

TASMANIA

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**HELP TO BUY (COMMONWEALTH POWERS)  
BILL 2026**

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**HELP TO BUY (COMMONWEALTH POWERS)  
BILL 2026**

*(Brought in by the Minister for Small Business, Trade and  
Consumer Affairs, the Honourable Guy Barnett)*

**A BILL FOR**

**An Act to adopt specified provisions of the *Help to Buy Act 2024* of the Commonwealth for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth, to refer the legislative power of the State in the form of an amendment reference to the Parliament of the Commonwealth to make amendments to the *Help to Buy Act 2024* of the Commonwealth for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth and to consequentially amend other Acts**

Be it enacted by Her 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. Short title**

This Act may be cited as the *Help to Buy (Commonwealth Powers) Act 2026*.

**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

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**3. Interpretation**

(1) In this Act –

***adoption*** means the adoption under section 4(1)(a) or (b);

***amendment matters*** means –

- (a) matters relating to the provision of Commonwealth financial assistance for the purpose of assisting individuals to buy a home, where the financial assistance is provided under a Help to Buy arrangement that –
  - (i) relates to residential property located in a State; and
  - (ii) is entered into while the State is a participating State; and
- (b) without limiting paragraph (a), matters relating to –
  - (i) entering into Help to Buy arrangements that satisfy the conditions mentioned in that paragraph; and
  - (ii) administering Help to Buy arrangements of that kind; and

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- (iii) monitoring compliance with Help to Buy arrangements of that kind; and
- (iv) doing anything incidental or conducive to anything mentioned in this paragraph;

***amendment reference*** means the reference of matters under section 6(1);

***Commonwealth Help to Buy Act*** means the *Help to Buy Act 2024* of the Commonwealth;

***express amendment***, of the Commonwealth Help to Buy Act, means the direct amendment of the text of that Act (whether by insertion, omission, repeal, substitution or relocation) by another Commonwealth Act, or by an instrument under a Commonwealth Act, but does not include the enactment of a Commonwealth Act that has, or will have, a substantive effect other than as part of the text of the Commonwealth Help to Buy Act;

***Help to Buy arrangement*** has the same meaning as in the Commonwealth Help to Buy Act;

***Housing Australia*** has the same meaning as in the *Housing Australia Act 2018* of the Commonwealth;

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***primary version*** means the version of the Commonwealth Help to Buy Act, as originally enacted and as amended from time to time before the commencement of section 4, other than –

- (a) Divisions 2 and 3 of Part 2 of that Act; and
- (b) sections 24(1)(a)(ii), 25(3)(b) and (c) and 38 of that Act;

***residential property*** has the same meaning as in the Commonwealth Help to Buy Act;

***residual version*** means the version of the Commonwealth Help to Buy Act, as originally enacted and as amended from time to time before the commencement of section 4, other than –

- (a) Divisions 1 and 3 of Part 2 of that Act; and
- (b) sections 24(1)(a)(i), 25(3)(a) and (c) and 38 of that Act.

- (2) Words and expressions used in this Act that are defined in the Commonwealth Help to Buy Act have, unless the contrary intention appears, the same meaning in this Act as they have in the Commonwealth Help to Buy Act.

**4. Adoption of versions of Commonwealth Help to Buy Act**

- (1) The following versions of the Commonwealth Help to Buy Act are adopted within the meaning of section 51(xxxvii) of the Constitution of the Commonwealth:
  - (a) the primary version;
  - (b) the residual version.
- (2) The operation of each paragraph of subsection (1) is not affected by the other paragraph.
- (3) The adoption of a version of the Commonwealth Help to Buy Act has effect for a period –
  - (a) beginning when subsection (1) comes into operation; and
  - (b) ending at the end of the day fixed under section 7(1)(a) or (b) for that version.

**5. Commonwealth laws not otherwise affected**

To avoid doubt, it is the intention of the Parliament of the State that the Commonwealth Help to Buy Act may be expressly amended, or have its operation otherwise affected, at any time after the commencement of section 4 –

- (a) by a provision of a Commonwealth Act the operation of which is based on legislative power that the Parliament of

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the Commonwealth has apart from under the amendment reference; and

- (b) by a provision of an instrument made under the Commonwealth Help to Buy Act or under a provision referred to in paragraph (a).

**6. Amendment reference**

- (1) The amendment matters are referred to the Parliament of the Commonwealth, but only to the extent of making laws with respect to those matters by making express amendments to the Commonwealth Help to Buy Act.
- (2) The reference in subsection (1) to making laws does not include making a law that would have the effect of –
  - (a) giving Housing Australia, after a State stops being a participating State, the function of entering into, or the power to enter into, shared equity arrangements that relate to residential property located in the State; or
  - (b) substantively removing or overriding –
    - (i) a provision of the Commonwealth Help to Buy Act that requires approval of the State before certain things are done; or
    - (ii) section 41, 41A or 42 of the Commonwealth Help to Buy Act.

