

82. Mortgages

- (1) For the purposes of this Part, a “**mortgage**” is an instrument that —
 - (a) is a security by way of mortgage or charge over property that is wholly or partly in Western Australia at the liability date;
 - (b) is a security by way of a conveyance or an assignment of property that is wholly or partly in Western Australia to a trustee, that is to be sold or otherwise converted into money, and is redeemable before the sale or conversion, except a conveyance or an assignment made for the benefit of creditors who accept the conveyance or assignment in full satisfaction of debts owed to them;
 - (c) is a conveyance or an assignment of property that is wholly or partly in Western Australia, or effects or is evidence of an agreement for the conveyance or assignment of property that is wholly or partly in Western Australia, where the conveyance or assignment apparently is or will be absolute but is intended only as security for an advance; or
 - (d) on the deposit of documents of title, authority to control title or a pledge to provide authority to control title, to property wholly or partly in Western Australia, becomes a mortgage or evidences the terms of a mortgage.
- (2) For section 91B, a reference to a mortgage or earlier mortgage includes a reference to a mortgage first executed before the commencement of this section.
- (3) For the purposes of subsection (1), an insured person’s interest in, or right to receive amounts payable under, a policy of insurance is property that is in Western Australia if the insured person is in Western Australia.
- (4) An insured person is in Western Australia if —
 - (a) for an insured person who is an individual — the individual’s place of residence is in Western Australia;
 - (b) for an insured person that is a body corporate other than a WA company — the body corporate is incorporated by or under a written law; or
 - (c) the insured person is a WA company.

[Section 82 inserted by No. 66 of 2003 s. 79; amended by No. 11 of 2005 s. 26.]