

GUIDE FOR CHURCHES USING PROPERTY AS SECURITY FOR A LOAN

A church is entitled to use its property as security to borrow money for further property purchase or building improvements.

When considering putting property up as security for a loan, the BUV suggests that our churches use the following checklist:

- 1. Contact the BUV office.** Make a quick telephone call to the office of the Administrator to let us know that you are seeking to use property as security for a loan. This will ensure that the required processes do not hold you up. This is especially important to note for churches looking to use their property as security for a loan to purchase other property at auction.

- 2. Investigate & scrutinize your finance options thoroughly.** Different lenders have different eligibility criteria and you should seek professional advice as to what is the best option for your church. The church should appoint a solicitor or financial services professional to prepare and scrutinize all documentation on its behalf. The BUV is not equipped to act in this capacity and does not scrutinize the Loan Contract or Mortgage of Land documents; effectively the BUV is signing in place of the Church and it is the responsibility of the Church to be satisfied that the documentation is in order. A solicitor with a proper understanding of church law and Baptist practice is a considerable advantage. The Baptist Union's Honorary Legal Advisor can be engaged independently by churches for a very reasonable fee. (Please refer to the Baptist Union year book for these details).

- 3. Hold a Special Church Meeting.** The decision to mortgage or otherwise charge the Church property must be made at a Special Church Meeting. This is not a normal church meeting, but must comply with clause 10 of Schedule B to the Baptist Union of Victoria Incorporation Act 1930, which says:

The special Church meetings referred to above:

- 10.1 may generally be called at any time;*
- 10.2 may be called by the Church leadership;*
- 10.3 must be called upon the written request of at least one-sixth of the members of the Church;*
- 10.4 must be convened by 14 days' clear notice specifying the time, place and purpose of the meeting*

At a special Church meeting:

- 10.5 persons voting must be over 18 years, must have been members of the Church for at least 6 months, and must have been present at Church for communion at least once in the preceding 6 months; and*
- 10.6 a two-thirds majority vote is required*
(the two-thirds rule relates to two-thirds of all those members present and voting. ...if the vote is by ballot and invalid votes are cast, the number of invalid votes must still be included in the total number of votes against which the two-thirds requirement is measured.)

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- 4. Word your resolutions correctly and keep them separate.** Apart from specifying the time, place and purpose of the special church meeting, the notice should include the resolutions that are being considered. Keep the resolutions specific and separate for each actual decision.

For example:

The members of Sample Baptist Church resolve to borrow the sum of \$150,000.00 from Baptist Financial Services Australia Limited for the purpose of building new facilities at 777 Church Road, Baptistland, Victoria.

and

The members of Sample Baptist Church resolve that the property referred to in Certificate of Title Volume 12345 Folio 123 known as 777 Church Road, Baptistland, Victoria, be used as security for a loan with Baptist Financial Services Australia Limited and that a Mortgage of Land be placed on this title in favor of the mortgagee.

- 5. Approve the BUV to sign the Contract and Mortgage documentation.** Should the church members approve the proposed resolutions to borrow money and/or use the property as security, the church members should also resolve that the BUV sign all necessary documents on behalf of the Church.

For example:

The members of Sample Baptist Church request the Executive Council of The Baptist Union of Victoria to sign and seal the Baptist Financial Services Australia Limited Loan Contract for the sum of \$150,000.00 and the Mortgage of Land documentation for Certificate of Title Volume 12345 Folio 123 on behalf of the church.

- 6. Advise the BUV of the outcome of the meeting in writing.** Please provide a copy of the minute of the special church meeting. A minute signed by the chairperson of a Church meeting is sufficient evidence that the minute is an accurate record of a Church decision.
- 7. Signing of the Loan Contract and Mortgage of Land documentation** must be done using the Common Seal, which requires BUV Executive Council approval. Please note that the Executive Council meet on the fourth Tuesday of each month from January to November. The BUV Administrator must have the documentation in hand as soon as possible in order to get it signed by the appropriate people. Please liaise with the BUV Administrator to see how this is best managed for your church.

If you have any questions or concerns regarding this document or your church property project, please call the BUV Administration Dept for assistance on 9880 6111.