

PROPERTY LAW (MORTGAGEE'S POWER OF SALE) AMENDMENT BILL 2009

Second Reading

Resumed from 20 August 2009.

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [10.13 am]: I rise to support the Property Law (Mortgagee's Power of Sale) Amendment Bill 2009. This is a small bill that members will recall was introduced to protect the interests of people in Western Australia who find themselves unable to maintain repayments on their home mortgage. The purpose of the bill is to amend the Property Law Act 1969 to provide an additional and new requirement for a mortgagee, when exercising the power of sale over a mortgaged or charged land, to take reasonable care to ensure that the land is sold for not less than its market value.

Members might recall that Hon Sally Talbot gave the second reading speech on the bill. At the time she referred to statistics collected by the Supreme Court on applications made for repossession of homes. Hon Sally Talbot relied on the statistics that had been published by the Supreme Court for the period 2007–08 when the total number of civil property possession applications was 686. That was a significant increase on the year before, which was 453. Since the bill was introduced in the house, the number has got significantly worse, as shown by material provided by the Supreme Court on the number of civil property possession applications—that is, an application defined by the court consisting of any proceeding commenced in the Supreme Court in which the plaintiff is seeking possession of the property. The majority of these matters relate to mortgagees claiming delivery of possession and/or the payment of money secured by mortgage. The most current statistics are revealing.

Members should bear in mind that at the time the bill was introduced into the house it was alarming to note that those applications had increased from 453 to 686. In the following period 2008–09, the applications went to 1 342. In the following period 2009–10 they dropped, but not below the 2006–07 numbers. In 2009–10 the number of applications was 965. The figures that are available for the first two quarters of the financial year 2010–11 indicate that the total number of civil property possession applications is 564. That is for half the year. If those figures continue on this trend, we will be looking at a number for this financial year of just over 1 000. It is unfortunately the case for an increasing number of Western Australians that the trend in those numbers is up. In 2008–09 at the height of the global financial crisis, when we had a dip in our employment numbers, there was a significant spike in those figures up to 1 342. It is still the case that the numbers are significantly higher than they were even three or four years ago, and it does not look as though they are coming down significantly from that spike. It is worth noting that in the period 2002–03 to 2006–07 the numbers were around the same; they were around 500-odd. There was some small variation, but it was not significant.

The bill introduced by Hon Sally Talbot is not a new tool. This legislative change has been made in other jurisdictions where state governments have attempted to protect that element that most Australians hold dear, which is the price and value of their family home. Other jurisdictions have taken those steps as well.

It is alarming that very many Western Australians find themselves in that situation and, because of financial and mortgage stress, are forced to give up the family home. That is a difficult enough scenario. People who are watchers of the real estate market would know that it is currently a buyers' market. It is a great time to be buying property; but a really bad time to be selling property. If someone is forced into selling their family home now, the price they can expect to get is significantly lower than they might expect at any other time in the market cycle.

Imagine being in a situation in which your family is under so much financial pressure that they have to sell the family home, and that problem is compounded when the market is in the state it is in now and the return they are going to get on their home is significantly less than it might have been at another time. That adds to the vicious circle that people in that situation find themselves in. Other state governments in Australia have looked at what mechanisms they can put in place to assist people in that position. In this bill, Hon Sally Talbot has picked up a provision that other jurisdictions have put in place. That provision is that a person who exercises a power of sale is required to take reasonable care to ensure that the land is sold for not less than its market value. Some people may argue that a mortgage is a commercial arrangement, and if people are not able to meet their obligations under that commercial arrangement, the holder of the mortgage, in most cases a bank, is entitled to recoup its money. It would seem to me that it would also be in the interests of the bank to get the highest value for the property. Of course the banks are in a much more flexible position, given their asset base—they might argue differently, I guess—to wait for three, four, five or six months until the market shifts than are people who find themselves in a position in which they cannot meet their mortgage payments.

