

**RESIDENTIAL TENANCIES AMENDMENT BILL 2011**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Simon O'Brien (Minister for Commerce)**, read a first time.

*Second Reading*

**HON SIMON O'BRIEN (South Metropolitan — Minister for Commerce)** [7.31 pm]: I move —

That the bill be now read a second time.

Housing is a matter that affects everyone in our society. According to the 2006 Australian census, the rental property market, to which this bill relates, makes up approximately 26 per cent of the housing market in Western Australia. Almost 200 000 dwellings in Western Australia are rental properties. The key stakeholders in this market include landlords, tenants and property managers. Each has their own unique needs and interests. Anecdotally, we know that many of today's landlords have invested in the property market for the first time. Some landlords have invested in property to fund their retirement. A number of people are employed in property management and associated industries in Western Australia.

Tenants rent for a variety of reasons. Sometimes, it is because the cost of homeownership is not within their reach. For other tenants, the ability to relocate with relative simplicity and the absence of a large mortgage are attractive. Tenants also rent while saving to buy a house. In Western Australia, the most common age group for renting is 20 to 34. This bill will modernise and reform existing residential tenancy laws, and balance the rights and obligations of landlords and tenants in a regulatory environment that is fair and efficient. The bill will improve the clarity and effectiveness of the legislation, which in turn will reduce disputes between tenants and landlords and preserve investment in the private rental market. The bill contains a broad range of amendments arising from a comprehensive statutory review of the act, amendments to address serious and sustained antisocial behaviour in social housing, and provisions to regulate the use of residential tenancy databases. The statutory review of the act made many recommendations for amendments that are contained in this bill.

I will now outline some of the key amendments that have arisen from the statutory review. For the benefit of tenants and landlords, all residential tenancy agreements will be in a prescribed form. Contracting out of provisions of the act will be prohibited. This will make tenancy agreements simpler to understand for both tenants and landlords. Provisions in the bill require that a property condition report be completed at the beginning and conclusion of a tenancy agreement. This reflects industry best practice and will address a common source of disputes as to the condition of a property at the commencement of a tenancy. A centralised bond administrator will be established at the Department of Commerce to manage the lodgement and disposal of all residential tenancy bonds. Many bonds are already held at the department, but this will standardise the process, providing greater transparency for tenants as to the safekeeping of their bond moneys. This bill also recognises that for many landlords and tenants, an appearance before the court for a residential tenancy dispute can be a daunting experience. The bill will clarify that a property manager may represent a landlord in the Magistrates Court in a tenancy dispute. In addition, the bill will enable a tenant to be represented by a not-for-profit organisation such as a community legal centre.

The bill will provide for greater periods of notice to be provided to the tenant of a property that is the subject of mortgagee repossession. Currently, it is not uncommon for a tenant to discover that the home is to be repossessed by the landlord's financial institution when a bailiff attends the house to change the locks. The bill will require that any tenant be provided with a minimum of 30 days' notice before a property can be repossessed.

The second key feature of the bill is the inclusion of amendments to address antisocial behaviour in social housing provided by the Department of Housing. Social housing presents many challenges. The vast majority of social housing tenants greatly respect their homes and their neighbours. However, those social housing tenants who engage in serious or sustained disruptive behaviour at their homes or who use their homes for illegal purposes should be made aware that this behaviour is not acceptable. They will need to improve their behaviour or have the privilege of a low-cost rental property taken away. The bill provides for a transparent process for dealing with serious or sustained disruptive behaviour and illegal activity on the premises. The Department of Housing will be able to apply to the Magistrates Court if a tenant has engaged in serious or sustained disruptive behaviour or used their home for illegal purposes without first having to issue the tenant with a notice of a breach of the tenancy agreement.

To reflect the government's disruptive behaviour management policy for public housing tenants, the Legislative Assembly amended provisions in the bill relating to matters the court may have regard to in deciding whether the behaviour justifies terminating an agreement. The intent of the amendment is to support the disruptive behaviour

policy by allowing the court to give due consideration to cases in which there is a pattern of low-level antisocial behaviour in which each incident is minor but the cumulative effect on neighbours is significant. The court must be satisfied that grounds exist for the application and that the behaviour justifies terminating the tenancy agreement and may have regard to whether the behaviour was recurrent and the frequency of any recurrences.

The third key area addressed in this bill is the regulation of residential tenancy databases. Residential tenancy databases are electronic databases operated by private companies. Information about tenants is collected and stored on these databases and is widely used by landlords and property managers to vet prospective tenants. Since the late 1980s there has been significant growth in the residential tenancy database industry, along with increased concern about the effects of inappropriate or inaccurate information listed on the databases. In particular, people have been unfairly and repeatedly excluded from the private rental market after a negative or ambiguous report has been recorded on a database. This adds unnecessary pressure to the demand for social housing.

The bill implements the model provisions as approved by the Ministerial Council on Consumer Affairs in the out-of-session agreement D10/0004M made on 5 November 2010. By implementing the model provisions, we are ensuring nationally consistent regulation of database operators. The model provisions contained in the bill will enable people to readily check the information listed about them in databases and seek corrections for information that is wrong and out of date. More reliable, accurate and current information will also help landlords and property managers review prospective tenants. Although the tenancy database provisions are based upon a set of nationally consistent model provisions, the state is free to amend these provisions at any time and is not bound to mirror any amendments made by any other jurisdiction.

The reforms in this bill will promote a more efficient and fair residential tenancy market by reducing disputes between landlords and tenants, providing a more effective means of responding to antisocial behaviour in social housing, and enhancing the overall clarity and effectiveness of the legislation for the benefit of landlords, property managers and tenants.

I commend the bill to the house.

Debate adjourned and bill referred to the Standing Committee on Uniform Legislation and Statutes Review, pursuant to standing orders.