



QUINN & SCATTINI

Lawyers

Q & S CONVEYANCING UPDATE

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OWNER BUILDERS

The Queensland Building Services Authority Services Act 1991 ("the Act") prohibits a person from performing building work unless that person holds a contractor's licence. An exception to this general requirement is where a person performs building work under an owner builder permit issued by the Queensland Building Services Authority ("the Authority").

The Act states that owner builders may only perform "owner builder work" which means building work for a building that is to be used for residential purposes carried out on the owner's land other than building work for a multiple dwelling (i.e. units), fire protection work, and building work for which an occupational licence is required. The owner builder is also required to complete a course of instruction approved by the Authority.

Buyers of residential constructions work performed by a licensed contractor are protected under the statutory insurance policy established by the Act. To qualify, the work must have been performed by a licensed contractor (or a person who had fraudulently represented that the person had a licence).

If the building work was done by an unlicensed person and the property is offered for sale within 6 years after completion of the work, then the Seller is required to give a notice to prospective Buyers.

This notice is to warn the prospective Buyer that the building work is not covered by the statutory insurance scheme. If the notice is not given, the Seller will be taken to have given the Buyer a contractual warranty that the building work was properly carried out. This warranty applies despite anything to the contrary in the Contract. Buyers can apply to the Authority to see if there is a policy of insurance in place.

The Queensland Building Services Authority Regulation 2003 ("the Regulations") provide that the warning must be in the following terms:

"WARNING – THE BUILDING WORK TO WHICH THIS NOTICE RELATES IS NOT COVERED BY INSURANCE UNDER THE QUEENSLAND BUILDING SERVICES AUTHORITY SERVICES ACT 1991"

The Regulations also requires the notice to be given in duplicate. The Buyer must sign one copy and return it to the Seller before signing the Contract of Sale.

Buyers can also check whether building work is covered by the statutory insurance scheme by conducting a search of the certificate of title. Notifications of owner builder work remain on title for a period of 7 years unless earlier removal is directed by the Authority.

Agents must prepare the required notices in accordance with the above legislation. Failure to do so can have severe consequences on the Seller. We can assist Agents with the notice or any related special conditions.

Richie Muir, Solicitor, Quinn & Scattini

If you would like to ask any question about this or any other similar issue Richie may be contacted on 38212766 between 8.30am to 5pm Monday to Friday.

Quinn & Scattini Lawyers has offices in Brisbane, Beenleigh, Caboolture, Southport, Ipswich and Cleveland. In addition to residential and commercial Conveyancing services, our team of experienced lawyers practice in Business Law, Commercial Litigation, Property Law, Wills & Estates, Criminal Law and Family Law.



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