

[Act 2001 No 52]



New South Wales

Housing Bill 2001

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The objects of this Bill are:

- (a) to repeal the *Housing Act 1912*, the *Housing Act 1976* and the *Housing Act 1985* and to consolidate the provisions of those Acts into one piece of legislation, and
- (b) to continue on the New South Wales Land and Housing Corporation and to expand its functions, and
- (c) to repeal the *Home Purchase Assistance Authority Act 1993* and to dissolve the Home Purchase Assistance Authority and transfer the functions of that Authority to the New South Wales Land and Housing Corporation, and
- (d) to dissolve the HomeFund Advisory Panel established under the *Home Purchase Assistance Authority Act 1993* as this body no longer needs to function, and

* Amended in committee—see table at end of volume.

- (e) to amend various Acts and make various repeals as a consequence of the preceding objects.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 provides that notes used in the proposed Act do not form part of the Act.

Part 2 Objects of Act

Clause 5 sets out the objects of the proposed Act.

Part 3 New South Wales Land and Housing Corporation

Division 1 Establishment of Corporation

Clause 6 establishes the New South Wales Land and Housing Corporation (*the Corporation*) as a body corporate. The Corporation is a continuation of the existing New South Wales Land and Housing Corporation established under the *Housing Act 1985*.

Division 2 General functions of Corporation

Clause 7 sets out the general functions of the Corporation.

Clause 8 sets out the functions of the Corporation relating to land and housing.

Clause 9 sets out the functions of the Corporation relating to home purchase assistance.

Clause 10 sets out the functions of the Corporation relating to the collection of information by the Corporation (including the carrying out of surveys and investigations into housing issues by the Corporation) and the provision of advice, services and products by the Corporation.

Clause 11 requires the Corporation, when carrying out its functions, to consult and negotiate with other public authorities that have similar functions.

Division 3 General powers to enter contracts and agreements

Clause 12 enables the Corporation to enter into contracts for the carrying out of works, performance of services or supply of goods and services in connection with the exercise of its functions.

Clause 13 enables the Corporation to enter into arrangements or agreements with a public authority where the Corporation acts as agent for the public authority or the public authority acts as agent for the Corporation.

Division 4 Administration

Clause 14 enables the Corporation to employ staff and engage consultants.

Clause 15 permits the Corporation or the Director-General of the Department of Housing to delegate functions.

Clause 16 enables the Minister to require the Corporation to report on its operations and to inspect the records and premises of the Corporation.

Clause 17 enables the annual report of the Corporation to be included in the annual report of the Department of Housing.

Part 4 Acquisition, sale, development and management of land and property

Division 1 General powers of Corporation in relation to land and property

Clause 18 sets out the general powers of the Corporation in relation to land vested in the Corporation.

Clause 19 enables the Corporation to accept a surrender of land leased, dedicated or granted under the proposed Act and sets out the ways in which the Corporation can deal with surrendered land.

Clause 20 states the relationship between the proposed Act and the *Public Works Act 1912*.

Clause 21 allows the Corporation to accept gifts, bequests and devises of property.

Division 2 Acquisition of land

Clause 22 enables the Corporation to compulsorily acquire land for specified purposes in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

Clause 23 enables the Minister to compulsorily acquire land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* in certain circumstances where the Corporation has built a house for a person or advanced money to a person and the person has failed to comply with certain requirements.

Division 3 Contracts for sale of land

Clause 24 allows the Corporation to impose conditions on the sale of land vested in the Corporation.

Clause 25 allows the Corporation to impose conditions in respect of land vested in the Corporation that operate if the land is sold in the future.

Clause 26 enables the Corporation to recover a certain amount for use and occupation of land instead of damages in the event that a contract for the sale of land vested in the Corporation is forfeited or cancelled for non-fulfilment of its conditions.

Clause 27 provides the Corporation with certain remedies in the event of a default by a purchaser of land from the Corporation.

Division 4 Construction of buildings

Clause 28 empowers the Corporation to erect buildings on land vested in it.

Clause 29 enables the Corporation to manufacture, produce, purchase or supply building materials, fittings or appliances.

Clause 30 allows the Corporation to construct temporary buildings for emergency housing accommodation and to sell or hire any such buildings.

Clause 31 enables the Corporation to construct buildings and carry out works at the request of a Minister, Department or statutory body whether of New South Wales or the Commonwealth.

Division 5 Change in management of land

Clause 32 enables the Governor, by notification published in the Gazette, to impose the duty of managing certain land on the Corporation.

Clause 33 enables the Governor, by proclamation, to withdraw any land from the Corporation.

Clause 34 enables the Corporation, by order published in the Gazette, to surrender land vested in it for dedication under the *Crown Lands Act 1989* for public purposes or to a council to be used as a public reserve or drainage reserve.

Clause 35 enables the Minister administering the *Local Government Act 1993* to transfer specified functions of a council in respect of certain land to the Corporation.

Part 5 Housing areas

Clause 36 enables the Governor, by notification published in the Gazette on the recommendation of the Minister, to declare an area to be a housing area.

Clause 37 provides that it is an offence to carry out certain development in a housing area or to sell land in a housing area, or lease such land for more than a year, without the consent of the Corporation. On the acquisition under the proposed Act of land in a housing area, no compensation is payable for any improvements made in contravention of the clause.

Part 6 Advances for houses, other buildings and land

Division 1 Advances for houses to individuals

Clause 38 contains a definition for the purposes of the proposed Division.

Clause 39 provides for the making of an application to the Corporation under the proposed Division.