- (3) The reference of a matter under subsection (1) has effect only –
  - (a) if and to the extent that the matter is not included in the legislative powers of the Parliament of the Commonwealth, otherwise than by a reference for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth; and
  - (b) if and to the extent that the matter is included in the legislative power of the Parliament of the State.
- (4) The amendment reference has effect for a period –
  - (a) beginning when subsection (1) comes into operation; and
  - (b) ending at the end of the day fixed under section 7(1)(c).

## **7. Termination of adoption and amendment reference**

- (1) The Governor may, at any time, by proclamation published in the *Gazette*, fix a day as the day on which –
  - (a) the adoption of any or all of the primary version is to terminate; or
  - (b) the adoption of any or all of the residual version is to terminate; or
  - (c) the amendment reference is to terminate.

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- (2) The Governor, by proclamation published in the *Gazette*, may revoke a proclamation published under subsection (1), in which case the revoked proclamation is taken, for the purposes of section 4 or 6, never to have been made and published.
- (3) A revoking proclamation made under subsection (2) has effect only if made and published before the day fixed under subsection (1) in the proclamation being so revoked.
- (4) The revocation of a proclamation published under subsection (1) does not prevent the making and publication of a further proclamation under that subsection.

**8. Effect of termination of amendment reference before termination of adoption of primary version or residual version**

- (1) If the amendment reference terminates before the adoption of the primary version is terminated, the termination of the amendment reference does not affect –
  - (a) laws that were made under that reference before that termination, whether or not they have come into operation before that termination; or
  - (b) the continued operation in the State of the Commonwealth Help to Buy Act as in operation immediately before that termination or as subsequently amended or affected by –

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- (i) laws referred to in paragraph (a) that come into operation after that termination; or
  - (ii) provisions referred to in section 5.
- (2) Accordingly, if the amendment reference terminates, it continues to have effect for the purposes of subsection (1) unless the adoption of the primary version is also terminated.
- (3) If the amendment reference terminates before the adoption of the residual version is terminated, the termination of the amendment reference does not affect –
  - (a) laws that were made under that reference before that termination, whether or not they have come into operation before that termination; or
  - (b) the continued operation in the State of the Commonwealth Help to Buy Act as in operation immediately before that termination or as subsequently amended or affected by –
    - (i) laws referred to in paragraph (a) that come into operation after that termination; or
    - (ii) provisions referred to in section 5.
- (4) Accordingly, if the amendment reference terminates, it continues to have effect for the

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purposes of subsection (3) unless the adoption of the residual version is also terminated.

**9. Declaring certain matters to be excluded matters**

- (1) The following matters are declared to be excluded matters for the purposes of section 41A of the Commonwealth Help to Buy Act in relation to the Help to Buy program:
  - (a) the pre-completion duty concession under Division 2C of Part 5 of Chapter 2 of the *Duties Act 2001*;
  - (b) the first home buyer duty exemption under Division 2 of Part 6 of Chapter 2 of the *Duties Act 2001*;
  - (c) the first home owner grant scheme under the *First Home Owner Grant Act 2000*;
  - (d) a scheme, program or arrangement, whether temporary or otherwise, relating to the purchase of land that –
    - (i) provides financial assistance to individuals towards the purchase of residential property; and
    - (ii) is operated by, or on behalf of, the State or Homes Tasmania, within the meaning of the *Homes Tasmania Act 2022*;
  - (e) any other matter prescribed as an excluded matter;

- (f) the administration and governance, including by the exercise of compliance functions, of the concessions, exemptions, schemes, programs, arrangements or other matters referred to in this subsection.
- (2) The declaration of a matter to be an excluded matter under subsection (1) for the purposes of section 41A of the Commonwealth Help to Buy Act applies only to the extent to which the excluded matter would, but for this section, be inconsistent with the Commonwealth Help to Buy Act in relation to the Help to Buy program.

**10. State's objection to matters**

- (1) In this section –

*Commonwealth Minister* means the Minister referred to in section 46 of the Commonwealth Help to Buy Act.

- (2) For the purposes of section 46(1) of the Commonwealth Help to Buy Act, the Minister on behalf of the State, by notice given to the Commonwealth Minister during either the minimum consultation period or the extended consultation period, may object to a matter for the purposes of the Commonwealth Help to Buy Act.
- (3) After giving notice to the Commonwealth Minister under subsection (2), the Minister is to ensure the notice is published in the *Gazette* as soon as is practicable.

