



## What is the PPSR?

The Personal Property Securities Register (PPSR) is the single, national online database of security interests in personal property in Australia.

Personal property generally includes all forms of property other than land, buildings and fixtures.

Buyers can check the PPSR to see if the valuable second-hand goods they want to buy are debt-free and safe from repossession. A search fee is \$3.40.

For a business selling on terms – such as retention of title or commercial consignment, or hiring or leasing out goods for longer terms – properly registering helps protect its interest, for instance should a customer not pay or go broke. A registration fee starts from \$6.80 for 7 years.

## PPSR CASE STUDY 11/V1

# Construction – Sceneview

*Scenario – building developer uses the PPSR to secure its retention of title in the materials it supplies ...*

### Concepts covered:

- PPSR registration
- priority rights
- commingling.

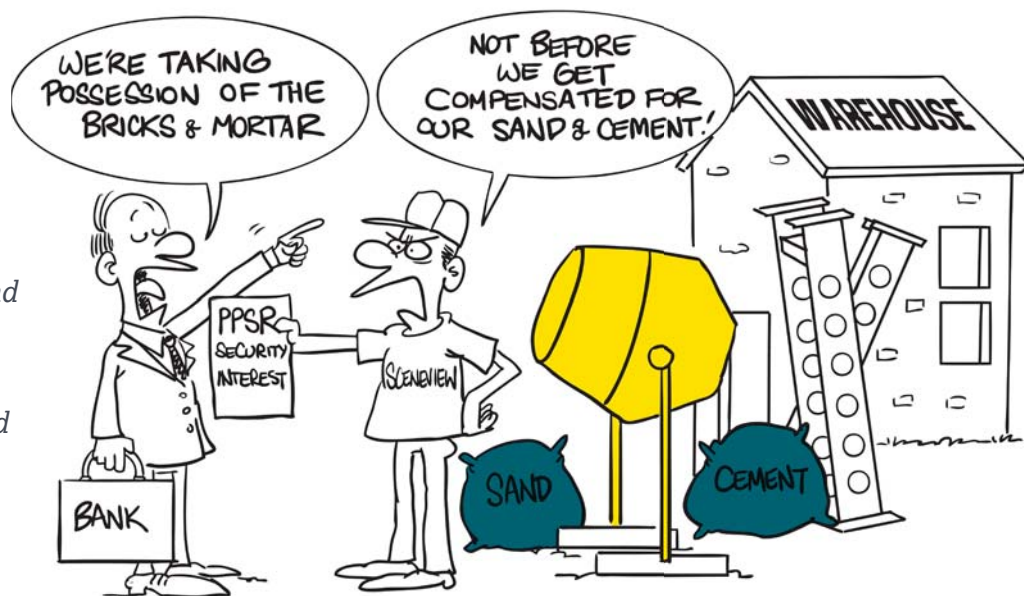
*Developer Sceneview owns land on which it has permission to build a warehouse.*

*It contracts with Projex to build the warehouse. The contract provides that Projex sources the material needed for the build process.*

*Projex will submit monthly invoices to Sceneview for works and materials, whether the materials are on-site or off-site.*

*Sceneview has a security interest, under the contract, in all building materials in the possession of Projex, to secure performance of Projex's obligations under the warehouse contract.*

*Sceneview registers that security interest against Projex on the PPSR.*



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*Back at Projex's yard, it mixes sand and cement to make concrete, which it then pre-fabricates into composite steel–concrete girders for the warehouse. It invoices Sceneview for the sand and cement that month.*

*One year later, Projex goes into liquidation with the girders still in its yard.*

*Seven months before liquidation – after the Sceneview contract was signed and after Sceneview had registered on the PPSR – Projex's bank registered a security interest over all of Projex's present and after-acquired property to secure its general lending to Projex.*

*Because Sceneview registered its security interest on the PPSR, it can claim the value of the sand and cement because Projex defaulted on the secured obligations to perform the contract.*

*Sceneview registered before Projex's bank, so it takes priority over the bank for the sand and cement.*

### **If this sounds like a scenario that could apply to your business, you might want to consider these things ...**

A retention of title clause (indicating that title remains with you until goods are paid for in full) in your contract or invoice, no longer protects you on its own.

If you don't make a registration, your retention of title clause is unlikely to stack up against others when you need to rely on it.

In other words, someone else who has registered an interest is ahead of you in the queue should your customer default or go broke.

So, you can back up your contracts by registering your interest/s and make sure your registration is correct to maximise its enforceability.

#### **Tip**

- The *PPS Act* strengthened the position of developers like Sceneview. Now it can claim a security interest in materials in the possession of the contractor, even those made into a new item that has not yet been incorporated into Sceneview's building.
- It does not matter that the materials have been incorporated by processing with steel into girders – a security interest continues where goods are 'commingled' by processing or manufacturing into something new which loses its original identity.
- Registration helps to ensure protection should the contractor go insolvent, and/or another financier registers an interest in the components or the whole new thing. (Note - once incorporated into the building, Sceneview would own the materials as fixtures.)

*This is a general scenario intended to provide typical examples.*

*This scenario is not legal advice about how the law applies to your particular business and dealings.*

*You may wish to seek professional advice from your accountant, financial adviser or lawyer.*

For more information about the Australian Government's Personal Property Securities Register (PPSR) go to:

**Website:** [www.ppsr.gov.au](http://www.ppsr.gov.au)

**Email:** [enquiries@ppsr.gov.au](mailto:enquiries@ppsr.gov.au)

**Telephone:** 1300 007 777