

**The Scottish Parliament: Finance and Public Administration Committee**

**Call for views on Building Safety Levy (Scotland) Bill**

**Response from Propertymark**

**July 2025**

**Background**

1. Propertymark is the UK's leading professional body of property agents, with over 19,000 members representing over 12,500 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

**Consultation – overview**

2. The Scottish Parliament's Finance and Public Administration Committee is seeking views from the industry on the Building Safety Levy (Scotland) Bill. If passed in its current state, the Bill would enable the Scottish Government to issue a new tax (the Scottish Building Safety Levy) on construction developers following the creation of new buildings, with some exemptions. The purpose of this new tax is to fund the remediation of flammable cladding and other building safety defects in Scotland.

**Propertymark response – summary**

3. Propertymark welcomes the opportunity to respond to the Finance and Public Administration Committee's call for evidence on the Building Safety Levy (Scotland) Bill. As the largest professional body of property agents in the UK, Propertymark is committed to ensuring that people are able to live in high quality homes, free of potential fire risks. Not only do outstanding fire safety concerns pose a potential real threat to homeowners, but they make selling a property more difficult for those who live in properties with unsafe cladding. For these reasons, we have been campaigning to support faster remediation of unsafe cladding that doesn't come at the expense of residents. However, at the same time, we are concerned about the existing housing emergency in Scotland, which has been acknowledged by the Scottish Government since May 2024. The Scottish Government must introduce more policies that enable developers to build more homes, which we

fear the Scottish Building Safety Levy (SBSL) undermines. As such, our response to the call for evidence can be summarised by the following three points:

- **The Scottish Building Safety Levy will reduce the capacity for the construction industry to resolve Scotland's housing emergency** – targeting all developers, including those which have never built flats or were incorporated after the Grenfell Fire, risks disincentivising development for the entire construction industry during a housing emergency. Due to this, the Scottish Building Safety Levy must follow the polluter pays principle and only target those responsible for installing unsafe cladding.
- **Utilise the Scottish Building Safety Levy to encourage faster remediation** – by targeting developers directly responsible for installing unsafe cladding, the Scottish Government would be able to incentivise cladding to be replaced at a faster pace. This will support residents and reduce the overall cost for the Scottish Government to organise the replacement of unsafe cladding and other building safety issues.
- **Where a solvent building owner or developer cannot be identified, the SBSL should target other organisations involved in the supply chain of flammable cladding** – Propertymark recommends a cross-industry approach to funding the replacement of unsafe cladding; one that doesn't just target developers.

### **Consultation Questions**

**Question 1: Do you agree, in principle, that a levy should be introduced on the construction of residential property in Scotland?**

4. Propertymark disagrees that a levy should be introduced on the construction of residential property in Scotland, if introduced to all developers that aren't exempt. We believe this for three reasons. Firstly, targeting all developers incurs the risk of reducing the total number of residential units built each year. If an additional cost is applied to each building, then the total budget of developers is going to decrease, resulting in a lower capacity to build homes and potentially being unable to hire new staff or expand their operations. This is being proposed at a time when Scotland is facing a housing emergency, which makes it critical that policies reducing the capacity for developers to build new homes must be avoided. Secondly, the size of the SBSL charged to

developers is based on the total surface area of new units. This can create a situation where certain properties or locations with low house prices are avoided, in order to avoid building homes with higher levy rates compared to the financial return for these properties. Ideally, in order to respond to Scotland's housing emergency, properties should be built in areas with high demand, which the SBSL risks preventing. Thirdly, the SBSL risks having a disproportionately negative impact on SMEs, which the National Federation of Builders has identified was not responsible for the vast majority of cases where flammable cladding has been identified<sup>1</sup>. While larger developers building large-scale developments are more able to absorb the additional costs, SMEs focus on smaller-scale developments where the total SBSL cost poses a greater financial cost as a proportion of the profits made from the development. As a consequence, the SBSL will reduce the number of smaller-scale developments which are necessary in order for Scotland to build the number of homes it needs.

