



Contact Name David Ogilvie  
Telephone (03) 9628 0552  
Facsimile: (03) 9628 0576  
Our reference Duties Act Chapter 7  
E-mail david.ogilvie@sro.vic.gov.au

7 September 2001

Brian Salter  
Chairman  
Australian Securitisation Forum  
PO Box H68 Australia Square  
Sydney NSW 1215

Dear Mr Salter

**Duties Act 2000 and securitisation**

I refer to the submissions made in your letter of 13 July 2001 regarding the mortgage provisions of the Duties Act 2000.

The provisions contained in sections 251A and 251B together with the definition of "mortgage-backed security" were reinacted from the Stamps Act and intended to continue the policy of relief in this area. As you have pointed out the practice in the securitisation area has altered and some provisions of the legislation no longer technically provide the full exemption intended.

The Victorian Government has agreed to continue to provide the intended relief while consideration is given to the issues raised in your letter of the 2 February in relation to asset backed securities. It is intended that amending legislation will operate from the date of introduction of the Duties Act to ensure that there is no prejudicial affect on the industry.

The Government has indicated that it may not introduce such legislation until the next session of Parliament in Autumn 2001. In the interim the State Revenue Office (SRO) will administer the legislation to ensure the policy intent is maintained.

In the regard the following will apply:

- (1) – The references to "instrument" or "document" will not prejudice the operation of the mortgaged backed security exemption where no debt instrument is issued;
  - (2) – The term "corporation" in paragraph (b)(ii) of the definition of mortgage backed security will be treated as including a corporate trustee;
  - (3) – The term "land" in section 152(3) will be treated as excluding security interests;
- and
- (4) – The term "duly stamped" in section 152(3) will be treated as including exempt stamping.

2

In the event that an action for recovery results in a successful challenge to the eligibility of a mortgage securing a securitised loan to exempt status, although intended to be exempt under the current provisions, the SRO would support an application for an ex gratia refund of any duty paid.

If you have any further queries please do not hesitate to contact me.

Yours faithfully



David Ogilvie  
Policy & Legislation