

Queensland



ANNO TRICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

No. 53 of 1983

**An Act to amend the Building Units and Group Titles Act
1980 in certain particulars**

[ASSENTED TO 22ND DECEMBER, 1983]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Building Units and Group Titles Act Amendment Act 1983*.

(2) In this Act, the *Building Units and Group Titles Act 1980* as amended by the *Companies (Consequential Amendments) Act 1981* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Building Units and Group Titles Act 1980–1983*.

2. Amendment of s. 49. Duties of original proprietor. Section 49 of the Principal Act is amended by—

(a) in subsection (4),

(i) omitting the words “if the rights of the purchaser have been materially affected” and substituting the words “if the purchaser has been materially prejudiced”;

(ii) omitting the word “void” and substituting the word “avoid”.

(b) omitting subsection (5) and substituting the following subsection:—

“ (5) If the original proprietor fails to give to a purchaser—

(a) a statement in compliance in every respect with subsections (1), (2) and (3); or

(b) a notice prescribed by subsection (4),

and the purchaser is materially prejudiced by the failure (proof of which shall lie on him) the purchaser may, by notice in writing given to the original proprietor, avoid the contract, agreement or other document within 30 days after he first becomes aware of the failure:

Provided that a purchaser shall not be entitled to avoid a contract, agreement or other document pursuant to this subsection if he has not given the notice of avoidance herein prescribed before the expiration of—

(a) in a case where the purchaser has become proprietor of the lot before the commencement of the *Building Units and Group Titles Act Amendment Act 1983*, six months after the commencement of that Act; or

(b) in any other case, six months after the purchaser has become proprietor of the lot.

The contracts, agreements and other documents to which this subsection applies include those made before the commencement of the *Building Units and Group Titles Act Amendment Act 1983* that have not been avoided before the date on which the Bill for that Act was introduced into the Legislative Assembly.”;

(c) in subsection (6), omitting the word “voidance” and substituting the word “avoidance”;

(d) in subsection (7), omitting the words “ to void ” and substituting the words “ to avoid ”;

(e) in subsection (8), omitting the word “ voids ” and substituting the word “ avoids ”.

3. **New s. 49A.** The Principal Act is amended by inserting after section 49 the following section:—

“ **49A. Interpretation of awareness in s. 49 (5).** For the purposes of—

(a) the avoidance of any contract, agreement or other document to which section 49 (5) applies; or

(b) the giving of judgment or of a decision by any court, after the commencement of the *Building Units and Group Titles Act Amendment Act 1983*, upon the application of section 49 (5) of the *Building Units and Group Titles Act 1980* to the avoidance of a contract, agreement or other document, whenever the proceedings in which the judgment or decision is to be given were commenced,

the purchaser under the contract, agreement or other document shall be taken to have been aware at all times of the provisions of section 49 or, as the case may be, section 49 of the *Building Units and Group Titles Act 1980*, and of the obligations of an original proprietor thereunder, and to have read any statement or notice given to him, being a statement or notice required by the section to be given to him, at the time when he received it.”.