Clause 40 enables the Corporation to advance money for the erection or purchase of a house to an applicant, or to erect a house for an applicant.

Clause 41 provides that an application can only be granted if the house is for use by the applicant or the applicant's family and the applicant satisfies certain eligibility criteria.

Clause 42 requires a person whose application is granted to enter into an agreement with the Corporation and pay the fee (if any) prescribed by the regulations.

Clause 43 requires the Corporation to obtain advice on the value of a property before advancing money for its purchase under the proposed Division and sets limits on the amount that may be advanced.

Clause 44 sets out the remedies for the Corporation in the event that money advanced under the proposed Division is not properly applied.

Clause 45 enables regulations to be made with respect to periods for repayment by instalments of advances or money expended by the Corporation under the proposed Division.

Clause 46 enables the Corporation to require security for advances or money expended by the Corporation under the proposed Division.

Clause 47 attaches certain conditions to land that is subject to a mortgage under the proposed Division.

Clause 48 enables the Corporation to apply to the Registrar-General for an order for foreclosure if money due to the Corporation under the proposed Division is unpaid for a period of 3 months.

Clause 49 provides that land sold by the Corporation under the proposed Division is freed from any charge or restriction under the proposed Division.

Clause 50 enables the Corporation to advance money to an owner of land for renovations, repairs and improvements.

Division 2 Advances for public buildings and to councils, societies, associations and clubs for houses and other buildings

Clause 51 allows the Corporation to assist councils to erect houses for the purposes of the proposed Act by making grants or loans to them.

Clause 52 allows the Corporation to make grants or loans to building societies or to subscribe in the share or loan capital of building societies for the purposes of the proposed Act.

Clause 53 allows the Corporation to make advances for the construction, renovation, repair or extension of public or civic buildings or recreation grounds or to certain clubs, associations and societies for the repair and renovation of buildings.

Part 7 Rental rebate

Clause 54 provides that the proposed Part applies to tenants of public housing, tenants under HomeFund restructuring offers or to other classes of tenants prescribed by the regulations.

Clause 55 enables a tenant to whom the proposed Part applies to make an application to the Corporation for a weekly rebate of rental.

Clause 56 allows the Corporation to grant an application after making an investigation under proposed section 58.

Clause 57 enables the Corporation to vary or cancel any rental rebate after making an investigation under proposed section 58.

Clause 58 enables the Corporation to make an investigation concerning the weekly income of applicants for, and recipients of, rental rebates and of other persons who reside with them.

Part 8 Joint ventures, interests in private corporations and trusts

Clause 59 contains definitions for the purposes of the proposed Part.

Clause 60 enables the Corporation to enter into joint ventures with the approval of the Minister. This power is subject to provisions of the *Public Authorities (Financial Arrangements) Act 1987* that require that, in addition, the Treasurer's approval be obtained.

Clause 61 enables the Corporation to form, participate in the formation of, acquire interests in, and sell or dispose of interests in, private corporations but only with the approval of the Minister and the Treasurer.

Clause 62 enables the Corporation to form trusts, but only with the approval of the Minister and the Treasurer.

Part 9 Finance

Clause 63 requires the establishment of a Housing Account. The Account is a continuation of the Housing Account established under the *Housing Act 1985*.

Clause 64 requires Commonwealth grants for the purposes of the proposed Act to be separately accounted for.

Clause 65 requires the proceeds from the sale of certain land vested in the Corporation to be paid into the Consolidated Fund.

Clause 66 requires the establishment of the Housing Reserve Fund. The Fund is a continuation of the Housing Reserve Fund established under the *Home Purchase Assistance Authority Act 1993*.

Clause 67 provides for the financial year of the Corporation.

Part 10 Miscellaneous

Clause 68 provides for the carrying out of investigations by the Corporation as to the methods to be adopted to ensure the provision of adequate housing on reasonable terms or at reasonable rentals.

Clause 69 creates certain offences relating to the making of false statements and representations, and other fraudulent behaviour, to obtain a benefit under the proposed Act.

Clause 70 creates offences in relation to the misuse of certain information for the purpose of gaining an advantage.

Clause 71 creates an offence of disclosing information obtained in the administration of any Act conferring functions on the Corporation, except if the information is disclosed in specified circumstances.

Clause 72 provides for the manner in which documents may be served on the Corporation.

Clause 73 deals with the recovery of debts by the Corporation.

Clause 74 provides for proceedings for offences against the proposed Act or regulations to be heard summarily by a Local Court.

Clause 75 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 76 repeals the following Acts:

Housing Act 1912

Housing Act 1976

Housing Act 1985

Home Purchase Assistance Authority Act 1993

Clause 77 gives effect to Schedule 1 which contains consequential amendments to various Acts.

Clause 78 gives effect to Schedule 3 which contains savings, transitional provisions and other provisions.

Clause 79 provides for the review of the proposed Act in 5 years from the date of its assent.

Schedule 1 Amendment of other Acts

Schedule 1 contains consequential amendments to various Acts.

Schedule 2 Superannuation provisions

Schedule 2 contains provisions relating to the superannuation of persons employed by the Department of Housing or the Corporation who become employed by a private corporation in which the Corporation has an interest.

Schedule 3 Savings, transitional and other provisions

Schedule 3 contains savings, transitional and other provisions. In particular, the Schedule dissolves the Home Purchase Assistance Authority and its Board and provides for the transfer of the Authority's assets and liabilities to the Corporation. The Schedule also dissolves the HomeFund Advisory Panel.