

## Amateur directors face legal land mines

By Roland Gribben

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Homeowners taking on responsibilities as directors of residential management companies are facing hidden risks, say insurers.

Many of the amateur "do gooders" are unaware that they are assuming the same responsibilities and obligations as directors of quoted companies once they join the board and could be sued, smeared and banned from holding office.

Jim Gaskin, a Zurich Insurance manager, is cautioning homeowners to do more research before rushing into what they may think is little more than a neighbourly responsibility.

advertisement He says: "I don't think I am being alarmist. People should be aware of what they are taking on and seek protection against the risks."

The number of residential management companies has been growing in line with the increase in the number of friends buying property together over the past five years as well as parents buying homes for their children.

Forming a limited company is the most popular route for dealing with the management of multi-tenanted properties. This enables general maintenance and running costs to be accounted for and managed but as soon as any of the leaseholders or freeholders take on the role of a director of the company they assume "significant responsibilities".

Mr Gaskin points out all directors of UK companies, regardless of size or type, carry an element of personal liability and "this threat extends to residential management companies".

Directors of the management companies assume responsibility for managing and preparing accounts and filing them at Companies House. They could face "unlimited fines" or imprisonment if found guilty of misleading auditors in preparing accounts.

Mr Gaskin said: "This may be the extreme end of the exposure directors of residential management companies face but there are many other situations that can lead to legal action being brought against them."

They could become embroiled in disputes between tenants, owners and third parties. The board could be criticised for their actions or lack of them by leaseholders.

Mr Gaskin points out that the number of directors disqualified from running a business has jumped by more than 70pc over the past five years though most of them have been banned for fraud, theft, unpaid VAT or being deemed as unfit to serve as a director.

On average the director of a small or medium sized business could be landed with a legal bill of between £25,000 and £50,000. Directors may need to "resort to selling their car or home to clear their name".

The examples of problems for residential companies provided by Zurich are, however, more mundane. One claim being handled by the insurance company involves a dispute between a

residential board and a leaseholder over a wooden floor laid in breach of the tenancy agreement.

After legal threats and a lawyer's bill the leaseholder would only agree to have the floor relaid if the management committee would meet half the cost. The offer was refused and the dispute is dragging on.

In another case a director was accused of illegal activity by a former director who had fallen out with the board. The allegation turned out to be "mischief making" and an insurance policy covered legal costs.

A company secretary was accused of contributing to the collapse of a flat sale by failing to deal with legal correspondence. A claim was made for the loss of potential profit as the property market fell.

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