

Queensland



**QUEENSLAND LAW
SOCIETY LEGISLATION
AMENDMENT BILL 1996**

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LEGISLATION AMENDMENT BILL 1996**

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1996

A BILL

FOR

An Act to amend the *Queensland Law Society Act 1952*, and for related purposes

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

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Clause 1. This Act may be cited as the *Queensland Law Society Legislation Amendment Act 1996*.

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5

Commencement

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Clause 2. This Act is taken to have commenced on 16 May 1996.

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PART 2—AMENDMENT OF QUEENSLAND LAW SOCIETY ACT 1952

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Act amended in pt 2

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Clause 3. This part amends the *Queensland Law Society Act 1952*.

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Insertion of new ss 24A and 24B

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Clause 4. After section 24—

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insert—

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‘Fund offers no protection for certain mortgages

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‘24A.(1) A claim may not be made against the fund for reimbursing pecuniary loss suffered because of a practising practitioner’s unlawful conduct in relation to an excluded mortgage.

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‘(2) Subsection (1) applies to all excluded mortgages for which instructions were given on or after 16 May 1996.

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‘(3) In this section—

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“direct mortgage” means a mortgage for which—	1
(a) the mortgagee is a financial institution; or	2
(b) the mortgagee specifies the mortgagor and the mortgagor is not a person introduced to the mortgagee by a practising practitioner for the making of the mortgage.	3 4 5
“excluded mortgage” means a mortgage other than a direct mortgage.	6
“mortgage” means a legal or equitable mortgage or charge, or a proposed legal or equitable mortgage or charge, over an interest in land.	7 8
“mortgagee” includes proposed mortgagee.	9
“mortgagor” includes proposed mortgagor.	10
“practising practitioner” includes a practising practitioner’s clerk or employee.	11 12
“unlawful conduct” means conduct that, if subsection (1) did not apply, would make the fund liable, under section 24, to reimburse persons who suffer pecuniary loss because of the conduct.	13 14 15
‘Practitioners to notify clients about non-liability of fund for certain mortgages	16 17
‘24B.(1) This section applies to an amount entrusted, or proposed to be entrusted, to a practising practitioner as mentioned in section 24(1) if the amount, or part of the amount, is to be used or is proposed to be used for an excluded mortgage.	18 19 20 21
‘(2) The practising practitioner must give the practitioner’s client notice of the effect of section 24A and also give the client a copy of section 24A and this section.	22 23 24
‘(3) The notice and copy must be given to the client before the practitioner accepts instructions for the excluded mortgage or receives an amount for the excluded mortgage.	25 26 27
‘(4) The practitioner may use the amount for the excluded mortgage only if the client has authorised the practitioner to use the amount.	28 29
‘(5) A notice mentioned in subsection (2), and an authority mentioned in subsection (4), must be in the appropriate approved form.	30 31

‘(6) A practising practitioner who contravenes this section commits professional misconduct.	1 2
‘(7) A contravention of this section does not limit the operation of section 24A. ¹	3 4
‘(8) In this section—	5
“client”, of a practising practitioner, means a client—	6
(a) receiving the practitioner’s advice about investment in excluded mortgages; or	7 8
(b) giving the practitioner instructions to use an amount for an excluded mortgage.	9 10
“excluded mortgage” see section 24A.	11
“practising practitioner” see section 24A.’.	12

PART 3—AMENDMENT OF LAND TITLE ACT 1994 13

Act amended in pt 3 14

Clause **5.** This part amends the *Land Title Act 1994*. 15

Amendment of s 189 (Matters for which there is no entitlement to compensation) 16 17

Clause **6.(1)** Section 189(1)— 18
insert— 19

‘(ba)because of unlawful conduct mentioned in the *Queensland Law Society Act 1952*, section 24A; or’ 20
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¹ Section 24A (Fund offers no protection for certain mortgages)

Queensland Law Society Legislation Amendment

(2) Section 189(1)(ba) to (g)—

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renumber as section 189(1)(c) to (h).

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