

FACT SHEET

Residential Building (Home Warranty Insurance Amendments) Bill 2023

The Residential Building (Home Warranty Insurance Amendments) Bill 2023 (the Bill) amends Tasmania's building regulatory framework to mandate Home Warranty Insurance (HWI) for insurable residential building work. Home Warranty Insurance will provide cover for loss incurred by consumers for incomplete or defective residential building work in the event that the builder has died, disappeared or become insolvent.

The Bill will amend the *Residential Building Work Contracts and Dispute Resolution Act 2016*, the *Residential Building Work Contracts and Dispute Resolution Regulations 2016*, the *Building Act 2016*, the *Building Regulations 2016* and the *Occupational Licensing Act 2005*.

Key Elements of the Bill

The Bill provides that a builder contracting for residential building work must obtain HWI on behalf of the consumer prior to entering into, or enforcing, a residential building work contract. Penalty provisions are provided when a building contractor carries out residential building work that requires insurance without having obtained the relevant policy of insurance.

An insurer will undertake a financial and risk assessment of the builder to determine the appropriate level of cover for each builder or building company. This provides protection for consumers by minimising the risk of builders overextending themselves beyond their reasonable financial means, risking the solvency of the building company.

The Bill also provides that Home Warranty Insurance will be required for owner builders or licensed builders who are building on premises that they own themselves. This requirement to obtain a Home Warranty Insurance policy will be triggered if the owner builder or licensed builder is to sell the land on which insurable work has been performed within the six-year home warranty insurance period.

Home Warranty Insurance will be provided by an Australian Prudential Regulation Authority (APRA) regulated insurer or insurers, approved by the Minister administering the *Residential Building Work Contracts and Dispute Resolution Act 2016*.

Under the Bill, in these circumstances, a Home Warranty Insurance policy must indemnify the owner for loss incurred as a result of non-completion of the building work; a breach of a statutory warranty; or defective work. Home Warranty Insurance policies must remain in force for a period of at least six years from the date of practical completion or, if there is no completion date, six years from the date the contract was terminated or work was last performed on the premises.

The Home Warranty Insurance policy must also provide a minimum level of cover, with that minimum level of cover varying dependent on the nature of the claim. For a claim relating to incomplete building work a Home Warranty Insurance policy must provide insurance cover, at a

minimum of \$200,000 or twenty per cent of the contract price of the building project. The Bill also provides for different minimum cover requirements for circumstances that work has not yet commenced, yet a deposit has been paid.

The Bill amends the *Building Act 2016* and *Building Regulations 2016* to provide that the relevant building surveyor and the council as permit authority are to be provided with copies of the relevant insurance policy in respect of the insurable work before the work is authorised to be performed.

The Bill also amends the *Occupational Licensing Act 2005* to provide that the failure of a building contractor to obtain Home Warranty Insurance before performing insurable work is proper cause for disciplinary action to be taken against that licensee by the Administrator of Occupational Licensing.

The Bill will commence upon a date, or dates, to be proclaimed.