It is worth noting that when we made the decision earlier this week that the non-government business that we wanted to deal with this week was this bill, we were not aware of the story that appeared last night on the

PerthNow website. That story is about the number of people in Australia who are falling behind in their mortgage payments. The Supreme Court statistics tell us that we are on track for just over 1 000 civil property possession applications for 2010–11. But those figures are for only the first two quarters of the year. The article on PerthNow refers to a quarterly report from Fitch Ratings. That report points out that there has been an increase in Australian mortgage delinquencies. It would be interesting to see whether Western Australia still has the worst figure when it comes to the number of people who are falling behind in their mortgage payments.

Hon Phil Edman: That is because the younger generation all want a four-by-two, and two Commodores and two plasma screens. They are not happy to start off with a three-by-one. They want the works straightaway.

Hon SUE ELLERY: Hon Phil Edman makes an interesting point. There has been a cultural shift in the way people are thinking when they buy their first property. There is no doubt about that. The first property that I purchased was a flat. People's aspirations have changed. But that is not the only reason. Many people who have adult children are telling us that their children are staying at home for much longer than they did themselves, and they do not have a great expectation of being able to get into the property market at all, let alone get into a four-by-two, with a plasma screen, beach views, and a four-wheel-drive in the driveway. I think the member is right: that is a component. There has been a cultural shift in the aspirations of Australians. It is not necessarily a bad thing if our society is so prosperous that people's aspirations have changed. But that is not the only reason, and I will touch on some of the other reasons.

As I have said, this bill proposes to amend the Property Law Act to introduce a provision that a person who is exercising a power of sale is required to take reasonable care to ensure that the price that is obtained is not less than the property's market value. That will not be a silver bullet in itself. But it is one of the levers that the state government can pull to assist people who are unable to meet their mortgage payments. Unfortunately, an increasing number of Western Australians are now finding themselves in that position.

We heard yesterday, in an answer to a question put to the Minister for Child Protection, that 20 000 Western Australians have accessed the hardship utility grant scheme. The minister made the point in her answer that HUGS is probably now serving a purpose that it was not intended to serve when it was created by the Labor government. Members may recall that one of the reasons for the genesis of HUGS was the case of a young woman with a couple of kids who had had her utilities cut off because she was unable to pay her bills. She had been trying to do her best in difficult circumstances to keep her family fed and warm, and I think she had brought a tree branch into her house to start a fire, and her house had burnt down, and she and her children had died. That case attracted a lot of attention, and it brought the Western Australian Council of Social Service to the table with the government, and we sat down together to find a way to ensure that no person in Western Australia would ever be in a position again in which, as a consequence of the disconnection of services, they would put themselves at risk. The original intention of HUGS was that before a utility would proceed with a disconnection, people would be given some financial assistance to enable them to pay their bills, and also they would be referred to a financial counsellor so that they could ensure that in future they would have enough money to pay their bills. However, HUGS is now being used more generally as a way of ameliorating some of the impacts of the increases in electricity and other utility prices. It is good that HUGS is being used in that way; I do not have an argument with that. But at the time HUGS was introduced, we envisaged that it would be used for only the very small number of people who needed assistance to organise their financial affairs. It seems to me that the people who are using HUGS now are not people who cannot manage their financial affairs; they are people who do not have sufficient finances to pay for the increases in their utility bills.

Hon Michael Mischin: So how is this provision going to help them?

Hon SUE ELLERY: The context of my comments is that this is one lever that the state government can use to assist people who find themselves in a position of financial stress.

Hon Michael Mischin: How is this going to help them? The property has already been called in and is going to be sold.

Hon SUE ELLERY: The point I was making, as the parliamentary secretary would recall if he had been listening, is that there had been an interjection from Hon Phil Edman, who said that part of the reason that people are finding themselves in this kind of stress is their aspiration for a four-by-two instead of a flat or a —

Hon Phil Edman: Three-by-one.

Hon SUE ELLERY: Yes. I was saying that is part of the reason. But there are also other reasons that people find themselves in financial stress, and that is the point that I am about to make. This is one tool; this tool is not going to address increases in electricity prices, but it will go towards addressing the financial stress that people find themselves in, and they find themselves in financial stress for a range of factors.