5. Even with that stated, we understand the need to remediate unsafe cladding in properties quickly and in a way where the replacement cladding is of high quality. Additionally, it is important to prevent mass installation of flammable cladding or other building safety risks in the future. This is why as an alternative, we propose that the SBSL should only be applied to those responsible for installing unsafe cladding. The charge should be based on each individual building where unsafe cladding has been installed, which provides an incentive for the cladding to be replaced. Once replaced, we recommend that a building inspector approved by the Scottish Government should make an assessment as to the quality of the replaced cladding. If that cladding is not to a high enough standard, then the charge should continue to be applied.

**Question 2: To what extent does the proposed Scottish Building Safety Levy (SBSL) align with the Scottish Government's 2024 Tax Strategy and with the principles of good tax policy making included in the Framework for Tax 2021 (namely: proportionality, certainty, convenience, engagement, effectiveness and efficiency)?**

6. We disagree that the Scottish Building Safety Levy aligns with the Scottish Government's 2024 Tax Strategy, particularly "Tax as a lever to encourage positive behavioural change" within the Future Priorities section of the Strategy<sup>2</sup>. Not only do we believe that the Levy will lead to negative

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<sup>1</sup> <https://builders.org.uk/nfb-response-to-the-building-safety-levy-consultation/>

<sup>2</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2024/12/scotlands-tax-strategy-building-tax-principles/documents/scotlands-tax-strategy-building-tax-principles/scotlands-tax-strategy-building-tax-principles/govscot%3Adocument/scotlands-tax-strategy-building-tax-principles.pdf>

behavioural change but targeting the Levy to all developers (with some exemptions) is a missed opportunity to design a Scottish Building Safety Levy that would lead to more positive behaviour. In response to the Building Safety Levy being introduced in England, the British Federation of Builders (NFB) have called the Levy an “anti-growth policy” that risks undermining the UK Government’s targets to build 1.5 million homes by the end of the Parliamentary Term. Considering that the Scottish Building Safety Levy retains the aspects of the English Building Safety Levy that have been criticised by the NFB and the wider housing sector, that it targets all housebuilders who were not responsible for installing unsafe cladding and that it does not target other accountable industries involved in the production and selling on unsafe cladding, we understand that the Scottish Building Safety Levy will have the same outcomes. These outcomes being that the output of housing developers will decrease at a time when Scotland is facing a housing emergency.

7. Considering the six principles of good tax policy making<sup>3</sup>, we do not believe that the following 5 principles apply to the SBSL.

- **Proportionality** – The SBSL is not levied in proportion to taxpayers’ ability to pay but on the output (square footage of new units of homes) produced by the taxpayer. Therefore, it disproportionately impacts smaller and medium sized housing developers. Due to a range of factors, the cost to the developer per m<sup>2</sup> of unit developed decreases as the size of the development project increases<sup>4</sup>. Since many SMEs do not have the capacity to build larger projects, their costs per unit are higher than larger developers who are more able to take on the costs of the SBSL. Therefore, the cost to the SME is higher as a proportion of their total output.
- **Efficiency** – The SBSL is likely to reduce economic activity, likely resulting in smaller homes or fewer units being produced. This is a clear example of a tax potentially creating economic inefficiencies.

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<sup>3</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2021/12/framework-tax-2021/documents/framework-tax-2021/framework-tax-2021/govscot%3Adocument/framework-tax-2021.pdf>

<sup>4</sup> [https://www.chichester.gov.uk/media/25103/REP-04-BCIS-Research-Report-from-Domusea/pdf/REP-04\\_BCIS\\_Research\\_Report\\_from\\_Domusea.pdf](https://www.chichester.gov.uk/media/25103/REP-04-BCIS-Research-Report-from-Domusea/pdf/REP-04_BCIS_Research_Report_from_Domusea.pdf)

