

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.10 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

It is my privilege to introduce the NSW Self Insurance Corporation Amendment (Home Warranty Insurance) Bill 2010.

The NSW Self Insurance Corporation Amendment (Home Warranty Insurance) Bill 2010 will establish a Government insurer as the sole provider of home warranty insurance in New South Wales.

These changes are necessary to ensure eligible builders can continue to obtain home warranty cover on behalf of consumers, so as not to slow down construction of residential dwellings in the State.

The bill is essential to minimise disruption to the residential construction sector.

The bill will:

Establish functions for New South Wales Self Insurance Corporation (SICorp) in connection with the provision of home warranty insurance

Enable SICorp to enter into commercial contracts with insurance agents for the provision of services related to providing home warranty cover, and

Establish a Home Warranty Insurance Fund and provide for the use and investment of money deposited into that Fund.

The bill also makes consequential amendments to the Home Building Act 1989 that:

Establish the New South Wales Self Insurance Corporation as the sole home warranty insurance provider in New South Wales

Enable the Minister for Fair Trading to issue guidelines for appropriate market practices or claims handling procedures after consultation with the Home Warranty Scheme Board and the Minister administering the New South Wales Self Insurance Corporation Act 2004, and

Withdraw existing approved insurers' authorisation to issue home warranty insurance from 1 July 2010.

The New South Wales Government's timely action to establish SICorp as the sole provider of home warranty insurance in New South Wales is in response to a market reality.

The home warranty insurance market has experienced periods of uncertainty over recent years with the collapse of HIH.

Last year saw the exit of CGU Insurance and Lumley General from the home warranty market, as well as the announcement by Vero of its intention to withdraw from the market.

Market analysis and consultation with the industry indicated a lack of capacity among the remaining insurers, or any potential new insurers, to fill the gap.

In November 2009, the New South Wales Government announced reforms to home warranty insurance arrangements with the Government taking responsibility of becoming the sole insurance provider and providing the necessary capital backing.

New South Wales responded quickly and sensibly to ensure this important protection continues to be available to NSW builders and consumers.

The Government has stepped in to avoid a market collapse and to provide some certainty for the home building industry, which is so crucial to the NSW economy.

The New South Wales Government is committed to ensuring the residential construction sector is supported, to enable them to get on with the job of constructing houses.

The NSW Self Insurance Corporation is well placed to administer the new insurance arrangements. SICorp administers the New South Wales Government's insurance arrangements for all classes of risk through an outsourced model.

The home warranty scheme will also utilise outsourced management arrangements.

I want to emphasise that there will be no reduction in services to builders and consumers with the establishment of a sole Government provider.

A single Government insurer will allow premiums to be priced consistently across the State.

There will be one set of eligibility conditions for all builders, as opposed to the current arrangements where different rules apply depending on the insurer.

These new arrangements will increase transparency for builders and consumers and provide greater certainty.

I turn now to consider the bill in detail.

The bill will amend the:

New South Wales Self Insurance Corporation Act 2004, and

Home Building Act 1989.

The bill amends the *NSW Self Insurance Corporation Act 2004* to include specific functions SICorp requires to carry on the business of providing home warranty insurance for building work done in NSW.

The range of functions includes:

Entering into contracts or agreements with providers including reinsurers for services relating to home warranty and the management of the Home Warranty Insurance Fund, and

Entering into arrangements to appoint insurance agents to act for the Government insurer.

This bill seeks to continue similar insurance arrangements to those that exist today, with the added benefit of a Government underwriter offering security and increased transparency for builders and consumers.

SICorp will finance and underwrite the scheme, and set premiums and service standards.

SICorp will engage private insurance firms, or 'scheme agents', to issue policies, collect premiums and undertake claims management.

Brokers will continue to be the main 'shopfront' for builders to purchase cover, so from the builders' point of view there will be little practical change in the purchase process.

The Government insurer will effectively be subject to similar requirements and obligations private insurers were subject to under the Home Building Act 1989.

SICorp will be required to comply with Market Practice Guidelines that set the service standards applicable to builders and consumers. This is consistent with current industry practice.

The Market Practice Guidelines will continue to be made public, providing full transparency for builders and consumers.

Agents appointed to provide home warranty services will be subject to the direction and control of SICorp.

The Home Warranty Insurance Fund will be subject to audit by the Auditor-General.

SICorp will be required to comply with the Public Finance and Audit Act 1983.

