



# **Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022**





## Queensland

# Land Tax and Other Legislation (Empty Homes Levy) Amendment Bill 2022

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**2022**

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**A Bill**

for

***An Act to amend the *Land Tax Act 2010* and the *Land Valuation Act 2010* for particular purposes***

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Land Tax and Other Legislation (Empty Homes Levy) Amendment Act 2022*. 4  
5

**Clause 2 Commencement** 6

This Act commences on 1 July 2023. 7

**Part 2 Amendment of Land Tax Act 2010** 8  
9

**Clause 3 Act amended** 10

This part amends the *Land Tax Act 2010*. 11

**Clause 4 Insertion of new pt 2A** 12

After part 2— 13

*insert—* 14

**Part 2A Imposition of empty homes levy** 15  
16

**8AA Meaning of residential land** 17

(1) **Residential land** is land that is capable of being 18  
used, or reasonably capable of being made usable, 19  
for residential purposes. 20

- 
- (2) For subsection (1), whether land is reasonably capable of being made usable for residential purposes is to be determined without regard to the cost of constructing or renovating a residence on the land.
- (3) However, land is not *residential land* if the land is being lawfully used as or for—
- (a) an aged care facility; or
  - (b) commercial residential premises; or
  - (c) a retirement village; or
  - (d) a supported accommodation service.
- (4) In this section—
- aged care facility* see section 51(2).
- commercial residential premises*—
- (a) has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), section 195-1; but
  - (b) does not include premises used and occupied under a short-term letting agreement.
- retirement village* see section 57(2).
- supported accommodation service* see section 51A(2).

### **8AB Residential land that is vacant**

- (1) Residential land is vacant in a financial year if the land has not been used and occupied for a period, whether continuous or aggregate, of more than 6 months in the preceding financial year by 1 or more of the following—
- (a) the owner of the land as the principal place of residence of the owner;

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- (b) the owner's permitted occupant as the principal place of residence of the occupant; 1  
2
- (c) an individual under a residential tenancy agreement or rooming accommodation agreement made in good faith and not only for the purpose of avoiding the payment of the empty homes levy; 3  
4  
5  
6  
7
- (d) an entity carrying out commercial or other activities on the land in good faith and not only for the purpose of avoiding the payment of the empty homes levy. 8  
9  
10  
11
- (2) For the purpose of calculating the period under subsection (1), any period during which the land was being used or occupied by a person under a short-term letting agreement must be disregarded. 12  
13  
14  
15
- (3) In this section— 16  
*permitted occupant*— 17
  - (a) means a person who uses and occupies land with the permission of the owner; but 18  
19
  - (b) does not include a tenant under a residential tenancy agreement, or a resident under a rooming accommodation agreement, under the *Residential Tenancies and Rooming Accommodation Act 2008*. 20  
21  
22  
23  
24

### **8AC Imposition of empty homes levy** 25

- (1) An empty homes levy is imposed each financial year on land that is— 26  
27
  - (a) in Queensland; and 28
  - (b) residential land that is vacant in the financial year. 29  
30
- (2) The empty homes levy is imposed in addition to any other land tax imposed under this Act. 31  
32
- (3) This section applies subject to part 6B. 33

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**8AD When liability for empty homes levy arises** 1

A liability for the empty homes levy for a 2  
financial year arises at midnight on 30 June 3  
immediately preceding the financial year. 4

**8AE Who is liable to pay empty homes levy** 5

A person is liable to pay the empty homes levy 6  
imposed on land for a financial year if the person 7  
is the owner of the land when the liability arises. 8

**8AF Application of particular provisions** 9

Section 29 and part 7 apply in relation to an empty 10  
homes levy imposed under this part— 11

(a) as if a reference in section 29 or part 7 to 12  
land tax includes a reference to the empty 13  
homes levy; and 14

(b) as if a reference in section 59 to taxable land 15  
on which land tax is imposed includes a 16  
reference to land on which the empty homes 17  
levy is imposed; and 18

