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Property law

Changes to the Property Agents and Motor Dealers Act

- A more sensible approach

24 March 2009

On 24 March 2010 the Queensland Government announced changes to the Property Agents and Motor Dealers Act 2000 (Qld) (**Act**) to amend the requirements for proposed and relevant contracts for the sale of residential property in Queensland.

These changes will come into effect on 1 October 2010 and according to the explanatory memorandum "will simplify the processes for the delivery and presentation of contracts for the sale of residential property, while still maintaining consumer protection provisions, and thereby promote greater certainty in residential property sales".

The key changes include:

- The requirement that the PAMD form 30c warning statement be attached as the first or top sheet to the contract has now been removed, the new section 369A(2) for proposed relevant contracts and section 368C(2) for relevant contracts now simply requires that the PAMD form 30c warning statement be attached to the contract;
- A similar change has been made to the requirement for the information sheet pursuant to the Body Corporate and Community Management Act, this document now must simply be attached the proposed or relevant contract;
- If these requirements are not met the buyer must terminate the contract within 90 days of the contract date, this has been introduced to assist developers who often rely on presale contracts so that buyers cannot simply avoid the contract on a technical breach if they change their mind on buying the property;
- If the buyer has signed the PAMD form 30c then they have no right to terminate the relevant contract even if the buyers attention was not drawn to the PAMD form 30c as required under the Act;
- If a proposed relevant contract is not presented in accordance with the Act it may be withdrawn and the seller or the seller's agent provide a new contract in compliance with the requirements of the Act; and
- The 5 business day cooling off period starts on either the day that the buyer receives the fully signed relevant contract or the first business day after the day that the buyer receives the fully signed relevant contract.

Perhaps the most controversial change is the fact that buyers who have entered into contracts prior to 1 October 2010 will not be able to rely on the pre-1 October 2010 provisions to avoid their contract from 1 October 2010. This means that if you are a buyer who has a right to terminate a contract under the current provisions of the Act you must terminate prior to this date otherwise you will lose your right.

These changes will greatly assist vendors and real estate agents who found it difficult to comply with the overly proscriptive requirements of the Act in relation to providing proposed and relevant contracts to buyers. Further the changes should ensure that developers are given comfort when commencing developments that a buyer will not find a technical breach of the Act to avoid the contract.

Jeremy Streten

Senior Associate

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Telephone (07) 3009 8444 Fax (07) 3009 8499

e: mail@rostroncarlyle.com website : <http://www.rostroncarlyle.com>