

Our Ref: CCW
Your Ref:



6 November 2009

Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Department of The Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Sir

Inquiry into the Personal Property Securities (Consequential Amendments) Bill 2009

Subject to the issues noted below, we support the amendments proposed to be made to:

- various statutes; and
- the Personal Property Securities Bill 2009 (**PPS Bill**),

pursuant to the Personal Property Securities (Consequential Amendments) Bill 2009 (**Consequential Amendments Bill**).

The issues we wish to raise with the Committee are as follows:

1. If paragraph (c) remains in sub-clause 14(2) of the PPS Bill, we support the proposed inclusion of sub-clause 14(2A) (as per Item 11, Schedule 4 of the Consequential Amendments Bill). However, we remain of the view that it would be preferable for paragraph (c) of sub-clause 14(2) of the PPS Bill to be deleted. If this were to be done the proposed amendment in Item 11 of Schedule 4 to the Consequential Amendments Bill would not be necessary.

The effect of paragraph (c) in sub-clause 14(2) is that it will not be possible to have a purchase money security interest in collateral that the grantor intends to use for personal, domestic or household purposes except as now proposed under sub-clause 14(2A). One consistent approach for purchase money security interests for both commercial and consumer finance would make the legislation less complex.

2. The Consequential Amendments Bill amends sub-clause 267(1)(b) of the PPS Bill (Item 53, Schedule 4 of the Consequential Amendments Bill) but it does not clarify whether a security interest should be considered to be perfected in respect of after-acquired property to which the security interest has not attached as at the times specified in sub-clause 267(1)(b). While it could be argued that a security interest should be considered to be

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perfected in respect of such after-acquired property, we believe it would be preferable to expressly state this. Clauses 19 and 21 of the PPS Bill may otherwise leave this open to doubt.

This submission is made by Piper Alderman. Piper Alderman has previously undertaken paid consultancy work for the Australian Attorney General's Department in connection with the proposed PPS reforms. Our firm is not currently undertaking any paid consultancy work for the Department. For completeness, we also note that Craig Wappett has been a member of the Attorney General's Consultative Committee on the PPS reforms since early 2006.

Yours faithfully

Piper Alderman

Per:

A handwritten signature in black ink, appearing to read 'C. Wappett', written over a horizontal line.

Craig Wappett

Partner