(c) with any other necessary changes. 19

**Clause 5 Amendment of s 16 (Taxable value)** 20

Section 16— 21

*insert—* 22

(2) Despite subsection (1), for the purposes of 23  
calculating the empty homes levy, the **taxable** 24  
**value** of land for a financial year is the value of 25  
the land under the Land Valuation Act when a 26  
liability for the empty homes levy arises for the 27  
financial year. 28

[s 6]

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<b>Clause 6</b>	<b>Insertion of new pt 5A</b>	1
	After part 5—	2
	<i>insert—</i>	3
	<b>Part 5A</b>	<b>Rate of empty homes</b>
		<b>levy</b>
		5
	<b>34AA Rate of empty homes levy</b>	6
	The rate of the empty homes levy imposed on land	7
	is 5% of the taxable value of the land.	8
<b>Clause 7</b>	<b>Insertion of new pt 6B</b>	9
	After part 6A—	10
	<i>insert—</i>	11
	<b>Part 6B</b>	<b>Exemptions from</b>
		<b>empty homes levy</b>
		13
	<b>58K Land changes ownership</b>	14
	Land is exempt from the empty homes levy for a	15
	financial year if, in the preceding financial year,	16
	the land changed ownership.	17
	<b>58L Land on which residence is being constructed</b>	18
	<b>or renovated</b>	19
	Land is exempt from the empty homes levy for a	20
	financial year if—	21
	(a) in the preceding financial year, a residence	22
	was being constructed or renovated on the	23
	land; and	24
	(b) at the end of the preceding financial year,	25
	the construction or renovation was not	26
	complete; and	27

- 
- (c) the commissioner is satisfied the construction or renovation—
- (i) is not being carried out for the purpose of avoiding the payment of the empty homes levy; and
- (ii) has not been unreasonably delayed or prolonged by the owner of the land.

**58M Land used as wildlife habitat**

- (1) Land is exempt from the empty homes levy for a financial year if, for all of the preceding financial year, the land was unimproved and used as a wildlife habitat.
- (2) Whether land is used as a wildlife habitat is to be determined having regard to—
- (a) the number and density of mature growth trees on the land; and
- (b) the role of the land in providing habitats to vulnerable species; and
- (c) whether the owner of the land is a member of a wildlife land program.
- Example of a wildlife land program—*
- Land for Wildlife South East Queensland

**58N Death of owner of land**

Land is exempt from the empty homes levy for a financial year if, in the preceding financial year, the owner of the land died.

**58O Occupants of land move to particular premises**

- (1) Land is exempt from the empty homes levy for a financial year if, in the preceding financial year—

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- (a) the land was used and occupied by 1 or more persons mentioned in section 8AB(1)(a), (b) or (c) for a total period of no more than 6 months; and 1  
2  
3  
4
- (b) all of the persons who were using and occupying the land in the preceding financial year started residing in an aged care facility, a hospital or accommodation provided as part of a supported accommodation service. 5  
6  
7  
8  
9  
10
- (2) In this section— 11
- aged care facility* see section 51(2). 12
- supported accommodation service* see section 51A(2). 13  
14
- 58P Land prohibited from being used as principal place of residence** 15  
16
- Land is exempt from the empty homes levy for a financial year if— 17  
18
- (a) in the preceding financial year, the land was not lawfully able to be used as a principal place of residence because a court order or an order of a government authority prohibited its use as a principal place of residence; and 19  
20  
21  
22  
23  
24
- (b) the reason for the order cannot be reasonably addressed or overcome by the owner of the land. 25  
26  
27
- 58Q Land used for primary production** 28
- Land is exempt from the empty homes levy for a financial year if, in the preceding financial year, the land was exempt land under section 53. 29  
30  
31

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**58R Further exemption**

Land is exempt from the empty homes levy for a financial year if the commissioner is satisfied that imposing the levy on the land would be unfair and would not further the purposes of the levy.

**Clause 8 Insertion of new s 77A**

After section 77—

*insert—*

**77A Application for land to be exempt from empty homes levy**

(1) This section applies if the owner of land is given an assessment notice under the *Taxation Administration Act 2001*, section 26 in relation to the payment of the empty homes levy for the land for a financial year.

(2) The owner may apply to the commissioner for the land to be exempt from the empty homes levy for the financial year on the basis that—

(a) the land is not residential land or was not vacant in the financial year under section 8AB; or

(b) the land is exempt from the empty homes levy for the financial year under part 6B.

