the dwellings is rented or available for rent under a residential tenancy agreement with a term of at least 3 years; and
 - (f) except as permitted by section 39G(2), there is no direct or indirect restriction on the class or classes of persons who may occupy those dwellings; and
 - (g) the same management entity is responsible for the provision of management services to the whole of the development.
- (2) In subsection (1) —
- substantial renovation*, of a building or part of a building, does not include minor works to the building or part.
- (3) Development meets the requirements for exemption as an expansion build-to-rent development if —
- (a) it is on land owned by 1 owner or joint owners; and
 - (b) it is development for the purpose of providing self-contained dwellings for lease under residential tenancy agreements (whether or not the building or buildings are used for other purposes); and
 - (c) at the time all of the dwellings in the development become lawfully able to be occupied, it is on the same lot or parcel as an existing exempt build-to-rent development; and

- (d) it meets the requirements of subsection (1)(c) to (g).

39G. Exceptions to leasing restrictions for exempt development

- (1) A dwelling may be rented for a term of less than 3 years without affecting eligibility for an exemption under this Division if —
 - (a) the tenant requests the shorter term; or
 - (b) the residential tenancy agreement is entered into for a term that ends in an assessment year for which the land will not be exempt under this Division because of section 39J(1).
- (2) A restriction may be placed on the class of persons who may occupy a dwelling that is part of an exempt development —
 - (a) if it is necessary to ensure public health or safety; or
 - (b) if the dwelling is social housing premises; or
 - (c) in prescribed circumstances.

39H. Managing entities for exempt development

- (1) The owner of land is not required to be the management entity responsible for providing management services to an exempt development.
- (2) Section 39F does not require the management entity responsible for providing management services to an exempt build-to-rent development to be the management entity responsible for providing management services to an exempt expansion build-to-rent development on the same lot or parcel of land.

39I. Exemption for build-to-rent developments

- (1) Land is exempt for an assessment year, to the extent set out in subsection (2), if at midnight on 30 June in the previous financial year the land is used for an exempt development.
- (2) The land is exempt to the extent of 50%, or other percentage calculated under section 39K, of the taxable value of the land.
- (3) The exemption does not apply to any part of a lot or parcel of land that is excluded land.

39J. Limits on eligibility for build-to-rent exemption

- (1) Land used for an exempt development is not exempt under this Division in relation to that development for an assessment year that is the year 20 years after the land first became exempt in relation to that development or for any succeeding assessment year.
- (2) Land is not exempt under this Division for an assessment year in relation to a development that meets the requirements of section 39F if —
 - (a) the land was subject to an exemption under this Division for a previous assessment year in relation to the development; and
 - (b) the development ceased to meet the requirements of section 39F at any time after that exemption applied.
- (3) The Commissioner may determine that land is to be treated as exempt for an assessment year under this Division even if development on the land does not

meet the requirements of section 39F for exemption, if the Commissioner is satisfied that —

- (a) the land was exempt under this Division for the previous assessment year; and
 - (b) the reasons for not meeting the requirements are temporary; and
 - (c) it is reasonable in all the circumstances to treat the land as exempt under this Division for the assessment year.
- (4) The Commissioner may make the determination —
- (a) on the Commissioner’s own initiative; or
 - (b) on the application of the owner or all joint owners of the land.
- (5) For the purposes of subsection (2)(b), development on land that is the subject of a determination by the Commissioner under subsection (3) is taken to meet the requirements of section 39F for the assessment year to which the determination applies.

39K. Exemption percentage where buildings partially used for build-to-rent dwellings

- (1) This section does not apply to a strata lot or a community title lot.
- (2) If a building or buildings on land used for exempt development are only partly used for self-contained dwellings referred to in section 39F(1)(b) or (3)(b), the exemption percentage for the land on which the building or buildings are situated is calculated by using the following formula and converting the result to a percentage —

$$0.5 \times \frac{F}{A}$$

where —

- F is the total floor area in square metres of all of the parts of the building or buildings that are used for the self-contained dwellings;
- A is the total floor area in square metres of all of the building or buildings on the land used for residential, commercial, professional, industrial or mixed development purposes.

- (3) For the purposes of determining the floor area of a building or part of a building, the floor area does not include carparks, storage areas, stairwells, lift towers, cooling towers, machinery or plant rooms, air conditioning or ventilation ducts or any other prescribed part of a building.
- (4) A calculation under this section must be made by reference to land as at midnight on 30 June in the financial year before the assessment year.

39L. Taxable value of land subject to partial build-to-rent exemptions

- (1) This section applies for the purpose of determining the taxable value of a lot or parcel for an assessment year if an exemption under this Division applies only partly to the lot or parcel.
- (2) For the purposes of determining the unimproved value of a lot or parcel of land under section 18A(3), the unimproved value of an area of the lot or parcel to which an exemption under this Division applies is the unimproved value of the area determined in accordance with section 18A(4) and multiplied by the exemption percentage for the area.

39M. Application for build-to-rent exemption

- (1) An application for an exemption under this Division must —
 - (a) be in an approved form; and
 - (b) be received by the Commissioner on or before 30 June in the assessment year unless the Commissioner gives an extension under subsection (2).
- (2) The Commissioner may extend the time for lodging an application from 30 June in the assessment year to any date before the 1 July occurring 4 years after that 30 June if the Commissioner is satisfied that there are reasonable grounds for extending the time.

6. Schedule 1 Division 8 inserted

At the end of Schedule 1 insert:

Division 8 — Provision for *Land Tax Assessment Amendment (Build-to-Rent) Act 2024*

26. Application of amendments

The amendments made to this Act by the *Land Tax Assessment Amendment (Build-to-Rent) Act 2024* apply in relation to assessment years that begin on or after 1 July 2023.