

## Stamp Duty (Amendment) (Residential Properties) Bill 2023

## Debate and voting arrangements

**Object of the Bill :** To amend the Stamp Duty Ordinance (Cap. 117) (“SDO”) to:

- (a) shorten the period ensuing the acquisition of residential properties and during which certain transactions of the properties are chargeable with special stamp duty from 36 months to 24 months;
- (b) lower the flat rate of ad valorem stamp duty (“AVD”) payable on certain instruments dealing with residential properties (i.e. New Residential Stamp Duty (“NRSD”)), and the rate of buyer’s stamp duty (“BSD”) payable on certain such instruments, from 15% to 7.5%;
- (c) provide for a mechanism under which persons who are admitted into Hong Kong as Hong Kong residents under certain admission schemes and who acquire residential properties not as Hong Kong permanent residents (“HKPRs”) may have certain amounts of AVD and BSD (“specified amount”)<sup>1</sup> waived if those persons subsequently become HKPRs (“the Proposed Suspension Mechanism”); and
- (d) make related amendments.

**Joint debate : Clauses with no amendment, and clauses with amendments by the Secretary for Housing (“S for Housing”) — Clauses 1 to 16**

Joint debate on the original clauses and the amendments.

**S for Housing’s amendments**

**Amendments to the Proposed Suspension Mechanism**

**Clause 12**

*Definition of “specified charge”*

- To amend the definition of “specified charge” in the proposed new section 29DM(1) of SDO to the effect that a specified charge would also **include an equitable charge that would be taken as a legal charge under the proposed new section 29DP(7) of SDO** for the sake of clarity and certainty.

*Meaning of “reserved amount”*

- To amend the proposed new section 29DR(2)(a) of SDO to provide that the first limb of the “reserved amount” means **the amount of the outstanding principal, interest and costs in respect of the loan for acquiring the subject property under the first acquisition mortgage**, so as to more clearly reflect the policy intent.

<sup>1</sup> Under the proposed new section 29DM(1) of SDO (clause 12 of the Bill), “specified amount” would mean the sum of the following amounts: (a) an amount equal to the difference between the amount of NRSD that would have been payable and the amount of AVD that would have been payable at the applicable rate under Scale 2 of head 1(1) or (1A) in the First Schedule to SDO; and (b) the amount of BSD that would have been payable.

*Deadline for waiver for co-buyers who jointly acquired the subject property*

- For dealing with the situation where an eligible co-buyer talent ceases to be a beneficial owner of the subject property, and as a result, the original deadline for waiver for the co-buyers would have been advanced to a day that is earlier than the day of the cessation (“cessation day”), to amend the proposed new section 29DS(2) of SDO to **extend the deadline for waiver to the last day of the period of 30 days after the cessation day**, in order to allow reasonable time for the eligible remaining co-buyer talent(s) to apply to the Collector of Stamp Revenue (“the Collector”) for waiver of the stamp duty liability.

*Arrangements regarding the discharge of the specified charges*

- To delete the proposed new section 29DW(4) and add the proposed new section 29DW(2A) to SDO, to **expand the definition of “eligible person”<sup>2</sup>** to provide flexibility, such that if a person can show to the satisfaction of the Collector that he/she has **sufficient interest**, he/she may apply to the Collector for the issue of a certificate of discharge after the liability to stamp duty in respect of the specified amount has been discharged (e.g. by payment of the specified amount).
- To amend the proposed new section 29DW(2)(b) of SDO to the effect that the “eligible persons” concerned **do not have to wait until the liability to stamp duty has ceased to be suspended** before they can pay the specified amount and apply to the Collector for the issue of a certificate of discharge.

Consequential and drafting amendments

**Clauses 4, 12, 14 and 16**

- To amend the respective Notes 7 to head 1(1) and head 1(1A) in the First Schedule to SDO to the effect that the relevant paragraphs (C) in Part 1 of Scale 1 of these subheads would be subject to the proposed new section 29DV of SDO.
- To amend section 1 of the proposed new Schedule 13 to SDO to replace “original charge” with “specified charge”, so as to make it plainer that the money paid for the insurance constitutes a charge on the subject property in addition to the specified charge.
- To replace the reference to “Subdivision 3 of Division 6A of Part IIIA of SDO” or “this Subdivision” in the proposed new sections 4(5C), 29DQ(3) and 29DV(1) of SDO with a reference to the proposed new section 29DN(5)(a) or 29DO(8)(a) of SDO to enhance clarity of the provisions.

**Voting order** : 1. Clauses with no amendment (i.e. clauses 1 to 3, 5 to 11, 13 and 15) standing part of the Bill  
2. S for Housing’s amendments (to amend clauses 4, 12, 14 and 16)  
3. Clauses 4, 12, 14 and 16 with or without amendments standing part of the Bill

**S for Housing’s amendments**

(set out in LC Paper No. CB(3)77/2024(01) issued on 23 January 2024)

Council Business Division 3

Legislative Council Secretariat

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<sup>2</sup> Under the proposed new section 29DW(4) of SDO (clause 12 of the Bill), an “eligible person” would mean “(a) the buyer or any one of the remaining co-buyers (whichever is applicable); or (b) a vendor or transferor from whom the buyer or co-buyers acquired the subject property under the instrument.”