The minister advised us yesterday that some 20 000 Western Australians have access to the hardship utility grant scheme. Those figures are interesting when we add them to the figures that have been published for the number of people who have sought extensions of time to pay their bills to Synergy. This information came from the annual report of 2009–10. The total number of people who sought extensions of time to pay their bills to Synergy was 82 000. That number is significant because there are always people seeking extensions of time to pay their electricity bills; that is nothing new. What is new is that there was an increase of about 14 000, and that is a significant increase on the figure for the previous year.

Horizon Power—members will be aware that it is the provider of energy services to people in regional Western Australia, excluding Kalgoorlie—reported that 4 500 people sought extensions of time to pay their bills, and that was also a significant increase on the figure for the previous year. If we add that figure of 20 000 people seeking assistance from HUGS to the 82 000 people seeking extensions of time to pay their Synergy bills, and the 4 500 people seeking extensions of time to pay their Horizon bills, an extraordinarily high number of Western Australians are signalling some kind of financial stress. I can tell Hon Michael Mischin that I am not claiming that this bill is a solution to those problems; it is merely one lever the government can use to assist people in financial stress. I make the point that people are experiencing all sorts of levels of financial stress.

Hon Michael Mischin: That's the bit that I'm interested in—how this bill helps relieve people of financial stress when their property has already been called in and has been sold, or is being sold.

Hon SUE ELLERY: That is good. I am sure that the member will, through the course of the debate, be enlightened as to why people hold the view that this bill will be of assistance.

Hon Michael Mischin: Well, I haven't heard it yet.

Hon SUE ELLERY: Perhaps the honourable member will if he would let me complete my remarks, as I generally tried to do when he was making his remarks, by listening to him and asking whether he would accept an interjection from time to time when I felt the need to seek clarification.

Hon Michael Mischin: Well, will you accept an interjection?

Hon SUE ELLERY: Not for much longer, honourable member!

The PRESIDENT: Nor will I; I will not, either!

Hon SUE ELLERY: We find ourselves in an extraordinary time for Western Australia. A number of indicators are telling us that an extraordinary number of Western Australians are experiencing real financial stress. The figures collected by the Supreme Court for civil property possession applications are at a higher rate of increase than at any point in the past. The variation in the five years before 2005–06 was fewer than 50 a year; the variation now is significantly high than that, and we need to be concerned about it. This bill is one of the levers that the state government can put in place to assist those people. When we add the number of people experiencing mortgage stress to the number of people seeking assistance to pay their bills, it is something that we need to take significant note of.

Hon Jim Chown: Has that stress been created through significant rises in interest rates under the Rudd government?

Hon SUE ELLERY: The honourable member asks whether interest rates are also a factor; of course they are, just as people's aspirations are a factor, as was pointed out by Hon Phil Edman. There are a number of reasons. I welcome Hon Jim Chown's contribution to the debate, and I look forward to hearing him make a speech, because we do not get to hear him very often. I welcome him to stand and make a contribution to the debate, rather than interject on me. He may need a bit of practice, because he does not do it very often, but maybe he could stand and do it himself.

Several members interjected.

The PRESIDENT: This is a second reading debate and people have the opportunity to stand and make comments about broad aspects relating to this proposed legislation. The Leader of the Opposition has the floor at the moment.

Hon SUE ELLERY: I certainly acknowledge that a range of factors contribute to financial stress; there is no doubt about that, and there is no question that interest rates are clearly one such factor. In the context of where the government stands and what it can do, it is interesting to note the view taken by some that we are being asked to hose down our expectations. The Treasurer made comments to that effect either yesterday or the day before during question time in the other place, and there was also an opinion piece about it in today's *The West Australian*, but I do not particularly want to touch on that point. What is interesting about what the government is trying to do about people's expectations is the Premier's abhorrence of the B-word—boom—and his refusal to

acknowledge that there is perhaps a two-speed economy again developing in Western Australia. As recently as Tuesday, at the rally outside Parliament, the Premier made the comment—I am paraphrasing him—that we are not in a resources boom; he might have said mining boom. Apparently, according to the Treasurer, we are in some kind of pre-boom stage. I say that that is all the more reason for the state government to be proactive in finding ways to assist people in managing the pressures that that economic situation will place on them.

