

Conveyancing

If you want to buy or sell a home, land or investment property you'll have to sign a contract. The legal work involved in preparing the sales contract, mortgage and other related documents, is called conveyancing. While you can do your own conveyancing, most people engage a licensed conveyancer or solicitor. This information explains what is involved with conveyancing.

Land and Property Information NSW is the main authority for NSW conveyancing laws. More information is available on the NSW Land and Property Information website.

Who can do conveyancing work?

Options for doing your conveyancing are:

- using a licensed conveyancer
- using a solicitor
- doing it yourself.

Before you start organising your conveyancing, it's important to do your homework first.

Using a conveyancer

In NSW, conveyancers must be licensed with NSW Fair Trading. Most conveyancers hold an unrestricted licence to do the full scope of conveyancing work for residential, commercial and rural property. Conveyancers are licensed to do legal work such as preparing documents, giving legal advice on contracts and explaining the implications. Before you decide to use a particular conveyancer, check if they are licensed with us first.

Find a conveyancer in the Yellow Pages directory under 'Conveyancing Services' or contact a professional association under the heading 'Need more information?' below.

Licensed conveyancers must have professional indemnity insurance to protect you if they make a mistake or are negligent in their work. Also, if they are dishonest with the money you have entrusted to them, you may have access to the Compensation Fund administered by Fair Trading. For more information about

the fund, go to the Property Services Compensation Fund page on the Fair Trading website.

QUICK TIP - If you want to complain about a conveyancer, call Fair Trading on 13 32 20.

Using a solicitor

While conveyancers and solicitors are equally qualified to do conveyancing, solicitors can also give you legal advice about other matters (such as on the contract for sale and contract terms). Solicitors, like licensed conveyancers, must also have professional indemnity insurance for your protection. To find a solicitor who does conveyancing:

- look up the Yellow Pages (under 'Conveyancing Services')
- do a search for specialists in 'property law' in your local area using the 'Find a Lawyer' page on the Law Society's website www.lawsociety.com.au or call the Law Society of NSW on 9926 0333.

To complain about a solicitor contact the NSW Legal Services Commissioner on 9377 1800 or 1800 242 958.

Doing your own conveyancing

If you choose to do your own conveyancing, research what is required and the risks involved. Do-it-yourself (DIY) kits are available but generally provide guidance material only. You will still be personally liable if there is a problem with the sale even if you followed the instructions. You could encounter technical or legal issues not covered in the kit's material. You may also need expert advice from an experienced practitioner, such as on if certain terms in your sale contract are reasonable.

You may be held personally liable for any losses suffered by the vendor as a result of any error that you make. It may also be difficult for you to purchase the same level of insurance available to a licensed conveyancer or solicitor.

CAUTION: If you do your own conveyancing, you take on all the responsibility for the sale progressing in a legal manner. Make sure you fully understand the sale process and relevant legislation.

The conveyancing process

Conveyancing can involve these steps:

- examining the contract for sale
- arranging building and pest inspections
- examining a strata inspection report (if the property is in a strata scheme)
- arranging finance if necessary
- exchanging the contract of sale
- paying the deposit
- arranging payment of stamp duties
- preparing and examining the mortgage agreement
- checking if there are outstanding arrears or land tax obligations
- checking if swimming pool compliance documentation is needed
- finding out if any government authority (eg. local council, Sydney Water, NSW Roads and Maritime Services) has a vested interest in the land or if any planned development could affect the property
- finding out any information that may not have been previously disclosed such as a fence dispute or illegal building work
- calculating adjustments for council and water rates for the property settlement
- overseeing the change of title with Land and Property Information NSW
- completing any final checks prior to settlement
- attending settlement.

IMPORTANT: Before the conveyancer or solicitor starts the work, ask for an itemised statement of the likely costs (to give you a better idea of the total).

Costs

Fees will vary between solicitors and conveyancers as there is no official charge for conveyancing. As well as a

legal service fee you will usually be charged for 'disbursements'. These can include:

- a title search
- certificate fees charged by authorities with responsibility for water, electricity, roads, schools etc.
- photocopying
- registering the mortgage
- registering the transfer.

Conveyancing costs other than legal fees and disbursements may include:

- building and pest inspections
- survey report
- establishment of mortgage
- home building insurance
- valuation fees
- mortgage insurance
- stamp duty and mortgage duty
- levies, if the property is in a strata or community scheme
- council and water rates.

Legal practitioners and conveyancers must disclose their costs to clients, including the client's right to negotiate a costs agreement, receive bills and be advised of changes.

Need more information?

Australian Institute of Conveyancers NSW Division
Tel: 9633 1355
www.aicnsw.com.au

The Law Society of NSW
Tel: 9926 0333
www.lawsociety.com.au

The Office of the Legal Services Commissioner
Tel: 9377 1800 or 1800 242 958
www.olsc.nsw.gov.au

Home Purchase Advisory Service
Tel: 1800 806 653
www.housing.nsw.gov.au

www.fairtrading.nsw.gov.au
Fair Trading enquiries 13 32 20
TTY 1300 723 404
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

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