

FINANCIAL EMERGENCY (STATE LEGISLATION).

No. 11 of 1932.

An Act for the peace, order and good government of the Commonwealth with respect to Taxation, Insurance, Banking, Foreign Corporations and Trading or Financial Corporations formed within the limits of the Commonwealth, and other matters.

[Assented to 13th May, 1932.]

Preamble.

WHEREAS in view of the grave financial and economic emergency existing in Australia, it is necessary to protect the revenues and credit, and the financial and economic stability of the Commonwealth by temporary measures of an exceptional character :

BE it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title.

1. This Act may be cited as the *Financial Emergency (State Legislation) Act 1932*.

Definition.

2. In this Act, unless the contrary intention appears—

“Mortgage” includes—

- (a) any deed, memorandum of mortgage, agreement, or instrument whatever whereby security for payment of money is granted over, or
- (b) any equitable mortgage by deposit of title deeds or other instruments or papers of, or
- (c) any charge for the securing of money (howsoever created) upon,

real or personal property or interest therein or any mortgage of or charge upon real or personal property or any estate or interest therein, whether real or personal property or estate or interest therein or such mortgage or charge forms the whole or part of the security.

State
taxation on
mortgages.

3.—(1.) Notwithstanding anything in any law of a State or anything done under any such law—

- (a) a mortgage shall not be charged with any tax or impost ; and

(b) a person shall not be liable to pay any tax or impost on any mortgage, based on or measured by the principal amount secured by any mortgage, if the tax or impost is to a greater extent than the extent to which the mortgage or person would have been charged or liable under the laws of the State in force on the thirtieth day of April, One thousand nine hundred and thirty-two.

(2.) A forfeiture, alienation of interest under a mortgage, or other penalty or sanction imposed by or under any law of a State for non-payment or late payment of any such tax or impost shall not be valid or of any legal effect.

4. Notwithstanding anything in any law of a State, or anything done under any such law, a person shall not be liable to pay—

Capital levy
under State
law.

(a) any tax or impost in the nature of a capital levy on the whole or any part of his property ; or

(b) any tax or impost based on or measured by the amount of his interest in the capital value of any property,

to an extent greater than the extent to which he was or would have been liable under the laws in force in that State on the thirtieth day of April, One thousand nine hundred and thirty-two, unless and until the Commissioner of Taxation for the Commonwealth, or some officer thereto authorized by him, has certified in writing that the payment of the tax or impost by that person will not unduly impair his capacity to pay any Commonwealth taxation payable by him or prevent, impede, or unduly impair the effective recovery of any Commonwealth taxation from him.

5.—(1.) Where by or under any law of a State there is imposed a tax or impost in the nature of a capital levy, including a tax based on or measured by the principal amount secured by a mortgage, and it is resolved by both Houses of the Parliament—

State
taxation in
relation to
certain
businesses and
corporations.

(a) that the obligation of paying the tax or impost by—

- (i) persons carrying on the business of insurance (other than State insurance not extending beyond the limits of the State concerned) ; or
- (ii) persons carrying on the business of banking (other than State banking not extending beyond the limits of the State concerned) ; or
- (iii) corporations carrying on the business of trustees or executors ; or
- (iv) other trading or financial corporations formed within the limits of the Commonwealth ; or
- (v) foreign corporations,

is such that its enforcement would prevent, impede, or seriously impair to the prejudice of the community the effective carrying on of the respective businesses and functions of those persons or corporations, or some of them, and would thereby endanger the financial and economic stability of the Commonwealth ; and

(b) that a state of emergency has arisen ; and

(c) that it is necessary that the persons or corporations aforesaid or any class or classes thereof therein specified in the Resolution should be relieved from that obligation,

the Governor-General may, by Proclamation, as from a date specified therein, (which date may relate back to the date of the original imposition of the tax or impost), relieve from that obligation the persons or corporations specified in the Proclamation, being some or all of the persons or corporations specified in the Resolution, and upon the issue of the Proclamation the persons or corporations specified in the Proclamation shall be relieved accordingly.

(2.) The relief afforded by any Proclamation issued under the last preceding sub-section—

(a) shall apply in relation to any obligation specified in the resolution in pursuance of which the Proclamation was issued thereafter arising or which arose prior to the issue of the Proclamation ; and

(b) shall, notwithstanding any State law, whether passed before or after the commencement of this Act, continue and be in force in respect of any obligation which arose during or in respect of the period of the currency of the Proclamation,

and any such obligation shall by force of the Proclamation be fully and permanently discharged.

**Duration
of Act.**

6. This Act shall continue in operation for a period of two years, and no longer.