I think the government did well in highlighting some of the things the previous government did not do well during the last boom. The present government made that point during the election campaign and it touched a nerve with Western Australians, because they felt they were not seeing the benefits of the boom being shared equally. They felt that the previous government had not done enough to show them the benefits of the boom, and I am happy to acknowledge that; we lost the election for a range of reasons, and that was clearly one of them. The point I am making is that the current government needs to find ways to ensure that it does not find itself in exactly the same position, where Western Australians are saying, “Show us the benefit of the \$2 billion surplus.” People do not like that; they understand the need for prudent economic management, and the need to have enough money aside to pay the bills in the future. That is the way people run their households. Most people run their households with some kind of safety net. For some people, it is one weeks’ pay; for others it is a bit more than that. The buffers that some people create are smaller than others. The capacity for people on fixed incomes to create a buffer, whether they are self-funded retirees or pensioners, is quickly being eroded. People on average incomes also try to manage their finances by having some kind of buffer; it is the same principle that a prudent government should follow. We need to have some kind of surplus to take account of circumstances that cannot be predicted. An example is what happened in Australia over the summer in the form of the natural disasters we experienced.

However, there is a line in the sand, and the government is going to have to figure out where that line is, because it will be judged accordingly. There is a line in the sand beyond which Western Australians will say, “No, you’re holding onto that money when you should be spending it on the things that matter to me”.

The measure proposed in this bill will not cost the state government anything and will demonstrate to the people of Western Australia that it is taking account of the need to use whatever levers possible. The problem of financial stress and mortgage stress is multifaceted. The causes are multifaceted: there is not just one element. It is people’s aspirations; it is interest rates; and it is the other costs imposed by this state government that add to people’s stress. It is all of those things, and there are probably other factors as well. Therefore, the solution has to be a range of measures. This bill contains one such measure. It is not a silver bullet. We do not put the bill before the house saying, “Do this and there won’t be anymore financial stress for Western Australians.” This is one measure the state can put in place to address the types of financial stress people are under. I urge the government to seriously think about doing this. At the outset, I said that this is not something new, nor is it something that has not been tested elsewhere. It sends a signal to industry that the government is watching how financial institutions treat those people who get themselves into financial stress. I think that is an important signal to send.

I started to make the point that the Premier does not like us to use the word “boom”, and I think it was the Treasurer who suggested that we were not in a “boom”, but a “pre-boom”. After talking to financial counsellors, those who provide assistance to people who need emergency relief funding, I do not doubt the figures that we have heard about 20 000 people accessing HUGS, and about 82 000 people having difficulty paying their Synergy bills and 4 500 people having difficulty paying their Horizon bills. In every one of our electorates organisations such as the Salvation Army, Anglicare or the local family centre run by a community organisation, provide financial counselling, assistance or emergency relief funding. I talk to those people wherever I go. Whenever I am visiting any electorate—mine or anybody else’s; be it in Perth or outside Perth—I speak to the people who are delivering the emergency relief funding. They are the front line. That is how we test who is seeking that money. For a very long time in Western Australia, it was the same group of people accessing that money. Unfortunately, there will always be that demographic of people who are not able to manage their finances and who are on fixed incomes and get themselves into trouble. They are complex cases. They are also the people who have housing difficulties. They often have a whole range of other problems—sometimes mental health and sometimes drug and alcohol problems. They are the complex and complicated clients. They are, if one likes, and I mean no disrespect, the frequent fliers of those who would seek emergency relief funding. That has fundamentally changed in Western Australia. Whether talking to emergency relief providers in Kalgoorlie, which I did about six weeks ago, or emergency relief providers in Geraldton, across the state they are telling us that people who have never before sought assistance are now seeking assistance. Emergency relief providers are also telling us that the way they structure their service has changed. They used to make emergency relief funding available to anyone who walked in the door. But there is so much demand for that funding now that they have to see people by appointment. They have had to set up a formal structure by which they schedule appointments for people to come and seek assistance. They are not able to offer assistance to those people who just walk through the door needing it. They have had to restructure the way they deliver their service; that is, because the demand

