



New South Wales

Conveyancing Amendment (Mortgages) Bill 2002

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Clerk of the Legislative Assembly.
Legislative Assembly,*



New South Wales

Conveyancing Amendment (Mortgages) Bill 2002

Act No , 2002

An Act to amend the *Conveyancing Act 1919* to make further provision with respect to the duties of mortgagees and chargees.

EXAMINED

Chairman of Committees

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Conveyancing Amendment (Mortgages) Act 2002</i> .	3
2 Commencement	4
This Act commences on the day that is 3 months after the date of assent, except in so far as it is commenced sooner by proclamation.	5 6
3 Amendment of Conveyancing Act 1919 No 6	7
The <i>Conveyancing Act 1919</i> is amended as set out in Schedule 1.	8

Schedule 1 Amendment

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(Section 3)

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Section 111A

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Insert after section 111:

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111A Certain duties of mortgagees and chargees

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(1) In exercising a power of sale in respect of mortgaged or charged land, a mortgagee or chargee must take all reasonable care to sell the land for not less than its market value when it is sold.

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(2) Nothing in section 112 (7) or 115 (2) of this Act, or in section 58 (1) of the *Real Property Act 1900*, affects the duty imposed by this section.

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(3) The title of the purchaser is not impeachable on the ground that the mortgagee or chargee has committed a breach of any duty imposed by this section, but a person damnified by the breach of duty has a remedy in damages against the mortgagee or chargee exercising the power of sale.

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(4) An agreement or stipulation is void to the extent that it purports to relieve, or might have the effect of relieving, a mortgagee or chargee from a duty imposed by this section.

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(5) Nothing in this section affects the operation of any rule of law relating to the duty of the mortgagee or chargee to account to the mortgagor or chargor.

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(6) This section applies to mortgages and charges whether made before or after the commencement of this section but only to a sale in the exercise of a power arising upon or in consequence of a default occurring after the commencement of this section.

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(7) This section applies to mortgages and charges under the *Real Property Act 1900*.

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