Insurance agents or intermediaries acting on behalf of SICorp will be exempt from sections 12, 13 and 18 of the Public Finance and Audit Act 1983.

This exemption is necessary in order to ensure a smooth transition to the new arrangements for builders and consumers and is consistent with current industry practice.

To protect the home warranty insurance funds that are handled by agents and intermediaries in the course of providing services to builders and consumers, agents and intermediaries will be required to meet strict controls and have appropriate risk management systems in place.

In addition, insurance agents and intermediaries will be required to meet certain criteria, hold relevant insurances for the protection of home warranty insurance funds and will be subject to audit.

Moving now to the changes proposed protect the performance of the Home Warranty Insurance Fund. Through consultation with the construction and insurance industries over the past months, it is evident there is a small number of builders who present a greater financial risk than others to the performance of the Fund.

Some builders may be new to the industry and may be unable to meet the eligibility criteria to obtain insurance.

To address this, the Government will establish a panel of "building management service providers". SICorp will, where necessary, request some small to medium builders to engage the services of one of these providers as a condition of providing home warranty cover.

These building management service providers will provide the additional support needed by this group of builders to ensure they meet their contractual obligations with consumers, reducing the risk to the Home Warranty Insurance Fund.

It is envisaged that builders who engage a building management service provider will learn good building practices and develop important management skills. This is a positive outcome for consumers and the residential construction industry as a whole.

Consumers should be protected from builders who do not demonstrate financial capacity to complete a contract.

For the first time ever, builders who do not meet the eligibility standards for obtaining home warranty insurance will have options.

Builders who do not demonstrate financial capacity for the level of cover they want will have the choice to either:

increase the equity in their business through paid up capital

provide a security or guarantee, or

opt for a managed builder arrangement.

These options will allow a greater opportunity for new builders to enter the market.

There will be a minimal number of builders who will be unable to obtain cover. If the financial situation of these builders improves they will be able to request consideration of cover again.

These measures are aimed at reducing the likelihood of future claims by consumers against the Fund. Lower claims costs will ultimately influence the premiums charged. Madam President.

A Home Warranty Insurance Fund is to be established in the Special Deposits Account.

Monies received by SICorp for home warranty purposes that are to be paid into this fund include:

Insurance premiums 1

All money recovered in respect of any right of recovery for monies expended

Money received under any security or guarantee that has been provided by a builder as a condition of issuing a policy

Proceeds of any investments of money in the Fund, and

All money advanced to the Self Insurance Corporation by the Minister or appropriated by Parliament for the purposes of the Fund.

Monies for the following purposes can be paid from the Fund:

Home Warranty claims by consumers

Operating and administrative costs including risk management, actuarial and other services

Repayment of the Government's capital advance of \$15.6 million.

The Self Insurance Corporation may invest money in the Home Warranty Fund as authorised by the *Public Finance and Audit Act 1983*.

I now turn to the consequential amendments required to the Home Building Act 1989.

The consequential amendments to the Home Building Act 1989 proposed in this bill are necessary to implement the new insurance arrangements from 1 July 2010.

The bill does not include any substantive policy changes to home warranty insurance.

Any suggestions from stakeholders about changing home warranty policy, for example, issues of coverage, thresholds

or otherwise, will be considered through the review of the Home Building Act 1989 that is currently underway.

The consultation period for this review recently closed and the Office of Fair Trading is considering submissions received from stakeholders.

It is important to allow that review to run its course.

A process will be established whereby the Minister responsible for the Self Insurance Corporation concurs with the Minister for Fair Trading responsible for the *Home Building Act 1989* on any changes to guidelines or procedures.

It will be a requirement that these guidelines are published in the Gazette, ensuring transparency.

Amendments that clarify the obligations of former approved insurers once SICorp commences as the sole provider are required. This gives some certainty to consumers for any future claims that may arise for insurance covers issued in the past.

I want to make it clear that nothing in this bill will reduce consumer protections in New South Wales.

The bill is only concerned with establishing the Self Insurance Corporation as the sole home warranty insurance provider in New South Wales and minimising disruption to the residential construction industry during the transition to the new arrangements.

The new Government scheme will offer an unchanged product to builders and consumers. The intention is to effect a smooth transition with as little disruption as possible to the way home warranty insurance operates.

The reforms contained in this bill again demonstrate the Government's firm and ongoing commitment to supporting the residential construction industry.

The reforms demonstrate once again that NSW is a place where tradespeople can just get on with the business of building our economy to see us into the future.

I commend the bill to the House.