

Sustainability Declarations - Mandatory for Property Sales from 1 January 2010

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The *Building and Other Legislation Amendment Act 2009* ("**Act**") will affect the sale of houses, townhouses, duplexes and residential apartment buildings from 1 January 2010.

If you propose to sell a residential property you will have to prepare a sustainability declaration (in the approved form) in relation to the property prior to offering it for sale. The purpose of the sustainability declaration is to assist in promoting features that:

- reduce energy and water use;
- increase the adaptability of homes and units to meet the needs of disabled or aging residents;
- enhance safety; and
- suit Queensland's climate.

Prior to offering the building for sale, a seller must prepare and sign the declaration about the above matters, to the best of the seller's ability and knowledge. A seller can engage another person to prepare the declaration on their behalf.

Changes to the *Property Agents and Motor Dealers Act 2000* will also impose obligations on sellers' agents. These include the requirements that:

- A seller's agent must not publish advertisements for sale (including on the internet) unless the advertisement includes information about where a copy of the current sustainability declaration can be obtained. Exceptions to this are newspaper or magazine advertisements.
- Where marketing material is distributed, a copy of the declaration will need to be attached.
- An agent will need to have a copy of the declaration conspicuously displayed at any 'open' inspection or private viewing.

If these requirements are not complied with then substantial financial penalties will apply to sellers and agents, ranging between \$2,000 and \$10,000. A buyer will not be able to terminate a contract, however a seller would be liable to compensate a buyer if the buyer subsequently incurs a loss or expense.

The approved form of declaration is available from the Department of Infrastructure and Planning web site:

<http://www.dip.qld.gov.au/sustainable-housing/sustainability-declaration.html>

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