

Treasury Corporation of Victoria (Housing Finance) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states that the purpose of the Act is to transfer certain assets and liabilities of the Home Opportunity Loans Scheme (“the HOLS Scheme”) and to make other provisions in relation to the HOLS Scheme.

Clause 2 provides for the commencement of Part 1 of the Act upon receipt of Royal Assent and for the remaining provisions to come into operation upon proclamation or, failing proclamation, six months after the receipt of Royal Assent.

Clause 3 contains self explanatory definitions of terms used in the Act.

Clause 4 provides that the Act binds the Crown in right of Victoria and as far as legislative capacity permits the Crown in its other capacities.

Clause 5 provides for the Act to operate, as far as possible, with extraterritorial effect.

PART 2—TRANSFER OF PROPERTY

Clause 6

Sub-clause 1 provides for the transfer of the property rights and liabilities of Home Opportunity Loans Limited A.C.N. 006 825 136 (“HOLS”) described in Schedule 1 to the Director of Housing.

Sub-clause 2 provides for the transfer of property, rights and liabilities of Victorian Housing Bonds Limited A.C.N. 006 955 577 (“VHB”) as described in Schedule 2 of the Act to the Director of Housing.

Clause 7 provides for the substitution of the Director of Housing into agreements in place of HOLS and VHB consequential on the transfers of property, rights and liabilities under clause 6.

Clause 8 provides, unless revoked under clause 14, for the continuation of HOLS and VHB instruments with the references to HOLS and VHB being replaced with references to the Director of Housing.

Clause 9 provides for continuity in legal proceedings with the Director of Housing taking the place of HOLS or VHB.

Clause 10 deems interests in land held by HOLS to be interests in land held by the Director of Housing.

Clause 11

Sub-clause 1 requires the Registrar of Titles, upon request, to make amendments to the Register that are necessary because of the operation of the Act.

Sub-clause 2 provides that the Registrar-General must make entries in relation to Crown grants necessary because of the operation of the Act.

Sub-clause 3 provides for the Director to cause a memorial of a certificate from the Director to be delivered to the Registrar-General in respect or any land vesting under the Act and not under the Transfer of Land Act or Crown land.

Clause 12 provides that no taxes are chargeable in respect of anything done or effected by reason of Part 2 of the Act (the transfer of property provisions).

Clause 13 provides for the admissibility of documentary or other evidence, that would have been admissible for or against the interests of HOLS as trustee or VHB, for or against the Director and for the application of Division 3A of Part III of the Evidence Act 1958 (which provides for proof of books of account) to the books of account of HOLS and VHB.

Clause 14 provides that certain instruments relating to the HOLS Scheme are to be revoked but preserves their continuing operation in respect of things done prior to the transfer.

Clause 15 provides for the validity of things done under Part 2 of the Act (which provides for the transfer of property).

PART 3—AMENDMENT OF TREASURY CORPORATION OF VICTORIA ACT 1992

Clause 16 inserts a new Part 3B into the **Treasury Corporation of Victoria Act 1992**. Part 3B provides as follows:

Section 36i contains self explanatory definitions of terms used in Part 3B.

Section 36j provides that Part 3B binds the Crown in right of Victoria and far as legislative power permits the Crown in its other capacities.

Section 36k provides for the statutory novation of financial obligations of VHB.

Sub-section (1) provides that the Governor in Council may declare financial obligations or classes of financial obligations of VHB to be taken to be liabilities of Treasury Corporation of Victoria (“TCV”).

Sub-section (2) provides that upon gazettal of an Order under subsection (1) the rights and obligations of VHB in respect of financial obligations vest in or become obligations of TCV, VHB ceases to have any rights or obligations in respect thereof, that in the case of a financial obligation relating to financial accommodation evidenced by an instrument, the instrument has effect as if it were a security issued by TCV.

Sub-section (3) provides that the Director of Housing must pay to TCV the amounts that would have been payable by VHB if the Order had not been made and that TCV must pay the amounts VHB would have been entitled to receive if the Order had not been made.

Sub-section (4) provides that amounts payable under subsection (3) are recoverable by the Director of Housing or TCV.

Section 36L

Sub-section (1) provides for the guarantee of amounts payable by TCV in respect of declared financial obligations and for the guarantee of amounts payable by the Director of Housing to TCV in respect of such financial obligations.

Sub-section (2) provides for an appropriation from the Consolidated Fund for the payment of such guaranteed sums.

Sub-section (3) provides for sums paid under the guarantee which are recovered by the Treasurer to be paid into the Consolidated Fund.

Sub-section (4) provides for guarantees under subsection (1) to be enforceable under the **Crown Proceedings Act 1958**.

Section 36M provides for the validity of things done under Part 3 of the Act.

Section 36N provides for continuity in legal proceedings with TCV taking the place of VHB in respect of proceedings relating to transferred financial obligations.

Section 36o states that for the purposes of paragraph (f) of the definition of financial accommodation bonds were issued under instruments being the Trust Deeds specified in a table contained in the section.

Clause 17 makes a minor correction to section 26 of the **Treasury Corporation of Victoria Act 1992**.

SCHEDULES

SCHEDULE 1

Property rights and liabilities of HOLS

Schedule 1 identifies the property and liabilities of HOLS to be transferred to the Director of Housing under Clause 6 as all property and rights of HOLS other than money or assets HOLS specifies as received in respect of its share capital and the rights in and all liabilities other than liabilities for breach of trust.

SCHEDULE 2

Property, rights and liabilities of VHB

Schedule 2 describes the property rights and liabilities to be transferred to the Director of Housing under Clause 6 as all property and rights of VHB other than money or assets VHB specifies as received in respect of its share capital and all liabilities of VHB other than its obligations in respect of financial obligations declared under section 36k, and shares in Victorian Housing Bonds (Subsidiary) Pty. Limited.

SCHEDULE 3

Revoked Instruments

Schedule 3 lists instruments from the HOLS Scheme which are to be revoked and to have no further effect from the time of transfer.