- **Certainty** – In its current form, there are three key pieces of information that payers of the SBSL will need to know before the SBSL can meet the “certainty” requirement for good tax policy. Firstly, the rate that must be paid per square meter is not currently known, making it difficult to plan for future development projects as housebuilders do not know how much they would be expected to pay. Secondly, reliefs and allowances that would lead to reductions in Levy payments have not been currently established. This provides uncertainty over if there is value in delaying development plans until the developer can receive discounts on their Levy payment. Thirdly, the Bill provides the Scottish Government the power to modify which types of buildings may be taxable, which could make exempt buildings liable for Levy payments, removing the certainty that a developer can focus on building exempt property.
- **Convenience** – There are multiple factors that need to be considered when calculating the SBSL. These include the area in square meters of the floorspace which is not always clear how to measure. Additionally, the Bill sets out potential different rates for geographical areas, types of land and other factors that the Scottish Government considers appropriate. Combined with the 6 steps laid out to calculate the SBSL, we do not consider this tax to be “simple, clear and straightforward” as defined by the Framework for Tax.
- **Effectiveness** – The SBSL is designed in a way that is open to tax avoidance due to relying on developers reporting square area accurately. This would necessitate a representative from the Scottish Government verifying the floor area in order to ensure that no developer is seeking to reduce the size of their SBSL payment.

**Question 3: What would be the impacts of the SBSL for the housing market, if any?**

8. There are two main impacts of the SBSL for the housing market. Firstly, the SBSL will reduce the capacity of the construction industry to build new homes. Developers will face additional costs per unit built, which they will have to take into account and could lead to slower development projects in cases where they cannot afford to pay the Levy. Considering that the SBSL is calculated after the completion of the building, and not at the point of sale, if the property is not sold by the time the Levy is set to be paid (which has currently not been detailed in the Bill), then these costs could potentially not be offset by the revenue earned for the sale of the unit. One way to offset this cost is to require the developer to pay for the Levy only once the building is sold. Secondly, smaller and

medium-sized developers will be disproportionately impacted by the Scottish Building Safety Levy, when they are less likely to have been involved in the installation of building safety defects. As we have covered earlier, SMEs focus on smaller development projects which have higher costs per meter squared of floor space. Additionally, larger developers have greater financial resources to afford potential SBSL payments which SMEs do not. By introducing the SBSL, the Scottish Government risks reducing the capacity of SMEs to build the new homes that are essential to resolve the Scottish Housing Emergency.

**Question 4: Do you foresee any behavioural changes or impacts arising as a result of the implementation of the SBSL?**

9. Depending on any additional exemptions that the Scottish Government puts forward, and conditions for reliefs and allowances, we could see developers focusing on projects and homes that would be exempt from the SBSL or that would incur a smaller charge. While this could result in the negative outcome of developers building smaller homes, there is an opportunity for the Scottish Government to provide exemptions based on public demand for homes in certain areas or where a certain tenure, size, location or other factor of home is required for a strategic national policy objective. If exemptions to or reductions in the SBSL are utilised correctly, it has the potential to support certain developers or wider strategic objectives which we would encourage to resolve the Scottish Housing Emergency. However, ideally we would support initiatives that incentivise specific development by reducing existing costs to developers rather than introducing a new cost and providing exemptions to that.

**Question 5: Are there any provisions in the draft legislation that may give rise to unintended effects, including to opportunities for tax avoidance?**

10. As detailed in our response to question 2, PropertyMark is concerned that basing the SBSL on the square meters of floorspace is open to tax avoidance. Verification of the floorspace of new units would have to rely on the reported size from the developer, which is open to underreporting of size. In order to verify the reported size, representatives from the Scottish Government would have to measure the size themselves, which local authorities and the Scottish Government may struggle to do. We can also see that setting different rates for different types of land, geographical areas and other factors (including property type) could lead to misreporting of the factors in order to pay a lower SBSL rate. Although these are easier to verify compared to measuring the size of

floorspace, as there are existing organisations that already have the information required, such as Scotland's Land Information Service on the type of land.

