

**GUIDE TO LEGISLATIVE CHANGES –
PROPOSED MEASURES TO SAFEGUARD CONVEYANCING MONEY
CONVEYANCING (MISCELLANEOUS AMENDMENTS) BILL**

1. The Conveyancing (Miscellaneous Amendments) Bill makes amendments to the Conveyancing Law and Property Act and the Legal Profession Act. The key features of the Conveyancing (Miscellaneous Amendments) Bill are:

General prohibition on receiving and holding of conveyancing money

2. Lawyers will no longer be allowed to receive or hold conveyancing money, including stamp duties on the Sale and Purchase Agreement, on behalf of their clients, in their client accounts. A breach of this prohibition is a criminal offence, and the penalty is an imprisonment term of up to three years or a fine of up to \$50,000: Clause 2(c) of the Bill introduces sub-sections 73D(2)(b) and (h) of the Conveyancing and Law of Property Act.

3. Real estate agents, who could potentially be asked by members of the public to hold conveyancing money, are prohibited from so doing through Rule 7 of the Estate Agents (Estate Agency Work) Regulations 2010.

Lawyers may only receive and hold conveyancing money in the manner stipulated by the new measures

4. Law firms can continue to hold conveyancing money if the money is deposited in a special conveyancing account that they open with any of the banks appointed by the Minister for Law. Strict safeguards are imposed on these accounts to prevent the unauthorised withdrawal and co-mingling of money deposited in the accounts. For example, the conveyancing accounts will not come with cheque book facilities and appointed banks will not allow internet banking or telegraphic transfers of money out of the accounts: Clause 2(c) of the Bill introduces sub-sections 73D(2)(c) and (d) of the Conveyancing and Law of Property Act.

5. To cater for complex commercial deals or collective transactions where the use of a conveyancing account may not be suitable, respective lawyers can jointly open and manage conveyancing money through an escrow account: Clause 2(c) of the Bill introduces sub-section 73D(2)(b) of the Conveyancing and Law of Property Act.

Singapore Academy of Law to hold conveyancing money

6. SAL will also be providing a service to hold conveyancing money on behalf of buyers and sellers. This is an attractive option for buyers and sellers who prefer to entrust their

money with another depository: Clause 2(c) of the Bill introduces sub-section 73D(3) of the Conveyancing and Law of Property Act.

Two-party authorisation for payment-out

7. A two-party authorisation for the withdrawal of conveyancing money from the lawyer's conveyancing account or SAL will be introduced. Any instruction for the withdrawal of conveyancing money from a conveyancing account or SAL will have to be counter-signed by the other party¹. The counter-signing lawyer² will generally have to ensure that the identity of the payee and the pay-out amount are correct: Clause 2(c) of the Bill introduces sub-sections 73D(2)(d) to (g) of the Conveyancing and Law of Property Act.

8. To facilitate and expedite the counter-signing process, the Singapore Land Authority (SLA) has developed an electronic Payment Instruction system (ePI) to enable lawyers to securely and efficiently lodge and digitally sign electronic pay-out forms. These forms will then be retrieved by the counter-signing lawyer and digitally counter-signed before the appointed bank or SAL retrieves the pay-out form from ePI for processing.

9. To aid the quick resolution of disputes, Clause 2(c) of the Bill (the new section 73E) also establishes an adjudication scheme, which will be administered by the Law Society, for disputes arising from a party's failure to countersign the documents. This will help to prevent undue delay to the conveyancing process by providing a quicker alternative to court proceedings.

Conveyancing and Law of Property (Conveyancing) Rules

10. The details of the new conveyancing process will be spelt out fully in the Conveyancing and Law of Property (Conveyancing) Rules. The draft Rules, which can be found at <http://www.minlaw.gov.sg/conveyancing>, is in the process of revision after the second pilot trial. The finalised Rules will be uploaded subsequently.

¹ Payees are divided into Categories A, B and C.

Category A payees include the Commissioner of Stamp Duties, Commissioner of Lands, Comptroller of Income Tax, Jurong Town Corporation, etc. Category A payees can be paid with no counter-signing.

Category B payees include the seller or his receiver, buyer, mortgagee, CPF Board, HDB, Town Council, MCST, Comptroller of Property Tax, etc. As these payees are closely connected to the conveyancing transaction, the counter-signing party only needs to check if the identity of the payee is correct.

Category C payees include all other payees, such as real estate agencies for their commission and lawyers for their legal costs. For this category, the counter-signing party will have to check that the identity of the payee as well as amount are correct.

² While the most common counter-signatory is the lawyer acting for the other party, there could be non-lawyer counter-signatories such as unrepresented lay clients, CPF Board or HDB, depending on the nature of the conveyancing transaction.