(3) The application must be—

(a) in the approved form; and

(b) accompanied by evidence supporting the application.

*Examples of evidence—*

utility bills and rates bills

(4) Subsection (3)(b) does not apply if—

(a) the application is based on the land being used and occupied in the preceding financial

[s 9]

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	year by an individual under a residential tenancy agreement or rooming accommodation agreement; and	1 2 3
	(b) rental bond has been given to the Residential Tenancies Authority under the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> in relation to the agreement.	4 5 6 7
<b>Clause 9</b>	<b>Amendment of sch 4 (Dictionary)</b>	8
	Schedule 4—	9
	<i>insert—</i>	10
	<b><i>empty homes levy</i></b> means the empty homes levy levied under section 8AC.	11 12
	<b><i>residential land</i></b> , for part 2A and section 77A, see section 8AA.	13 14
	<b><i>residential tenancy agreement</i></b> see the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> , section 12.	15 16 17
	<b><i>rooming accommodation agreement</i></b> see the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> , section 16.	18 19 20
	<b><i>short-term letting agreement</i></b> means an agreement—	21 22
	(a) under which the right to occupy premises is given on a short-term basis, including, for example, for holiday purposes; and	23 24 25
	(b) that is not a residential tenancy agreement to which the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> applies.	26 27 28
	<i>Example of a short-term letting agreement—</i>	29
	an agreement made through Airbnb	30

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<b>Part 3</b>	<b>Amendment of Land Valuation Act 2010</b>	1 2
<b>Clause 10</b>	<b>Act amended</b>	3
	This part amends the <i>Land Valuation Act 2010</i> .	4
<b>Clause 11</b>	<b>Amendment of s 6 (Statutory purposes of valuations)</b>	5
	(1) Section 6(1)—	6
	<i>insert—</i>	7
	(ab) any liability under the Land Tax Act for the empty homes levy relating to the land; and	8 9
	<i>Note—</i>	10
	See the Land Tax Act, section 16(2).	11
	(2) Section 6—	12
	<i>insert—</i>	13
	(2A) A valuation for the purpose mentioned in subsection (1)(ab) is an <i>empty homes levy valuation</i> .	14 15 16
<b>Clause 12</b>	<b>Amendment of s 7 (What is the <i>value</i> of land)</b>	17
	Section 7—	18
	<i>insert—</i>	19
	(2) However, for the purposes of an empty homes levy valuation, the <i>value</i> of land is its capital improved value as affected by any other relevant provision of this chapter.	20 21 22 23
<b>Clause 13</b>	<b>Amendment of ch 2, pt 2, div 3, hdg (Site value and unimproved value)</b>	24 25
	Chapter 2, part 2, division 3, heading, ‘and unimproved value’—	26 27

[s 14]

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*omit, insert—* 1  
    , **unimproved value and capital improved** 2  
    **value** 3

**Clause 14 Amendment of s 15 (What div 3 is about)** 4

Section 15, ‘and the *unimproved value* of land’— 5

*omit, insert—* 6

    , the *unimproved value* and the *capital improved* 7  
    *value* of land 8

**Clause 15 Insertion of new ch 2, pt 2, div 3, sdiv 6** 9

Chapter 2, part 2, division 3— 10

*insert—* 11

**Subdivision 6 Capital improved value of** 12  
**land** 13

**29A What is the capital improved value of land** 14

The capital improved value of land is its expected 15  
realisation under a bona fide sale. 16

**Clause 16 Amendment of schedule (Dictionary)** 17

(1) Schedule— 18

*insert—* 19

*capital improved value*, for land, means its capital 20  
improved value under chapter 2, part 2, division 3. 21

*empty homes levy* see the Land Tax Act, schedule 22  
4. 23

*empty homes levy valuation* see section 6(2A). 24

(2) Schedule, definition *owner*, item 5— 25

*insert—*

- |   |   |
|---|---|
|   | 1 |
| (d) for an empty homes levy valuation—the | 2 |
| person who, under the Land Tax Act, must  | 3 |
| pay the empty homes levy for the land.    | 4 |