



HOME PURCHASE LOANS GUARANTEES

No. 20 of 1977

ANALYSIS

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AN ACT to provide for the giving of guarantees in respect of certain loans made to finance the provision of homes, and to amend the Homes Act 1935.

[28 April 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as the *Home Purchase Loans Guarantees* Short title Act 1977.

Interpretation.

2 In this Act, unless the contrary intention appears—

- “ bank ” includes any person carrying on business as a trading bank or savings bank and includes the Board;
- “ Board ” means The Board of Management of the Agricultural Bank of Tasmania;
- “ borrower ”, in relation to a loan or a guarantee given in respect of a loan, means the person liable to repay the loan or any part thereof;
- “ building society ” means a society incorporated under the *Building Societies Act 1876* or the *Co-operative Housing Societies Act 1963*;
- “ home purchase loan ” has the meaning assigned to that expression by section 3;
- “ lender ”, in relation to a loan or a guarantee given in respect of a loan, means any person having the right to receive payment of the loan or any part thereof;
- “ long term interest ”, in relation to land, means an estate in fee simple or an interest of a lessee under a lease that could reasonably be expected to give him reasonable security in his occupation of the land for the remainder of his life;
- “ manager of the Agricultural Bank ” means the manager of the Agricultural Bank of Tasmania;
- “ registered valuer ” means a registered valuer within the meaning of the *Valuers Registration Act 1974*.

Home purchase loans.

3—(1) For the purposes of this Act a home purchase loan is a loan made by a bank or building society that is secured by a first legal mortgage on a long term interest in land and is made for the purpose of enabling the person to whom it is made to establish his residence on that land.

(2) A loan shall be deemed to have been made for the purposes of the establishment of a residence on any land if it is made for all or any of the following purposes, namely:—

- (a) The acquisition of the land on which the dwelling in which the residence is to be established is, or is to be, erected;
- (b) The erection or construction of the dwelling;
- (c) The provision of any services required for the use of the dwelling;

(d) The meeting of the expenses in respect of the provision or improvement of roads, kerbing, guttering, or footpaths in connection with the land.

(3) For the purposes of this section a dwelling means any building intended for use as a single dwelling, together with its curtilage and its outbuildings, fences, and other appurtenances; and references in this section to a building shall be construed as including references to any part of a building, to any building attached to or conjoined with another building, and to a flat or home unit.

4—(1) Subject to this Act the Treasurer may guarantee the repayment of the whole or any part of a loan if he is satisfied that the loan is a home purchase loan made for the establishment of a residence that is, or will be, the first to be established (whether in this State or elsewhere) by the person to whom the loan is made on land in which he holds a long term interest. Guarantees in respect of home purchase loans.

(2) The power of the Treasurer under this section includes power to guarantee, as well as the repayment of the principal moneys, the payment of any interest or other charges payable in respect of those moneys by the person liable to repay them.

(3) A guarantee may only be given under this Act for the repayment of a loan, or any part thereof, if the contract under which the loan is repayable provides for the repayment of the loan by periodic instalments.

(4) The Treasurer shall not guarantee the repayment of any principal moneys under this Act unless, upon the report of a registered valuer, he is satisfied that the amount of those principal moneys does not exceed the value of the property that is security for their repayment.

(5) Before a guarantee is given by the Treasurer under this Act the borrower shall give to the Treasurer such security (if any) as the Treasurer may require and shall execute all such instruments as may be necessary for the purpose.

(6) A guarantee given by the Treasurer under this Act shall contain such provision as the Treasurer considers necessary to ensure that he is not required to make any payment under the guarantee in respect of the default of the borrower to pay any sum until the lender has taken all steps reasonably open to him to recover the sum.

Applications
for guarantees.

5—(1) An application for the giving of a guarantee under this Act shall be made to the manager of the Agricultural Bank.

(2) The Board shall consider all applications made under this section and, upon receiving from the person making the application such further information (if any) as it may require, it shall submit the application to the Treasurer with its recommendations thereon.

(3) The Treasurer shall not give a guarantee under this Act except on an application submitted to him under subsection (2) and after considering the recommendations of the Board submitted therewith.

Payments by
Treasurer under
guarantees.

6—(1) Where the Treasurer becomes liable to make a payment in consequence of the giving of a guarantee under this Act he shall without any authority other than this section make that payment out of the Consolidated Revenue (which to the necessary extent is appropriated accordingly).

(2) Where in pursuance of a guarantee given under this Act in respect of a loan the Treasurer is required to make a payment under subsection (1) the borrower shall, on demand being made on him by the Treasurer, pay to the Treasurer a sum of an equivalent amount, together with interest thereon at the same rate of interest as the rate payable by the borrower under the terms of the loan.

(3) All moneys received by the Treasurer under subsection (2) shall be paid into the Consolidated Revenue.

Powers of banks
and building
societies as
trustees.

7 Where any bank or building society has, under any enactment, power, however expressed, to invest money in the like manner in which trust funds are authorized to be invested, that power shall be deemed to include power to invest those moneys in a loan a guarantee for the repayment of which has been given under this Act.

Amendment of
Homes Act
1935.

8 Section 19 of the *Homes Act* 1935 (which imposes a limit on the amount of the advance that may be made by the Board for the provision of a home) is amended by inserting in subsection (2), after the word "but", the words " , except where the repayment of the advance is guaranteed under the *Home Purchase Loans Guarantees Act* 1977,".