was so great they have had to change the way they deliver their service. That is another indicator of the two-speed economy that perhaps the Premier does not feel comfortable acknowledging. However, we need to acknowledge it because we are creating a scenario in which people, having never found themselves in the situation before, have to seek emergency relief funding. I think it was in Kalgoorlie, when I visited at the end of January, that service providers were talking to me about how inadequate they felt being able to offer people only \$20 or \$25 relief. Obviously, they have a limited pool of funds from which to provide assistance. And I acknowledge that both the federal and state governments have put in place measures to increase the amount of funding available to financial counsellors and to increase the pool of money available for emergency relief. However, it is still not enough and they are having to change the way they deliver their services. The government is creating this situation in which people now find themselves. When the Premier's comments seem to suggest to people that their experience of the flipside of the good things that come with a boom is perhaps not real, the Premier is on a risky path because that experience is real and needs to be acknowledged.

Western Australia is a prosperous state and there is no question that most of us—many of us—are doing well. However, for those people who are not doing well, we cannot just pretend it is not happening. And we cannot tell them that their experience is not real. Government has to look at a range of measures; for example, setting a tariff regime in a fair way whereby people can pay their bills in a staggered and reasonable way. Other measures include whatever interest rate—levers governments are able to put in place and better competition in the banking system. They can also include better emergency relief funding and access to financial counsellors. The solution includes a whole range of measures. When the numbers collected by the Supreme Court tell us that mortgage stress is high, one of those solutions is the measure in the bill before us today. This bill sends a signal to those who are exercising power that they need to take account and ensure that the sale value of the property is the best possible value for that property. Given the state of the real estate market, now more than ever, it is time for us to look at all the available options and treat them all seriously.

I want to make another point about the people who find themselves in financial distress and about those who seek assistance. I have spoken about this in the house before. There are those who will never seek assistance. For the most part that demographic is made up of seniors; the generation of people who would be mortified about not being able to pay a bill on time and mortified about having to seek assistance to pay the bill. Be they self-funded retirees or people on a pension, they are the group with the least flexibility to shift how they manage their budget. They cannot ask the boss for a bit of extra overtime to earn additional money. They do not have that capacity. They do not have the flexibility within their household budgets to make those adjustments. They are the generation of people who will pay their bills on time. They will choose not to turn on heaters and use blankets, they will swelter in the heat, and they will eat cheaper cuts of meat and buy less fresh produce so that they can pay their bills on time. We need a better way of thinking about how to address the issues for that category of people.

Just by way of an aside, a gentleman came into my electorate office a couple of weeks ago to tell me that he is really cross with the large supermarkets for offering two-for-one deals, particularly on fresh produce. There are two things that irritate him about two-for-the-price-of-one offers. The first is that he does not have the additional cash to spend \$5 on two items rather than \$3 on one item, so it is not helping him. Second, he and his wife do not have the capacity to eat the additional fresh produce or meat that they would need to buy to take advantage of these offers. They do not have kids at home and they do not have a big freezer. He said that this kind of marketing, which is well targeted at families that can consume the goods quickly, does not help seniors and, in fact, causes a real problem. My electorate office is located in the Southlands Boulevard Shopping Centre in Willetton, so I wrote to the managers of the Coles and Woolworths stores in that centre. The manager from Woolworths dropped in but we just missed each other. I am going to catch up with him. I am pleased that he responded to my request. The gentleman who came to see me brought in a catalogue to show me the sorts of things that are offered. He and his wife do not have room in their freezer to buy three loaves of bread instead of two. They cannot consume it that quickly. I walked through the shops and I certainly noticed this marketing with fresh produce. That is the point he was trying to make. He and his wife try to eat more vegetables than meat. That is a cost-saving measure for them. It is really irritating to him that those marketing measures make it harder for him. He cannot take advantage of the price discounting by buying additional goods. In fact, he thought it was an unreasonable practice. That was a bit of a sideline. That is not a gentleman who is under mortgage stress, but he is definitely on a tight budget.

