

Legalquotes News

PROVIDED BY RANKIN NATHAN LAWYERS

NSW CONVEYANCING – UPDATE

In this article we take a brief look at some recent developments in NSW which have implications for conveyancing transactions.

New Land Transfer Charge

Following amendments to the *Real Property Act 1900* and *Real Property Regulation 2008*, from 1 July 2010, transfers of property in NSW may now be subject to an additional levy which is payable by the purchaser or transferee. The levy is a new component to the Torrens Assurance Levy which was first implemented in 1992 (purchasers already pay a basic \$4.00 levy which forms part of the lodgement fee for the registration of all land transactions). The Torrens Assurance Levy funds the Torrens Assurance Fund which is available to compensate landowners who suffer loss due to fraud or error in the property registration process. The new levy is an ad valorem charge (based on the price that a purchaser pays for the property) and applies to properties where the purchase price is greater than \$500,500.00. The levy does not replace NSW stamp duty which is also payable by a purchaser. Not all transfers of land will attract the ad valorem component of the Torrens assurance levy – for example, a Transmission Application distributing property of a deceased estate is not subject to the new levy.

The rates for the Land Transfer Charge are:

PROPERTY VALUE	LAND TRANSFER CHARGE
Less than \$500,500	The standard flat fee applies - \$194
Between \$500,500 and \$1 million	\$4.00 (Torrens assurance levy) plus 0.2% of the purchase price over \$500,000
Over \$1 million	\$1,004 plus 0.25% of the purchase price over \$1 million

NSW Home Builders Bonus

The NSW Home Builders Bonus (NHBB) is a stamp duty exemption or reduction scheme which applies to new home purchases which are the subject of agreements for the sale or transfer of property entered into on or after 1 July 2010 and before 1 July 2012. The scheme applies to the following types of transactions:-

- ✓ **a new home purchase** (being a new home that is complete and ready for occupation), or
- ✓ **an off the plan purchase** (being land intended to be used as the site of a new home, which is to be built before the completion of the agreement for sale), or
- ✓ **a vacant land purchase** (being vacant land that is



intended to be used as the site of a new home and which is not an off the plan purchase).

The home must have never been previously sold or occupied as a place of residence and the scheme will also apply to substantially renovated homes. The value of property must not exceed \$600,000.00 (new home or off the plan) or \$400,000.00 (vacant land) and construction of a home on vacant land must commence within 26 weeks of completion of the agreement for sale.

Depending on the type of transaction, a purchaser may be eligible for a total exemption on stamp duty (e.g. purchase of off-the plan prior to any construction commencing) and in other cases (e.g. purchase of a home under construction) the purchaser will enjoy a 25% cut in duty. Persons aged over 65 may also be eligible for a full exemption from duty on an off the plan purchase even if the construction has commenced if they are relocating from their existing principal place of residence in NSW and they commence residing in the new home within 12 months of completion.

The NHBB is administered by the Office of State Revenue and has specific eligibility requirements which must be met.

Transfers to self-managed super funds

An amendment to the Duties Act 1997 means that nominal duty of \$50 is now payable on a transfer or an agreement to transfer dutiable property from a person to the trustee of a Self Managed Super Fund (SMSF) if the:

- ✓ transferor is the only member of the super fund or the property is to be held by the trustee solely for the benefit of the transferor, and
- ✓ the property is to be used solely for the purpose of providing a retirement benefit to the transferor.

If you, or someone you know, would like assistance with a conveyancing matter in NSW, please contact one of our Property Lawyers on 02 4929 9333. We'd be happy to discuss your particular circumstances with you.



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