

Bills Committee on Stamp Duty (Amendment) Bill 2002
Administration's response to Summary of concerns/comments raised in submissions

Issues	Organization	Views	Administration's Response
Proposed Electronic Stamping System	Estate Agents Authority (EAA) Property Agencies Association (PAA) The Real Estate Developers Association of Hong Kong (REDA) Hong Kong Chamber of Professional Property Consultants Limited (HKCPPC) The Law Society of Hong Kong Taxation Institute of Hong Kong	➤ All six organizations support the proposed alternative stamping system because: (a) the burden of processing bulky original documents will be reduced, resulting in speedier and more convenient service to the public without extra costs to the users; (b) the new system may reduce the administrative costs of estate agents.	➤ Noted.
		➤ EAA points out that the proposed electronic stamping system has to be user-friendly in order that the various stamping procedures can be carried out effectively and smoothly.	➤ User friendliness is one of the design objectives of the Property Stamping System (PSS).

		<p>➤ EAA suggests that due consideration should be given to issues such as security safeguards as well as transaction costs payable by users.</p>	<p>➤ We will adopt on-line payment modes that are well established and highly secured, including internet PPS and Jetco, which are already used in connection with the Electronic Service Delivery (ESD) Scheme.</p> <p>➤ EAA's proposal related to transaction costs payable by users noted.</p>
		<p>➤ PAA believes that the problem of false information provided by users will not become prevalent even though users are allowed to submit this information on their own because this is an unlawful act involving criminal liability.</p>	<p>➤ Stamping an instrument protects the interest of its holder. It is therefore in the holder's interest to ensure the accuracy of information provided in the application forms. Besides, under sections 59 and 60 of the Stamp Duty Ordinance, any person who practices or is concerned in any fraudulent act, contrivance or device with intent to defraud the Government of any stamp duty commits an offence and shall be liable to a fine at level 6 [\$100,000] and to imprisonment for 1 year. This should have adequate deterrent effect.</p>
		<p>➤ PAA suggests to include self-computation features in the proposed electronic stamping system to assist users in the complicated computation of stamp duty.</p>	<p>➤ The PSS will provide a function to calculate the stamp duty automatically.</p>

		➤ HKCPPC agrees to consult its members on the new system after it is introduced.	➤ Noted.
Persons interested in Certificate of Stamping	The Real Estate Developers Association of Hong Kong (REDA)	➤ REDA considers that the Land Registry and a vendor would be interested in ensuring that an instrument has been duly stamped or endorsed.	➤ Noted.
Power of the Collector of Stamp Revenue (the Collector)	Property Agencies Association (PAA)	➤ PAA asks whether the Collector should still have the power to request an applicant to present the original document after the stamp certificate has been issued and whether there is a definitive period in which this power may be exercised by the Collector.	➤ Under the new system, it is no longer necessary to present the original instrument to the Collector for stamping. To allow the Collector to check possible under-consideration for revenue protection purpose, it is proposed that the Collector may request the presentation of the instrument for inspection at any time after an application for stamping is made, both before or after the issuance of the stamp certificate. This power will not impose any new obligation on the public to keep the instrument. The legal obligations to keep records for a prescribed period will continue to be set out in various ordinances, e.g. to keep rental records for at least 7 years under section 51D of the Inland Revenue Ordinance (Cap.112). It is therefore not necessary to set a time limit on the inspection of instrument.

Registration of instrument	The Real Estate Developers Association of Hong Kong (REDA)	<ul style="list-style-type: none"> ➤ REDA considers it unnecessary to stamp or endorse an instrument before it is submitted for registration in the Land Registry and that information on stamped or endorsed instruments should be provided on-line for verification of whether an instrument has been stamped or not. ➤ REDA suggests that a party should be allowed to submit an instrument for registration under the following circumstances: <ul style="list-style-type: none"> (i) when an instrument has been submitted for registration within one month of execution, if stamp duty is paid or the instrument is submitted for endorsement before the expiration of the 30-day stamping period; or (ii) when an instrument has been submitted for registration after the one-month period, if stamp duty is paid or the instrument is submitted for endorsement and penalty is paid not later than the date when the instrument is submitted for registration 	<ul style="list-style-type: none"> ➤ For the purpose of stamp duty revenue protection, it is necessary to require that a chargeable instrument be stamped (and the relevant stamp duty paid) before it is accepted for registration. This will continue to be required under the new system. ➤ Arrangements related to priority of registration are provided for in the Land Registration Ordinance. As advised by the Land Registry, there is no intention to amend the relevant provisions in the Land Registration Ordinance. In any case, the new system will already greatly assist users by shortening the time taken for stamping, thus leaving users with more time to prepare for registration.
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Payment of stamp duty and proof of title	The Real Estate Developers Association of Hong Kong (REDA)	<p>➤ REDA suggests that to enable a vendor to show payment of stamp duty and good title, the computer records of the Land Registry should indicate whether an instrument has been submitted or endorsed, together with a Stamp Office reference. Such information should be available for public search.</p>	<p>➤ Stamp duty particulars of an instrument are not recorded in the Land Registration System. As advised by the Land Registry, the proposal is not feasible.</p> <p>➤ Under the new system, enquiries on stamp certificates can be made with IRD direct. Besides, in case a stamp certificate is lost, the user can apply for a certified copy. IRD will continue to work closely with the Land Registry in developing the system and will explore opportunities to streamline procedures.</p>
		<p>➤ REDA suggests that when electronic stamping certificates are not yet made available during phase 1 of the proposal, upon enquiries by the public, information should be provided to confirm whether a certificate has been issued for the relevant requirement. This service may be provided free of charge or subject to a small payment</p>	<p>➤ It was originally planned that the new system be implemented in two phases, with the introduction of paper copy stamp certificates in the first phase and electronic ones in the second. However, we have revised the plan and will implement the system in one go, i.e. introducing both phases together in mid 2004. The PSS will provide online service for checking stamp certificates when the system is implemented.</p>