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PLACING A CAVEAT ON A CERTIFICATE OF TITLE

Invariably we are contacted by clients who wish to place a caveat on someone's title as a result of their being owed money by the property owner.

Just because someone owes you money that does not entitle you to go and place a caveat on the title to their property. Before you can lodge a caveat on a certificate of title there must be a legal basis. In essence you must have an interest in that property which is capable of registration on the certificate of title itself.

One example of this would be an unconditional purchaser of a property. Such a person is entitled to have a transfer registered to their name and as such they have a legal interest in the property. A purchaser in that situation may wish to lodge a caveat on the title to protect the deposit paid until settlement occurs.

Another example is where the property owner owes you money and has agreed to sign

a mortgage security over the property to secure the amount being owed. Such an arrangement must be in writing and signed by the property owner. In that situation you the creditor would have a caveatable interest. The realities are however that outside the financing and banking arena most creditors are unsecured. If the creditor is unsecured then there is no right to place a caveat on the title.

Should you be considering advancing moneys to a creditor and want to place a caveat on the title then we would urge you to contact one of our solicitors who will prepare the appropriate documentation for you.

20 MINUTE FREE

**WANT to review your Family Trust structure?
 THEN call us and take advantage of our 20 Minute Free interview**