



Queensland

Body Corporate and Community Management Amendment Act 2009

Act No. 20 of 2009



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Body Corporate and Community Management Amendment Act 2009

Act No. 20 of 2009

**An Act to amend the Body Corporate and Community Management Act 1997
[Assented to 22 June 2009]**

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Body Corporate and Community Management Amendment Act 2009*.

2 Act amended

This Act amends the *Body Corporate And Community Management Act 1997*.

3 Replacement of s 212 (Cancellation for not complying with basic requirements)

Section 212—

omit, insert—

'212 Provision about settlement taken to be included in contract

- '(1) This section applies to a contract entered into by a person (the *seller*) with another person (the *buyer*) for the sale to the buyer of a lot intended to come into existence as a lot included in a community titles scheme when the scheme is established or changed.
- '(2) The contract is taken to include a term (the *deemed term*) providing that, despite any other term of the contract, settlement must not take place earlier than 14 days after the seller gives advice to the buyer that the scheme has been established or changed.
- '(3) The deemed term has priority over any other term of the contract relating to settlement.
- '(4) Without limiting subsection (3), any notice the seller gives to the buyer is void to the extent it is inconsistent with the deemed term.

‘212A Buyer may cancel if there is no proposed community management statement

- ‘(1) This section applies to a contract entered into by a person with another person (the *buyer*) for the sale to the buyer of a lot intended to come into existence as a lot included in a community titles scheme when the scheme is established or changed.
- ‘(2) When the contract is entered into there must be a proposed community management statement for the scheme as established or changed.
- ‘(3) The buyer may cancel the contract if—
 - (a) there has been a contravention of subsection (2); and
 - (b) the contract has not already been settled.’.

4 Insertion of new ch 8, pt 6A

Chapter 8—

insert—

‘Part 6A Transitional provision for Body Corporate and Community Management Amendment Act 2009

‘362A Section 212 to have retrospective affect

- ‘(1) Section 212, as inserted by the *Body Corporate and Community Management Amendment Act 2009*, (the *inserted section*) applies, to the exclusion of existing section 212(1), to a contract mentioned in the inserted section whether entered into before or after the commencement.
- ‘(2) Subject to subsection (3), subsection (1) applies for all purposes (including a legal proceeding started but not decided before the commencement).

‘(3) Subsection (1)—

- (a) does not apply for the purpose of a contract settled before 5 June 2009; and
- (b) does not apply for the purpose of—
 - (i) a contract that has, before 5 June 2009, been lawfully cancelled because the contract failed to make provision as required by existing section 212(1); or
 - (ii) a legal proceeding relating to the lawfulness of the cancellation; and
- (c) does not apply for the purpose of a legal proceeding decided before the commencement.

‘(4) In this section—

commencement means the commencement of this section.

existing section 212(1) means section 212(1) as in force before the commencement.

legal proceeding, in subsection (2), includes an appeal from a legal proceeding mentioned in subsection (3)(c).’