

## THE AUSTRALIAN

### Victoria toughens underquoting penalties as NSW considers options



NSW is considering strengthening the laws against underquoting.

ELIZABETH REDMAN THE AUSTRALIAN 12:00AM May 11, 2017

A push back against underquoting of property prices is in train, with tougher penalties for the practice recently coming into force in Victoria and a strengthening of the laws under consideration in NSW.

But some buyer agents say the new rules don't go far enough in helping purchasers understand the market.

New laws that took effect in Victoria last week carry penalties of more than \$31,000 for offences related to underquoting — in some cases more than double the previous penalties.

The laws require selling agents to advertise either a single price or a price range of not more than 10 per cent, and ban the use of terms such as “offers above” or “from”.

Selling agents need to prepare a list of sales prices for three comparable properties and include this with online advertising and display it at open for inspections. The advertised price must not be less than the agent's estimated selling price, the seller's asking price or an offer rejected by the seller.

NSW introduced changes to its underquoting laws in January last year that also restricted listing price ranges to 10 per cent and banned statements such as “offers over”.

There have been two compliance crackdowns: in March last year, 28 fines were issued including 13 for underquoting, while in March this year 41 corporations and individuals were found to be non-compliant and 22 fines were issued for underquoting.

NSW Minister for Innovation and Better Regulation Matt Kean said the evidence suggested the new laws may be effective, but said it was timely to review them.

“I will consider strengthening the existing legislation through tougher penalties and giving inspectors greater powers to investigate underquoting,” Mr Kean said.

Licensed buyer's advocate Miriam Sandkuhler, who led a Change.org campaign for stronger underquoting laws, expects the Victorian changes to help the underquoting issue but does not think the new laws go far enough.

“While they will give buyers a more realistic expectation as to the worth of the property, vendors are still able to set the reserve on the day of the auction, which can be totally different to what the quote range has been,” she said.

Veteran buyer's advocate David Morrell agreed the new laws were an improvement, but said it was difficult to change an issue that was “endemic” in the industry quickly.

Both Ms Sandkuhler and Mr Morrell want vendors to declare their reserve from the beginning of the campaign to improve transparency, but not everyone agrees.

Real Estate Institute of Victoria president Joseph Walton said it could be “extremely difficult” for vendors who are not property professionals to set an appropriate reserve price at the start of the campaign, and that reserve prices were often determined by buyer interest.

“Requiring a reserve price to be set at the beginning of a campaign would imbalance the market, to the detriment of vendors who have engaged an agent to act on their behalf,” Mr Walton said.

“The positive impact of a buoyant property market can often see strong price outcomes misinterpreted (by buyers) as instances of underquoting.”

Victorian Minister for Consumer Affairs Marlene Kairouz said a requirement to set a reserve price at the start of a campaign did not make sense, given the level of interest in a property influenced reserve prices, but said the state government was open to ideas to better level the playing field.

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