

30 September 2011

The Hon Adele Farina MLC,
Chair,
Standing Committee on Uniform Legislation and Statutes
Parliament House, Perth
WESTERN AUSTRALIA 6000

Dear Madam

Residential Tenancies Amendment Bill 2011

Veda is an information economy company, best known as Australia's leading provider of consumer credit reports. In late 2007, Veda acquired the National Tenancy Database (NTD), the largest holder of tenancy data in Western Australia.

We thank the Committee for the opportunity to comment on the new Residential Tenancies Amendment Bill 2011. Veda has made two previous submissions to the national reform process and met on a number of occasions with Queensland officers leading consultations. Our submission to you aligns with concerns expressed to other state's parliamentary inquiries into the new model provisions.

In Western Australia, the NTD plays a prominent role in in tenancy data, annually responding to tens of thousands of enquiries by WA letting agents or landlords. It is a role NTD has filled since 1993 and to date, we have never received a formal complaint about our service.

Australia wide, only NSW and Queensland have had tenant database legislation. First mooted in 2003 through SCAG/MCCA, it has been a slow process to arrive at national model provisions. Our contributions to that process has made for better legislation, but we note in this submissions key points that are outstanding.

One specific area impacting Western Australia is the proposal to prevent positive listings. The draft legislation not only wipes out existing negative information on rental applicants, it also denies recognition to those West Australians currently deemed to be Recommended Tenants.

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Despite clear support in the initial stages of development, including support in the Regulation Impact Statement of 28 March 2006, the final national model provisions prohibit positive listings. We have called for a consultative process to be put in place, allowing the development of objective criteria to determine eligibility for the status of Recommended Tenant. Currently, the draft legislation would result in West Australians regarded as Recommended Tenants immediately losing that status.

Veda therefore seeks a suitable savings/transitional provision allowing for the continued collection, use and disclosure of Recommended Tenant status in Western Australia.

Yours sincerely

A handwritten signature in black ink, reading "Matthew Strassberg". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.

Matthew Strassberg
Senior Adviser External Relations

Non-application to internal databases [82B]

Veda raised this issue in a January 2010 submission, pointing out at the time:

“Real estate agent could create and maintain in-house databases, each individually receiving information from an external party. These external parties would proclaim they no longer maintain a tenant database, but in fact merely are a conduit of information direct to the exempt in house data bases.”

We note the attached statement from tenant database operator TICA, boasting of a product that flags tenants and claims to not be subject to any state legislation that governs tenancy databases or its users.

Veda has raised this with the Victorian and NSW Government; it is our impression that neither have indicated they will do anything more than monitor the situation. Most recently we have raised this with the Queensland Parliamentary Committee also inquiring into their proposed tenancy database legislation.

Provision of free tenant reports [82 I (4) (a)]

Veda has raised this previously, basing our argument on similar requirements to provide individuals with free credit reports. Draft credit reporting legislation before the Senate contains express provision mandating that “the agency must not charge the access seeker for the making of the request or for giving access to the information”

The full wording of the relevant clause [119 (5)] is attached.

We urge the Committee to support inclusion of a similar clause in the Western Australian bill.

Positive listings

The legislation effectively “re-sets the clock to zero” on all tenant’s histories - both negative and positive information. The great majority of negative listings held are unlikely to have conformed with the procedural requirements of the new legislation, effectively wiping out insight into rental applicants who have previously may have abandoned rental homes, caused substantial damage to a property, or both.

We note this to be an intended outcome of the legislation. However Veda does not believe sufficient attention has been given to the converse effect - people currently positively listed with Recommended Tenant status will also have that information wiped out.

Veda notes the original working party on national model provisions produced a regulatory impact statement that supported positive listings on the proviso that such listings should be based on transparent, objective, criteria. Subsequently, the necessary work on positive listings was not pursued. We continue to call for a process to establish a methodology for positive listings to be included in model provisions.

In Western Australia, the system of positive listings has worked for many years without complaint. NTD subscribers are given the option to list tenants as Recommended Tenants at the end of a lease, so that they can quickly be selected for their next application. Previous agent contact details are provided with the listing, enabling a subsequent proper manager to contact them for more details, if needed. Tenants are also advised by their property managers if they are to be listed as Recommended Tenants.

Veda recommends the Western Australian legislation contain a savings/transitional provision allowing for the continuation of positive listings until such time as a national model provision is agreed to; or its continuance be reconsidered with the next scheduled review of the Act, whichever is the sooner.

Other issues

We note 82D 2 (c) requires an agent using a tenancy database to disclose to an applicant a notice stating a range of information including the “name of each person who listed the personal information in the database”.

We recommend this be amended to refer the name of the lessor’s agent, rather a specific employee. The name of a person should only apply where the rental agreement was made directly with the lessor.



LEADING WITH INNOVATION

The TICA Virtual Manager is TICA's latest product released to the market.