The point I want to make, and which I will conclude my remarks with, is that some members made the point by interjection that this is a narrow bill. I agree; it addresses one possible lever that a state government can use to assist people in mortgage stress. But we would be foolish to not take account of the range of factors that are driving financial stress at the moment in Western Australia. The state government has many more levers available to it, not the least of which are coming up with a fair tariff regime, concluding the review into all the concessions provided by the state government, and ensuring that the assistance the state government provides to

people on fixed incomes and families is such that we do not end up with a two-speed economy under which it is harder for the people who are not able to take advantage of the employment opportunities that arise as a consequence of the construction boom in the resource industry and the general mining industry as well. This is one lever; it addresses one thing. It is a narrow bill, but it is something the state government can do to send a message to the financial institutions and also a message to Western Australians that it acknowledges that mortgage stress is real, that the number of people in mortgage stress is increasing and that the state government cares about Western Australians who find themselves in that situation. With those comments, I commend the bill to the house.

HON LJILJANNA RAVLICH (East Metropolitan) [10.53 am]: I rise to support the Property Law (Mortgagee's Power of Sale) Amendment Bill 2009. In doing so, I congratulate Hon Sally Talbot for bringing this important bill to the house. She has done a fine job on this bill. It is not an extensive piece of legislation, but it is one that could have a substantial impact if it were to progress through all stages in this place.

There is no doubt that mortgage stress is real. When people cannot pay their mortgages, it has dire consequences for those individuals. Sometimes it can lead to very serious negative outcomes. There is no doubt that household budgets were squeezed during the global financial crisis. Many people struggled to pay their bills. Unfortunately, although the global financial crisis has passed, many people still struggle to pay their bills. Under the Barnett government we see a continued squeezing of household budgets. I sometimes wonder what came first—the Barnett government's policies, which have had such a negative impact on household budgets, or the global financial crisis. Having said that, one thing is apparent—that at the height of the global financial crisis in 2009, this government did very little to respond to that crisis in terms of alleviating some of the pressures on households. This government had an attitude of, "Well, this is something that is affecting the whole of the world; therefore, we really don't have to do anything about this." This bill is an example of that, because it is a Labor member of Parliament who has brought in legislation to protect households from mortgagee fire sales.

Hon Michael Mischin: How does it protect households?

Hon LJILJANNA RAVLICH: It was not a member of the Liberal Party or the government who took the initiative to do this.

Several members interjected.

Hon LJILJANNA RAVLICH: Mr President, I am not going to take interjections. I would love to, but I do not have enough time.

The PRESIDENT: Order! Look, the member on her feet is not used to interjecting.

Hon LJILJANNA RAVLICH: That is right; thank you, Mr President!

The point I am making is that members opposite have done nothing to protect those people who could not pay their mortgages from having their houses sold from under them. The Minister for Training and Workforce Development also did not do anything about the impact of the global financial crisis on training and workforce development in this state.

Hon Simon O'Brien: You're telling porkies while he's not here.

Hon LJILJANNA RAVLICH: I think we have another voice in this house and it is unnecessary.

Hon Simon O'Brien: There is one unnecessary voice and she is on her feet now.

The PRESIDENT: Order, members!

Hon LJILJANNA RAVLICH: The only point I am trying to make is that this government did nothing about the global financial crisis. Hon Michael Mischin said that this bill does nothing. I have to tell members that this is a bill that does do something. We need only read what the bill is about. It is for —

An Act to amend the *Property Law Act 1969* to require a mortgagee or chargee, in exercising a power of sale in respect of mortgaged or charged land, to take reasonable care to ensure that the land is sold for not less than its market value.

The guts of the bill is at proposed new section 59A(1). I do not really want to read that.

Hon Michael Mischin: How is it going to work?

Hon LJILJANNA RAVLICH: I do not want to go through that. The bill is very simple in its application. I have to say that it is very concerning that many, many people are still having their properties repossessed. We have to ask why this occurs. Clearly, whilst things may present as being fairly rosy, such as there being full employment—we have an unemployment rate of about 3.5 or four per cent, which is a very low level—there are

