

Legislative Council—No 149

As introduced and read a first time, 6 March 2024

South Australia

**Land and Business (Sale and Conveyancing)
(Building Inspections) Amendment Bill 2024**

A BILL FOR

An Act to amend the *Land and Business (Sale and Conveyancing) Act 1994*.

Contents

Part 1—Preliminary

1 Short title

Part 2—Amendment of *Land and Business (Sale and Conveyancing) Act 1994*

2 Insertion of section 13B
13B Building inspection report to be provided to purchaser
3 Amendment of section 15—Remedies

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Land and Business (Sale and Conveyancing) (Building Inspections) Amendment Act 2024*.

Part 2—Amendment of *Land and Business (Sale and Conveyancing) Act 1994*

2—Insertion of section 13B

After section 13A insert:

13B—Building inspection report to be provided to purchaser

- 10
- 15
- 20
- 25
- (1) On the request of a purchaser, a vendor of residential land must, within 2 business days, provide the purchaser with the building inspection report prepared in relation to the land.
 - (2) A vendor of residential land must ensure that the building inspection report is attached to the vendor's statement when the vendor's statement is served on a purchaser under this Part.
 - (3) An auctioneer who proposes to offer residential land for sale by auction must ensure that the building inspection report is attached to the vendor's statement when the vendor's statement is made available for perusal by members of the public before the auction.
 - (4) If an agent is acting on behalf of a vendor of residential land in connection with sale of the land, this section applies as if the obligations imposed by this section on the vendor were instead imposed on the agent.
 - (5) The cost of obtaining the building inspection report must be borne by the vendor.

(6) In this section—

associate, of a vendor, means—

- (a) a relative of the vendor or the vendor's spouse or domestic partner; or
- 5 (b) an employee, employer or partner of the vendor; or
- (c) a relative of an employee of the vendor; or
- (d) a body corporate if any of the following persons:
 - (i) the vendor;
 - 10 (ii) a relative of the vendor or of the vendor's spouse or domestic partner;
 - (iii) an employee of the vendor;
 - (iv) 2 or more of the above persons together,
have a relevant interest or relevant interests in shares in the
body corporate the nominal value of which is 10% or more
15 of the nominal value of the issued share capital of the body corporate; or
- (e) a body corporate if a director of the body corporate is—
 - (i) a relative of the vendor or of the vendor's spouse or
20 domestic partner; or
 - (ii) an employee of the vendor; or
- (f) the trustee of a trust if any of the following are beneficiaries of the trust:
 - (i) the vendor;
 - 25 (ii) a relative of the vendor or of the vendor's spouse or domestic partner;
 - (iii) an employee of the vendor;
 - (iv) a body corporate referred to in paragraph (d) or (e);
or
- 30 (g) a person who has a relationship with the vendor (whether or not similar to the relationships referred to in the preceding paragraphs) of a kind prescribed by the regulations for the purposes of this section;

building inspection report, in relation to residential land offered for sale, means a report—

- 35 (a) from a building inspection in respect of the building or buildings on the land, carried out no earlier than 3 months before the day on which the land was, in relation to the particular occasion on which the land is offered for sale, first offered for sale; and

- (b) containing information of the kind required by regulation;
and
- (c) prepared by a person who—
 - (i) is not an associate of the vendor; and
 - (ii) is recognised by the Commissioner as a building
inspector for the purposes of this section; and
 - (iii) holds a policy for professional indemnity insurance
for at least the prescribed amount;

domestic partner means a person who is a domestic partner within
the meaning of the *Family Relationships Act 1975*, whether declared
as such under that Act or not.

3—Amendment of section 15—Remedies

- (1) Section 15(1)—after "defective" insert:

, or a building inspection report is not provided as required under section 13B,
or a building inspection report provided is false or misleading in a material
particular

- (2) Section 15—delete subsection (3) and substitute:

(3) Damages may be awarded under subsection (2)(b) against 1 or more
of—

- (a) the vendor; and
- (b) if it appears that the purchaser has been prejudiced by a
failure on the part of an agent to carry out duties imposed by
this Part—the agent; and
- (c) if it appears that the purchaser has been prejudiced by a
building inspection report provided under section 13B that is
false or misleading—the person who carried out the building
inspection.