|  |
| --- |
| Guide to grounds of claim for caveats |

This guide contains information on acceptable grounds of claim for caveats lodged in Victoria.

Lodging a caveat

[PEXA](https://www.pexa.com.au/) subscribers can now lodge caveats electronically at [www.pexa.com.au](http://www.pexa.com.au) (the national electronic conveyancing system).

For people not subscribed to PEXA who wish to lodge a caveat on paper, Land Victoria has an interactive caveat form. The [caveat form](http://www.delwp.vic.gov.au/property-and-land-titles/forms%2C-guides-and-fees/transfer-of-land-act) is available at [www.delwp.vic.gov.au/property-forms](http://www.delwp.vic.gov.au/property-forms)>Transfer of Land Act>Caveat.

Land Victoria’s caveat form features the same tables currently available in PEXA. This ensures a correct claim is provided to the Registrar for recording and standardised grounds of claim exist across both lodgement streams.

Land Victoria’s customers are encouraged to familiarise themselves with the tables on the following pages and use the information in them when creating their caveats, irrespective of the lodgement stream (paper or electronic).

Claim category

Grounds of claim are grouped by claim category. The claim category is a descriptor for each grouping. It is used as a tool to navigate the tables. Please note: the claim category does not appear on a paper caveat instrument when it is printed.

Each ground of claim contains:

* a statement of claim
* an estate or interest claimed
* a prohibition.

The tables that follow group the statements of claim and associated estates and interests by claim category.

Statement of claim

A statement of claim is a description of the claim and only one statement is permitted in a caveat. The statement can include the names of the parties affected by the caveat and/or the date of a claim document.

If an affected party name is required, this could be one or more (or all) of the registered proprietors; a third party or parties; or, a combination of the registered proprietors and third party(ies).

If the document date is required it is the date of the document upon which the caveat’s statement of claim is based.

Estate or interest claimed

Only one estate or interest associated with the selected statement of claim can be included in the caveat.

Prohibition

Five prohibitions are available for selection. Only one of these can be included in the caveat.

Contact us

For [location and contact details](http://www.dtpli.vic.gov.au/property-and-land-titles/contact-us), refer to [www.delwp.vic.gov.au/property](http://www.dtpli.vic.gov.au/property)>Contact us.

