



New South Wales

Duties Amendment (First Home—New Home) Bill 2011

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Appropriation Bill 2011*.

Overview of Bill

The object of this Bill is to amend the *Duties Act 1997* for the following purposes:

- (a) to remove the duty exemptions and concessions available to first home buyers of existing homes (other than substantially renovated homes) under the First Home Plus scheme,
- (b) to repeal certain obsolete provisions relating to duty discounts, the NSW Housing Construction Acceleration Plan and the Flood-prone housing scheme.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on 1 January 2012.

Schedule 1 Amendment of Duties Act 1997 No 123

Schedule 1 [8] removes duty concessions and exemptions available to certain first home buyers under the First Home Plus scheme. Under that scheme, no duty is chargeable on an agreement to sell or transfer, or on a transfer of, a first home with a dutiable value of up to \$500,000 (or vacant land with a dutiable value of up to \$300,000). Concessions apply for an agreement to sell or transfer, and a transfer of, a first home with a dutiable value of more than \$500,000 but less than \$600,000 (or vacant land with a dutiable value of more than \$300,000 but less than \$450,000). The amendment provides that an agreement or transfer will no longer be eligible for the concession or exemption unless it is for the acquisition of a new home or vacant land intended to be used as the site of a new home. **Schedule 1 [1]** renames the First Home Plus scheme the First Home—New Home scheme. **Schedule 1 [6]** provides that the amendment will apply to agreements entered into, and transfers that occur, on or after 1 January 2012. **Schedule 1 [10]** inserts definitions of *home*, *new home* and *substantially renovated home*. *Home* is defined as a building (affixed to land) that may lawfully be used as a place of residence and is, in the Chief Commissioner of State Revenue's opinion, a suitable building for use as a place of residence. *New home* is defined as a home that has not been previously occupied or sold as a place of residence, including a substantially renovated home. *Substantially renovated home* is defined as residential premises that have been created through substantial renovations and, as renovated, have not previously been occupied or sold as a place of residence. Substantial renovations are renovations in which all, or substantially all, of a building is removed or replaced. However, the renovations need not include removal or replacement of foundations, external walls, interior supporting walls, floors, roof or staircases. **Schedule 1 [4]** is a consequential amendment.

Schedule 1 [5], [7], [9], [12], [13] and [14] omit obsolete provisions relating to duty discounts, the NSW Housing Construction Acceleration Plan and the Flood-prone housing scheme. **Schedule 1 [2], [3] and [10]** are consequential amendments.

Schedule 1 [14] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [15] provides for transitional matters.

First print



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Duties Amendment (First Home—New Home) Bill 2011

No. , 2011

A Bill for

An Act to amend the *Duties Act 1997* in relation to the duty exemptions and concessions available to first home buyers.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Duties Amendment (First Home—New Home) Act 2011</i> .	3
2 Commencement	4
This Act commences on 1 January 2012.	5

Schedule 1	Amendment of Duties Act 1997 No 123	1
[1]	Chapter 2 (except sections 87A, 87D and 92)	2
	Omit “First Home Plus” wherever occurring.	3
	Insert instead “First Home—New Home”.	4
[2]	Chapter 2, Part 8, heading	5
	Omit the heading. Insert instead:	6
	Part 8 Exemption and concession schemes for home transactions	7
		8
[3]	Chapter 2, Part 8, Division 1, Subdivision 1, heading	9
	Omit the heading.	10
[4]	Section 69 The nature of the scheme	11
	Insert “a new home that is” after “acquiring”.	12
[5]	Section 69	13
	Omit “and any mortgage given to assist the financing of the acquisition”.	14
[6]	Section 70 Commencement	15
	Omit “4 April 2004” wherever occurring. Insert instead “1 January 2012”.	16
[7]	Section 70 (c)	17
	Omit the paragraph.	18
[8]	Section 74 Eligible agreements or transfers	19
	Insert “new home that is a” after “acquisition of a” where firstly occurring in section 74 (1).	20
		21
[9]	Section 77 Eligible mortgages	22
	Omit the section.	23
[10]	Sections 78B (3) and (5) and 80A	24
	Omit “Subdivision” wherever occurring. Insert instead “Division”.	25

[11] Section 80A Definitions	1
Insert in alphabetical order:	2
<i>home</i> means a building (affixed to land) that:	3
(a) may lawfully be used as a place of residence, and	4
(b) is, in the Chief Commissioner’s opinion, a suitable building for use as a place of residence.	5
<i>new home</i> means a home that has not been previously occupied or sold as a place of residence, and includes a substantially renovated home.	6
<i>substantially renovated home</i> means a home that:	7
(a) is new residential premises within the meaning of section 40-75 (1) (b) of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> of the Commonwealth, and	8
(b) as renovated, has not been previously occupied or sold as a place of residence.	9
[12] Chapter 2, Part 8, Division 1, Subdivisions 1A and 2	10
Omit the Subdivisions.	11
[13] Chapter 2, Part 8, Divisions 1A and 2	12
Omit the Divisions.	13
[14] Section 221 Eligible mortgages under First Home Plus	14
Omit the section.	15
[15] Schedule 1 Savings, transitional and other provisions	16
Insert at the end of clause 1 (1):	17
<i>Duties Amendment (First Home—New Home) Act 2011</i>	18
[16] Schedule 1	19
Insert at the end of the Schedule with appropriate Part and clause numbering:	20
Part Provisions consequent on enactment of Duties Amendment (First Home—New Home) Act 2011	21
First Home Plus scheme	22
A provision of Division 1 of Part 8 of Chapter 2 that, immediately before 1 January 2012, applied in respect of the following transactions and instruments continues to apply in respect of	23
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those transactions and instruments in the same way as it applied before the amendment of that Division by the <i>Duties Amendment (First Home—New Home) Act 2011</i> :	1
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(a) agreements for sale or transfer entered into on or after 4 April 2004 but before 1 January 2012,	4
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(b) transfers that occur on or after 4 April 2004 but before 1 January 2012,	6
	7
(c) transfers that occur on or after 1 January 2012 that are made in conformity with an agreement for sale or transfer referred to in paragraph (a).	8
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NSW Housing Construction Acceleration Plan 11

Division 1A of Part 8 of Chapter 2, as in force immediately before its repeal by the <i>Duties Amendment (First Home—New Home) Act 2011</i> , continues to apply in respect of agreements for sale or transfer, and transfers, to which that Division applied immediately before its repeal.	12
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