

Building, Co-operative Housing and Friendly Societies (Amendment) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the purpose of the Act.

Clause 2 provides for the commencement of the Act.

PART 2—AMENDMENT OF *BUILDING SOCIETIES ACT 1966*

Clause 3 provides that for the purposes of Part 2, the Building Societies Act is the Principal Act.

Clause 4 amends the Principal Act by inserting two new sections, sections 9A and 9B. The new sections establish the Buildings Societies Administration Fund and enable the Minister to require building societies to pay amounts into the Fund.

Clause 5 amends section 17 of the Principal Act to enable the Victorian Building Societies Council to delegate the administration of the General Reserve Fund to a person other than a public servant.

Clause 6 makes two amendments to section 19 of the Principal Act. The first amendment, to section 19 (3) (b), requires that compulsory loans made by building societies to the Victorian Building Societies Council, are paid into the General Reserve Fund. The second amendment, to section 19 (6), enables the Victorian Building Societies Council to make loans to buildings societies for purposes approved by the Registrar.

Clause 7 inserts a new section, section 20A, into the Principal Act. The new section requires building societies to deposit amounts with the General Reserve Fund as are determined by the Victorian Building Societies Council and approved by the Minister.

Clause 8 amends section 22 of the Principal Act. The clause inserts a new sub-section (4) which enables building societies to guarantee certain borrowings and financial accommodation obtained by the Victorian Building Societies Council and to mortgage or charge their assets to secure the guarantee.

Clause 9 substitutes a new section 49. The new section requires building societies to comply with capital requirements determined by the Minister from time to time.

Clause 10 inserts a new section, section 53A, into the Principal Act. The new section gives building societies power to enter into financial arrangements with the approval of the Minister.

Clause 11 makes minor amendments to the Principal Act.

PART 3—AMENDMENT OF *CO-OPERATIVE HOUSING SOCIETIES ACT 1958*

Clause 12 provides that for the purposes of Part 3 the Principal Act is the *Co-operative Housing Societies Act 1958*.

Clause 13 inserts into section 3 of the Principal Act a definition of the Victorian Co-operative Housing Council (the Council).

Clause 14 amends section 8 of the Principal Act by decreasing the number of persons needed to form a co-operative housing society from seven to five and removes the need for the Registrar to seek the consent of the Minister to registration of a new co-operative housing society.

Clause 15 provides that a co-operative housing society, with the approval of the Registrar, may raise money by granting a right, entitlement or interest in, or in respect of, or by transfer or assignment of its interest under a mortgage of freehold land.

Clause 16 provides that a society may act as trustee or agent for an approved housing finance provider for purposes connected with the first mortgage of freehold land on terms and conditions approved by the Registrar on the advice of the Council, It further provides that, on the advice of the Council, the Registrar may declare a body corporate to be an approved housing finance provider and permits the revocation of such declaration.

Clause 17 amends the Principal Act to permit co-operative housing societies, in circumstances approved by the Registrar after consultation with the Council, to lend for the alteration or improvement of the dwelling house of a member or the discharge of a mortgage over land subject to a mortgage from a co-operative housing society to permit the refinancing of the mortgage after a marital separation.

Clause 18 permits the Registrar, with the approval of the Minister to appoint an administrator to a mal-administered co-operative housing society. It sets out the effect on the co-operative housing society of such appointment and the powers and duties of administrators. It sets out the procedure to be followed upon revocation of an appointment and provides for remuneration of an administrator. The clause further limits the liability of the Registrar and administrators during periods of administration.

Clause 19 permits the Minister on the advice of the Council to set the fees that are payable by a member for the valuation of a property submitted by a borrower as security for an application for advance.

Clause 20 clarifies a number of errors that have been detected in the Principal Act.

PART 4—AMENDMENT OF *FRIENDLY SOCIETIES ACT 1986*

Clause 21 provides that for the purposes of Part 4, the Friendly Societies Act is the Principal Act.

Clause 22 inserts a new section, section 66A, into the Principal Act. The new section enables friendly societies to enter into arrangements to protect and enhance their investments with the approval of the Minister.

Clause 23 inserts a new Division, Division 6, into the Principal Act requiring a client of a friendly society to be advised of any pecuniary interest, benefit or other advantage that an adviser has, will or may receive in connection with a recommendation made to a client.

Clause 24 amends the Principal Act by inserting two new sections, sections 99A and 99B. The new sections establish the Friendly Societies Administration Fund and enable the Minister to require friendly societies to pay amounts into the Fund.

Clause 25 makes minor amendments to the Principal Act.