**Question 6: The Bill sets out: (i) the buildings that are specifically included and excluded from SBSL (section 4(2) & (3)) and (ii) the buildings that are exempt from SBSL (section 5). Do you have any views on these inclusions, exclusions and exemptions?**

11. We have no comments to make on the existing exemptions. As mentioned earlier in our response, we would like to see new exemptions based on two options. Our preferred option is that the SBSL follows the polluter pays principle, where the Levy is only charged to those who were responsible for installing flammable cladding and other building safety defects which would go to fund remediation in buildings where the developer can either not be identified or has been liquidated. Option 2, if the SBSL is issued to all developers who build buildings that are included within in the Bill, then sites under a certain number of units or smaller developers should be considered. This would help offset negative consequences of the SBSL disproportionately impacting smaller developers who primarily focus on smaller development projects that we have covered throughout our response.

**Question 7: Are the arrangements for penalties and appeals as set out in the Bill appropriate?**

12. We have no additional comments to make at this time.

**Question 8: Do you consider that the estimated costs set out in the Financial Memorandum for the Bill are reasonable and accurate? If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill?**

13. We have no comments to make regarding the accuracy of the estimated costs set out in the Financial Memorandum, of the Bill. We do however have concerns over the length of the programme and the impact on the number of homes built every year based on the , that housing development in Scotland will be impacted for a minimum of 15 years as the SBSL is planned to be charged for that length of time. That does not take into account the long-term financial impact on housing developers who will need to take this new cost into consideration and the impact this has on potential future growth plans for these developers. Based on projected revenue targets for the

SBSL (£30,000,000 a year)<sup>5</sup> and if we take the average cost of building a home in Scotland to be around £270,000 (not including the price of the land)<sup>6</sup>, over duration of the 15-year programme, it is likely that over 1667 fewer homes will be built over the next 15 years. Considering this is during a housing emergency, the Scottish Government should consider alternative means of sourcing revenue.

14. We propose two alternative approaches to sourcing the revenue needed to fund the replacement of building safety defects in Scotland. The first approach is to issue financial penalties directly to the developers and building owners responsible for installing unsafe cladding. This would utilise the Cladding Assurance Register to identify buildings with outstanding cladding and other building safety defects. Those responsible for installing unsafe cladding in these buildings would be charged a set rate until they had remediated their unsafe cladding. This revenue would then be used to fund the remediation of orphaned buildings where no clear solvent developer or owner exists. The second approach would be to apply an additional Levy to the sale of construction products from manufacturers who were directly involved in the sale of flammable cladding, again with the condition that if all the buildings with cladding they manufactured or sold were replaced, they would no longer be charged. While these approaches would still impact the construction industry, they have three benefits over the SBSL proposed in the existing Bill. Firstly, they ensure only those responsible for cladding crisis contribute to remediation costs. Secondly, they incentivise unsafe cladding in existing buildings to be replaced at a faster rate as those paying the Levy have the opportunity to stop paying into it. Thirdly, if the Levy first prioritises those involved with the installation of unsafe cladding, the ability for the entire construction industry to build new homes is less affected, even if the Levy needs to be expanded after all unsafe cladding from non-orphaned buildings has been replaced.

**Question 9: Do you have any other comments regarding the Bill which have not been captured by the previous questions?**

15. The reason why we call for a charge to be expanded beyond developers is because developers alone were not responsible for the cladding crisis. The Grenfell Tower Inquiry identifies that the responsibility for the Grenfell Fire (and by extension the installation of unsafe cladding across the

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<sup>5</sup> <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/building-safety-levy-scotland-bill/introduced/spbill73fms062025accessible.pdf>

<sup>6</sup> <https://buildpartner.com/how-much-does-it-cost-to-build-a-house-in-scotland-a-2024-guide/#:~:text=So%2C%20how%20much%20does%20it%20cost%20to%20build,but%20does%20not%20include%20the%20cost%20of%20land.>



UK including Scotland) lies with the entire construction industry, including the manufacturers and distributors of unsafe products not just housing developers. However, manufacturers and product testing organisations who were responsible for the creation and false labelling of flammable cladding currently do not fall under the SBSL. Should the SBSL not follow the polluter pays principle, additional taxes or charges should be targeted at these organisations. This would increase the funds raised to resolve building safety issues in Scotland, reducing the time that the Levy is required, thus reducing the negative impact the SBSL will have on the development of new homes.