



## Insurers release and retention of securities

HIA has received many calls from members enquiring about the release of securities (including bank guarantees) taken out in order to obtain Home Warranty Insurance.

Late last year changes were made to the NSW Home Building Act to clarify provisions which meant that insurance companies felt they had indefinite liability for claims, and as a result were refusing to release those securities.

As a result of these changes HIA has worked with the Department of Fair Trading, the Insurance Council of Australia and all the former Home Warranty Insurers to ensure a consistent approach is taken to the release of these securities.

Please find below a statement developed by the Insurance Council of Australia and all the former Home Warranty Insurers which outlines the requirements and process for the release of securities.

*Securities such as bank guarantees were sometimes provided by builders and contractors to the former private Home Warranty insurers as a means of obtaining eligibility for home warranty insurance. Those securities may cover a number of building projects or a specific building project (i.e. a project undertaken at a specific property address).*

*It was generally understood that the securities would be returned when the insurer was no longer liable to pay out claims under insurance policies against which they were held.*

*To enable the timely return of securities, amendments were made to the Home Building Act in late 2011. One of the new requirements was for notifications of a loss to be made in writing. Homeowners had up until 26 April 2012 to put a former verbal notification into writing.*

***Fair Trading, insurers and building industry groups have now negotiated a framework and consistent industry process for the return of eligible securities.***

*For insurers to be able to consider securities for release it will be necessary to determine key facts - the statutory period of cover; the completion date of the projects or specific project; and whether any notification of defects or claims have been received.*

*The statutory period of cover is 6.5 years. It runs from the date of completion of the last insured project, or the specific project, completed by the builder that is covered by the security. Requests for return of securities need to provide evidence of the date of completion for the relevant projects or specific project.*

*For a guarantee to be able to be released will require that the building completion date/s are known and the statutory period of cover has expired and no written notifications of building defects or claims have been received.*

*To request the return of a security from one of the former private home warranty insurers you should apply to your insurer or broker.*

*Applications for the release of securities can be made at any time once the period of cover has expired. Insurers will consider the factors set out above and the facts specific to each application in considering whether securities can be released.*

