

Recourse for defects

Legal matters

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THE Victorian Building Act requires all building practitioners to be insured.

This ensures property owners can seek financial redress from building practitioners if there has either been defective workmanship or design.

A practitioner is defined as an architect, engineer, building surveyor, building inspector, draftsman, quantity surveyor or builder.

All practitioners have to renew their registration annually.

Except for residential builders, all practitioners have to carry at least \$1 million in professional insurance.

The Building Act allows people to

sue for economic loss caused by negligent construction, negligent design or certification, for a period of 10 years after the building surveyor issues an occupancy permit or a certificate of final inspection.

The right exists regardless of whether the work is commercial, civil or residential.

Residential insurance is an odd beast and has some peculiarities. It covers general defects for two years and structural defects for the remaining four years.

Plus, a plaintiff can only sue the builder's insurer if the builder has died, disappeared or become insolvent.

So it's pretty hard to access and the pursuit can be long and costly.

The amount that can be recovered from the builder's insurer is up to

\$200,000. And even though it is the builders who purchase the cover, they aren't indemnified by the insurer if there is a pay out.

In fact, the insurer can recover the payout from the builder. Little wonder the product has become unpopular with builders and consumers alike.

In the case of multi-unit highrise developments where the building exceeds three storeys, residential warranty cover is not required by law. Apartment purchasers need to be aware of this — if one such apartment is defective there's no cover.

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