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- (4) A notice under subsection (2) is to be taken as constituting the State's objection to a matter for the purposes of the Commonwealth Help to Buy Act.
- (5) The Minister on behalf of the State, by notice given to the Commonwealth Minister, may withdraw an objection to a matter under subsection (2).
- (6) After giving notice to the Commonwealth Minister under subsection (5), the Minister is to ensure the notice is published in the *Gazette* as soon as is practicable.
- (7) A notice under subsection (5) is to be taken as constituting the State's withdrawal of an objection to a matter for the purposes of the Commonwealth Help to Buy Act.
- (8) For the purposes of section 46(4) of the Commonwealth Help to Buy Act, the Minister on behalf of the State, by notice given to the Commonwealth Minister during the minimum consultation period, may require an additional 15 business days to consider a matter for the purposes of the Commonwealth Help to Buy Act.
- (9) After giving notice to the Commonwealth Minister under subsection (8) –
  - (a) the Minister is to ensure the notice is published in the *Gazette* as soon as is practicable; and

- (b) the extended consultation period applies for the purposes of giving notice to the Commonwealth Minister under subsection (2).
- (10) The validity of a notice given to the Commonwealth Minister under this section is not affected by a failure to publish the notice in the *Gazette*.

## **11. Regulations**

- (1) The Governor may make regulations for or in respect of a matter –
  - (a) required or permitted under this Act to be prescribed; or
  - (b) that is necessary or convenient to be prescribed to give effect to this Act.
- (2) The regulations may authorise any matter to be from time to time determined, approved, applied or regulated by the Minister or another person specified in the regulations.
- (3) The regulations may –
  - (a) provide for savings or transitional matters necessary or expedient for bringing this Act into operation; and
  - (b) provide for any of those savings or transitional matters to take effect when this Act commences or on a later day specified in the regulations, whether the

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day so specified is before, on or after the  
day on which the regulations are made.

**12. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Housing and Planning; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of State Growth.

**13. Consequential amendments**

The legislation specified in Schedule 1 is amended as specified in that Schedule.

**SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS**

Section 13

***Duties Act 2001***

1. Section 3 is amended as follows:

- (a) by inserting the following definition after the definition of *GST*:

***Help to Buy arrangement*** has the same meaning as in the *Help to Buy Act 2024* of the Commonwealth;

- (b) by inserting the following definition after the definition of *home*:

***Housing Australia*** has the same meaning as in the *Housing Australia Act 2018* of the Commonwealth;

2. After section 31, the following section is inserted in Part 4:

**32. Purchasers of dutiable property under Help to Buy arrangement**

For the purposes of assessing the duty chargeable under this Chapter, including the application of any exemptions or concessions, on a transfer of land to a person who purchases the land under a Help to Buy arrangement, no account is

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to be taken of any interest the Commonwealth or Housing Australia has in the land.

3. After section 53, the following section is inserted in Division 1:

**53A. Exemptions – Help to Buy arrangements**

Duty is not chargeable under this Chapter on a change in any interest in land purchased under a Help to Buy arrangement resulting from an owner of the land paying money to the Commonwealth or Housing Australia under the arrangement.

***First Home Owner Grant Act 2000***

1. Section 3(1) is amended as follows:

- (a) by inserting the following definition after the definition of *guardian*:

***Help to Buy arrangement*** has the same meaning as in the *Help to Buy Act 2024* of the Commonwealth;

- (b) by inserting the following definition after the definition of *home*:

***Housing Australia*** has the same meaning as in the *Housing Australia Act 2018* of the Commonwealth;

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**2.** Section 5 is amended as follows:

(a) by omitting from subsection (2) “subsection (3)” and substituting “subsection (2A) and (3)”;

(b) by inserting the following subsection after subsection (2):

(2A) Any interest in land held by, or to be held by, the Commonwealth, or Housing Australia, as a result of a Help to Buy arrangement is not a relevant interest in land.

**3.** Section 40(4) is amended by inserting after paragraph (b) the following paragraph:

(ba) to the Commonwealth, or Housing Australia, to assist in determining whether a person is ineligible to enter into a Help to Buy arrangement because the person is receiving assistance under a State or Territory home buyer scheme, within the meaning of the *Help to Buy Act 2024* of the Commonwealth; or

***First Home Owner Grant Regulations 2021***

**1.** After regulation 5, the following regulation is inserted:

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**5A. Exclusion of Commonwealth from application of section 15 of Act**

The Commonwealth and Housing Australia are excluded from the application of section 15 of the Act in respect of any interest in land held by the Commonwealth, or Housing Australia, as a result of a Help to Buy arrangement.

***Land Tax Act 2000***

1. After section 11, the following section is inserted in Division 1:

**11A. Owners of land under Help to Buy arrangement**

- (1) In this section –

***Help to Buy arrangement*** has the same meaning as in the *Help to Buy Act 2024* of the Commonwealth;

***Housing Australia*** has the same meaning as in the *Housing Australia Act 2018* of the Commonwealth.

- (2) For the purposes of assessing land tax payable in respect of land purchased under a Help to Buy arrangement, including the application of any exemptions or concessions under this Act in respect of the land, no account is to be

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taken of any interest that the Commonwealth or Housing Australia has in the land as a result of the arrangement.