

LAND TITLE AMENDMENT BILL 1996

EXPLANATORY NOTE

GENERAL OUTLINE

Objectives of the Legislation

The principal objective of the legislation is to allow for the issuing of certificates of title on request even where the title is encumbered by a mortgage.

The Reasons for the Bill

The *Land Title Act 1994* makes provision for the issue of certificates of title on written request of owners whose land is not mortgaged. A certificate of title is the owner's copy of the information held by the Registrar of Titles. This legislation extends the ability of obtaining a certificate of title and will enable those who feel more comfortable with a printed certificate of title to be held by their bank. Currently they can not.

Estimated Cost for Government Implementation

ATS modifications should be less than \$1,000. Currently some 40% of the individuals capable of obtaining a certificate title do so. If the same proportion of owners request a certificate title when the land is encumbered by a mortgage it will result in approximately 6,075 additional certificates being printed each month. This will equate to approximately \$1,050 per month in printing consumables. If a large public acceptance of this amendment occurs and requests for certificates of title are made by an expected 20 to 40% of clients, the land title system would have to deal with approximately 64,000 to 128,000 such requests. Depending on the rate of application this could result in increased workloads and possible need for overtime. There are no other estimated costs for the introduction of this legislation.

Consultation

The following groups have been advised in relation to the Bill.

- The Australian Bankers Association
- The Finance Conference of Australia
- The Queensland Law Society

Fundamental Legislative Principles

This Bill does not breach any fundamental legislative principles.

NOTES ON PROVISIONS

Clause 1 contains the short title.

Clause 2 indicates this Bill amends the *Land Title Act 1994*.

Clause 3 The previous Section 42 has been altered in sub-clause 2 which prevented the Registrar from printing a title when a mortgage was on the property. It has been amended to indicate that the Registrar may issue a certificate of title when there is a mortgage on the property but only if the mortgagee consents to the issue of the certificate. Sub-clause 4 of Section 42 has also been amended to simplify the words that indicate that the Registrar must give the Certificate of Title to the person stated in the owner's request.