

Legal Alert

Property

June 2016

The Real Property (Electronic Conveyancing) Amendment Bill 2016

E-conveyancing

The Real Property (Electronic Conveyancing) Amendment Bill 2016 (the Bill) passed both houses on 7 June 2016 and is now awaiting assent. This Bill makes significant amendments to the Real Property Act 1886 (the **Act**) and will be the base for implementation of electronic conveyancing in South Australia.

It is expected that these changes will now take effect on **7 July 2016**.

Electronic Conveyancing

The extensive changes to the Act allow for conveyancing transactions to be conducted online using PEXA, a secure online platform allowing real time lodgement of LTO registry documents. There will be a number of changes to LTO forms and processes so that transactions may be lodged online.

Removal of Duplicate of Title

Perhaps most notably, the Bill removes the requirement for duplicate Certificates of Title and Lessee's copies of Crown Leases. Once the legislation is enacted, duplicate title documents **will cease to have any legal status or effect**. It is proposed that any loss of security due to the elimination of duplicate titles will be counteracted by the use of Priority Notices and the Title Watch service (see below).

Verification of Authority

In addition to the existing Verification of Identity requirements, new Verification of Authority Guidelines will be introduced.

This will require that parties to a conveyancing transaction provide evidence that they have **the right to deal with the land**.

Legal Practitioners and Conveyancers will be required to take reasonable steps to verify this authority. The Registrar-General has released a draft version of the Verification of Authority Guidelines.

Client Authorisations

Legal Practitioners or Conveyancers will also be required to obtain a client authorisation in order to execute and lodge instruments on behalf of a client.

Title Watch

A service will be offered by the SA Government through its SAILIS platform called Title Watch which will allow an interested party to subscribe to updates regarding a specific title or groups of titles. Title Watch notifications will be sent via email or SMS

Mortgages

There are a number of complex changes to the requirements for execution and lodgement of Mortgages in the LTO, as well as how long parties are required to retain Mortgages for. There are also new penalties if a Mortgagee fails to comply with these new obligations.

Implications

Clients should ensure they are aware of any changes to their obligations, especially regarding record retention.

These changes will likely need to be addressed in contracts for the sale of land and mortgage documentation.

We are able to assist with drafting or updating contracts, and can provide advice in relation to compliance with the Act generally. We will issue a further update once assent has been granted, and more details are known.

Contact details

If you have any queries regarding this alert, please contact:

Annoushka Scharnberg *Senior Associate*
annoushka.scharnberg@finlaysons.com.au
+61 8235 7404

David Martin – *Managing Partner*
David.martin@finlaysons.com.au
+61 8235 7841

Adam Ludlow *Partner*
Adam.ludlow@finlaysons.com.au
+61 8235 7827