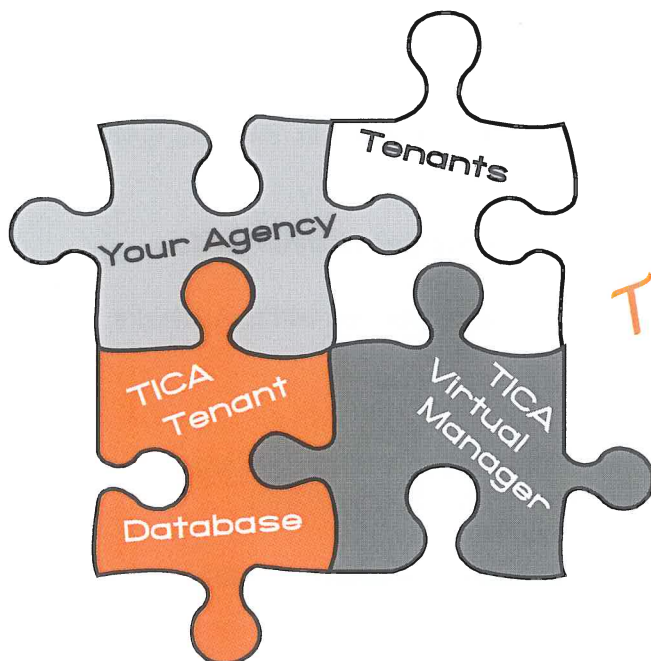
TICA Virtual Manager is your own internal database, which means it is not subject to any State Legislation that governs Tenancy Databases or its users.

TICA Virtual Manager is available to all TICA members as part of their standard Membership that fall into the categories of Real Estate Agent, Residential Unit Managers or Caravan Parks.

This innovation is another step TICA has taken to continue to Empower the Industry.

Benefits of using TICA Virtual Manager:

- Record all your Tenant's details within the system; which then allows you to flag tenants you wish to be tracked within the TICA system when they apply elsewhere.
- Receive automatic e-mails on flagged tenants when they have applied for rentals with other TICA members, whilst they are your tenant residing in your management.
- Put a stop to your tenants having the ability to do the "midnight run".
- Auto lodgement facility to list your default tenants on the TICA Tenancy History Database with the click of a button.
- The most innovative protection tool released to the Industry in years.



TICA Joining the Pieces

BENEFITS

A Tenancy Database is only as good as it's Membership strength and data. No other Tenancy Database company can compare to TICA's membership size, quality of service and quantity of data.

Simply put, no other company can offer you the service, systems, protection and nationwide coverage that TICA can.

With members **Here, There and Everywhere** throughout Australia and New Zealand it's no wonder that TICA leads the way in National Tenancy Databases and Default Tenancy Control Systems.

As the pinnacle of Tenancy Database operators throughout Australia, the benefits of TICA Membership are many and include -

- Access to over 5 million tenant records covering;
 - ✓ Who they rented through,
 - ✓ Where they rented,
 - ✓ Where they are applying.
- Be part of a 6,000 strong Australia wide Membership that spans every State and Territory.
- Receive automatic e-mail alerts when your reported tenant applies to another member thus eliminating the need to wait for a call from another property manager.
- Have an up-to-date live skip tracing tool.
- Enjoy a fully trained support team available to assist in risk management and tenancy matters.
- Low cost Membership fee with no enquiry charges or other costs.
- Access to one of the best Landlord Insurance policies within Australia.
- Online Insurance cover note facility.
- Access to TICA Virtual Manager, an automatic tenant tracking system advising when your tenants apply elsewhere, even whilst residing with you.
- You will be dealing with a company that has "sat where you are" and is there to defend it's members rights and the rights of their clients.
- Stationery items, i.e. Tenancy Application Forms and more ...

EXPOSURE DRAFT

Part A Credit reporting

Division 2 Credit reporting agencies

Section 119

1 **Subdivision F—Access to, and correction of, information**

2 **119 Access to credit reporting information**

3 *Access*

4 (1) If:

- 5 (a) a credit reporting agency holds credit reporting information
6 about an individual; and
7 (b) an access seeker in relation to the information requests to be
8 given access to the information;
9 the agency must give the access seeker access to the information.

10 *Exceptions to access*

- 11 (2) Despite subsection (1), the credit reporting agency is not required
12 to give the access seeker access to the credit reporting information
13 to the extent that:
14 (a) giving access would be unlawful; or
15 (b) denying access is required or authorised by or under an
16 Australian law, or an order of a court or tribunal; or
17 (c) giving access would be likely to prejudice one or more
18 enforcement related activities by or on behalf of an
19 enforcement body.

20 *Dealing with requests for access*

- 21 (3) If an access seeker requests a credit reporting agency to give access
22 to credit reporting information, the agency must respond to the
23 request within a reasonable period, but not longer than 10 days,
24 after the request is made.

25 *Means of access*

- 26 (4) If a credit reporting agency gives access to credit reporting
27 information under subsection (1), the access must be given in the
28 manner set out in the Credit Reporting Code.

EXPOSURE DRAFT

Credit reporting **Part A**
Credit reporting agencies **Division 2**

Section 120

Access charges

(5) If:

(a) an access seeker requests a credit reporting agency to give access to credit reporting information about an individual; and

(b) a request of that kind has not been made to the agency in the previous 12 months;

the agency must not charge the access seeker for the making of the request or for giving access to the information.

(6) If:

(a) an access seeker requests a credit reporting agency to give access to credit reporting information about the individual; and

(b) a request of that kind has been made to the agency in the previous 12 months; and

(c) the agency charges the access seeker for giving access to the information;

the charge must not be excessive and must not apply to the making of the request.

Refusal to give access

(7) If:

(a) an access seeker requests a credit reporting agency to give access to credit reporting information; and

(b) the agency refuses to give access to the information because of subsection (2);

the agency must, in writing:

(c) give the access seeker reasons for the refusal except to the extent that, having regard to the grounds for the refusal, it would be unreasonable to do so; and

(d) notify the access seeker of the effect of sections 157 and 158 (which deal with complaints).

120 Correction of credit reporting information

(1) If: