

HomeBond: the cracks widen

My previous article highlighted the weaknesses of HomeBond in respect of negligent acts of third parties and the financial caps applicable to HomeBond. I now intend to focus on the effect insolvency of a member builder has on the HomeBond policy.

Termination of membership

The HomeBond policy provides that termination of membership *shall* occur where such a member:

- (a) enters into liquidation or bankruptcy; or
- (b) fails to pay any of the premium due to HomeBond.

The policy further states that membership *may* be terminated where:

- (c) a receiver, manager or examiner is appointed or upon re-possession of certain assets by a debenture holder;
- (d) the member fails to maintain the financial or technical resources;
- (e) the member fails to respond to a recorded delivery correspondence from HomeBond within 28 days;
- (f) a member fails to comply with its obligations under the HomeBond Agreement; or
- (g) a member breaches the HomeBond Agreement or his conduct is deemed to bring HomeBond into disrepute.

However, of most concern, is that where the HB11 final certificate (“HB11”) has issued for a property that remains in the ownership of a member builder, the HB11 shall be revoked if the member builder enters into liquidation or a receiver, manager or examiner is appointed. Without a HB11, an appointed receiver, manager or examiner would find it almost impossible to dispose of a property. HomeBond may renew a HB11 upon terms and conditions which they deem appropriate in their absolute

discretion. In effect, HomeBond can hold a receiver, manager or examiner ransom as without a HB11, financial institutions will not lend funds.

The true merit of HomeBond must be examined in light of the current economic times.

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