Grounds of claim

| Claim category | Statement of claim | Estate or interest claimed |
| --- | --- | --- |
| Agreement/Contract | Agreement with the following parties and date.Parties<affected parties>Date<document date> | Freehold EstateLeasehold EstateInterest as MortgageeInterest as ChargeeLife EstateFreehold Estate in Remainder ExpectantInterest as Covenantee of a Restrictive CovenantInterest as a Grantee of a Profit a PrendreInterest as a Grantee of an EasementExecutory or Contingent Interest |
| Agreement/Contract | Part performed oral agreement with the following parties.Parties<affected parties> | Freehold EstateLeasehold EstateInterest as MortgageeInterest as Chargee |
| Agreement/Contract | Purchasers’ contract with the following parties and date.Parties<affected parties>Date<document date> | Freehold Estate |
| Agreement/Contract | Purchasers’ lien to secure repayment of money paid under a contract of sale with the following parties and date.Parties<affected parties>Date<document date> | Interest as Lienee |
| Agreement/Contract | Transfer with the following parties and date.Parties<affected parties>Date<document date> | Freehold EstateLeasehold EstateInterest as MortgageeInterest as ChargeeLife EstateFreehold Estate in Remainder Expectant |
| Agreement/Contract | Unpaid Vendor under a contract of sale with the following parties and date.Parties<affected parties>Date<document date> | Interest as Chargee |
| Certificate of Title | Probate having been granted, Legal Personal Representative of the deceased Registered Proprietor(s) being entitled to possession of the Certificate of Title for the land and to prevent improper dealings. | Freehold Estate |
| Certificate of Title | Probate having been granted, Legal Personal Representative of the deceased Registered Proprietor(s), the Certificate of Title for the land having been lost or destroyed. | Freehold Estate |
| Certificate of Title | Registered Proprietor(s) being entitled to possession of the Certificate of Title for the land and to prevent improper dealings. | Freehold Estate |
| Certificate of Title | Registered Proprietor(s), the Certificate of Title for the land having been lost or destroyed. | Freehold Estate |
| Charge | Charge contained in a building agreement with the following parties and date.Parties<affected parties>Date<document date> | Interest as Chargee |
| Charge | Charge contained in mortgage with the following parties and date.Parties<affected parties>Date<document date> | Interest as Chargee |
| Charge | Charge contained in agreement with the following parties and date.Parties<affected parties>Date<document date> | Interest as Chargee |
| Charge | Charge with the following parties and date.Parties<affected parties>Date<document date> | Interest as Chargee |
| Charge | Charge of shares in the Registered Proprietor with the following parties and date, where the holding of the shares entitles their owner to exclusive use and occupancy of an apartment/flat/unit, being part of the building erected on the land.Parties<affected parties>Date<document date> | Interest as Chargee |
| Charge | Exoneration. | Freehold EstateLeasehold EstateInterest as MortgageeInterest as Chargee |
| Charge | Former trustee’s right of indemnity in trust assets. | Interest as Chargee |
| Charge | Subrogation to a charge with the following parties and date.Parties<affected parties>Date<document date> | Interest as Chargee |
| Charge | Subrogation to a mortgage with the following parties and date.Parties<affected parties>Date<document date> | Interest as Mortgagee |
| Court/Tribunal Order | Court order under the *Family Law Act 1975*. | Freehold EstateInterest as Chargee |
| Lease | Lease with the following parties and date.Parties<affected parties>Date<document date> | Leasehold Estate |
|  |  |  |
| Lease | Lease of an apartment/flat/unit, being part of the building erected on the land, with the following parties and date.Parties<affected parties>Date<document date> | Leasehold Estate |
| Lease | Option to lease with the following parties and date.Parties<affected parties>Date<document date> | Executory or Contingent Interest |
| Lease | Owner of shares in the Registered Proprietor, where the holding of the shares entitles their owner to exclusive use and occupancy of an apartment/flat/unit, being part of the building erected on the land. | Leasehold Estate |
| Lease | Sub-lease with the following parties and date.Parties<affected parties>Date<document date> | Leasehold Estate |
| Mortgage | Mortgage with the following parties and date.Parties<affected parties>Date<document date> | Interest as Mortgagee |
| Mortgage | Mortgage of lease with the following parties and date.Parties<affected parties>Date<document date> | Interest as Mortgagee |
| Mortgage | Mortgage of Lease of an apartment/flat/unit, being part of the building erected on the land, with the following parties and date.Parties<affected parties>Date<document date> | Interest as Mortgagee |
| Mortgage | Mortgage of shares in the Registered Proprietor with the following parties and date, where the holding of the shares entitles their owner to exclusive use and occupancy of an apartment/flat/unit, being part of the building erected on the land.Parties<affected parties>Date<document date> | Interest as Mortgagee |
| Other | Adverse possession by exclusive occupation. | Freehold Estate |
| Other | Costs incurred by the Caveator insolvency practitioner exclusively for the care, preservation or realisation of the land | Interest as Lienee |
| Other | Estoppel. | Freehold EstateLeasehold EstateInterest as MortgageeInterest as ChargeeInterest as LieneeLife EstateFreehold Estate in Remainder ExpectantInterest as Covenantee of a Restrictive CovenantInterest as a Grantee of a Profit a PrendreInterest as a Grantee of an EasementExecutory or Contingent Interest |
| Other | Trustee of the bankrupt estate of the following parties under the *Bankruptcy Act 1966*.Parties<affected parties> | Freehold EstateLeasehold EstateInterest as MortgageeInterest as Chargee |
| Other | Unregistered easement. | Interest as a Grantee of an Easement |
| Other | Vested by legislation. | Freehold EstateLeasehold EstateInterest as MortgageeInterest as ChargeeInterest as Covenantee of a Restrictive CovenantInterest as a Grantee of an Easement |
| Statutory Charge | Statutory charge. | Interest as Chargee |
| Statutory Charge | Statutory charge arising under the *Corporations Act 2001*. | Interest as Chargee |
| Statutory Charge | Statutory charge arising under the *Local Government Act 1989*. | Interest as Chargee |
| Statutory Charge | Statutory charge arising under the *Water Act 1989*. | Interest as Chargee |
| Statutory Charge | Statutory charge arising under the *Social Security Act 1991*. | Interest as Chargee |
| Trust/Settlement | Beneficiary/ies under the will of the following deceased party, where probate has been granted and all debts in the estate have been paid.Parties<affected parties> | Freehold EstateLeasehold EstateInterest as MortgageeInterest as ChargeeLife EstateFreehold Estate in Remainder Expectant |
| Trust/Settlement | Declaration of Trust with the following parties and date.Parties<affected parties>Date<document date> | Freehold EstateLeasehold EstateInterest as MortgageeInterest as Chargee |
| Trust/Settlement | Implied, resulting or constructive trust. | Freehold EstateLeasehold EstateInterest as MortgageeInterest as Chargee |

|  |
| --- |
| Prohibitions |
| Absolutely |
| Transfer of Land |
| Unless an instrument is expressed to be subject to my/our claim |
| Unless I/we consent in writing |
| Any interest that affects my/our interest |

|  |  |
| --- | --- |
| © The State of Victoria Department of Environment, Land, Water and Planning 2016byThis work is licensed under a [Creative Commons Attribution 4.0 International licence](http://creativecommons.org/licenses/by/4.0/). You are free to re-use the work under that licence, on the condition that you credit the State of Victoria as author. The licence does not apply to any images, photographs or branding, including the Victorian Coat of Arms, the Victorian Government logo and the Department of Environment, Land, Water and Planning (DELWP) logo. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>**Disclaimer**This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication. | **Accessibility**If you would like to receive this publication in an alternative format, please telephone DELWP Customer Service Centre on 136 186 or email customer.service@delwp.vic.gov.au. Alternatively, telephone the National Relay Service on 133 677 ([www.relayservice.com.au)](http://www.relayservice.com.au). This document is also available on the internet at [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au). |