a couple of emerging issues within the community. Firstly, many people within our community have had their hours of work cut. Secondly, some people, in order to secure employment, have had their rates of pay cut since the global financial crisis. When there is less money in a household, there is less capacity to pay for everything that the household needs or, indeed, desires. Only yesterday I received a reminder notice. I very rarely get reminder notices to pay bills, but I did yesterday. Can members guess who it was from? It was from Alinta for \$60-odd. As soon as I got it I went upstairs and paid the account on the computer. I did think to myself: what would happen if this was a larger bill and I was the mother of three or four children and I had to choose whether to pay the mortgage or the Alinta bill? I thought to myself that the chances were I would choose to pay the Alinta bill because I would need the gas to cook the food to be put on the family table. I thought to myself that I would choose to pay the Alinta gas bill over the mortgage for the same reason that I would want my children to have a hot shower. When families have a limited income, ultimately choices need to be made in prioritising their most important needs. There is no doubt that enormous costs have been imposed on the average family in this state by the Barnett government, particularly through the increase in utility charges that has resulted in an increasing number of families in no position to meet their mortgage repayment obligations.

I refer to an article that was written on 22 December 2010, not all that long ago, and published in *The West Australian* by Aja Styles. The article headed “More West Australians are losing their homes” states —

Property repossession has risen in WA after startling figures released yesterday showed that residents were struggling to make mortgage repayments.

In contrast to the state’s booming economy, West Australians topped the nation as the worst mortgage performers after parts of the state were found to have almost doubled the rate of loans in arrears by 30-plus days.

However the bad news doesn’t end there according to the Western Australian Council of Social Service, which has made submissions to the state government about the lack of affordable housing in the state.

WACOSS acting chief executive Irina Cattalini said house repossessions had risen to 306 for the July to September quarter this year, up from 274 for the same time last year.

She said declining income caused by the economic downturn of the global financial crisis, coupled with the rising cost of living, had meant most people really struggled to make their payments.

She said while it appeared unemployment was down, many people had been forced to cut their hours or rates of pay since the GFC.

People are, therefore, struggling. We only have to look at the increase in household charges under the Barnett government to see why they are struggling and why they are being forced to make the choices that many of them do. Under this government there are record increases in taxes and charges; a record increase in state debt; and record spending by a Premier who throws money around like a drunken sailor, but not on those things that are required. I have not heard the Minister for Education announce one new school to be built. There are many projects that are still unfunded; for example, the Perth Waterfront project. Funding for the Ellenbrook railway is nowhere to be seen in the budget. We have no fully costed plans for the new sports stadium. We have no fully costed plans for the Albany —

Hon Robyn McSweeney: What’s that got to do with the bill in front of you?

Hon LJILJANNA RAVLICH: I will tell the minister what it has to do with it. We have a spending Premier but he is not spending in the right direction. I will tell the minister where he is spending. He is spending millions of dollars to get the Minister for Training and Workforce Development, who does not like the Minister for Education, to move into a plush new office. That is what he is spending his money on. He is spending it on plackie cows under the royalties for regions program. That is what he is spending the money on.

Hon Robyn McSweeney: Why don’t you look at the expenditure under the Carpenter government?

Hon LJILJANNA RAVLICH: I am telling the minister that the Premier cannot keep his hands out of that cookie jar; he just cannot help himself. The minister knows what that means. It means that the only way the Premier can recoup the spending spree he has been on is to hike up the cost of utility charges and just about anything else on which he can hike up prices. This is a Premier who does exactly that.

If we compare the annual charge for household electricity for the past two years, in 2008–09 under Labor it was \$963 and in 2009–10 under the Barnett government it was \$1 402. Clearly, people are not getting a better service as a result of these price hikes.

Point of Order

Hon MICHAEL MISCHIN: Mr President, this has nothing to do with the bill.

The PRESIDENT: Is Hon Michael Mischin taking a point of order?

Hon MICHAEL MISCHIN: Yes.

The PRESIDENT: In terms of relevance?

Hon MICHAEL MISCHIN: On relevance, yes.

The PRESIDENT: I was following the member's comments, and it seems that some of them are straying a little way from the bill. I am sure that she realises that and will bring her comments back to the bill before the house.

Hon LJILJANNA RAVLICH: Mr President, with all due respect, the point I was making is that families have to make choices about where they put their hard-earned dollar. The choice is often between paying the bill for an electricity price hike and paying their mortgage. If the cost of their electricity went down, they would have more money at their disposal to pay their mortgage. And if they could pay their mortgage —

Hon Michael Mischin: How many of these reposessions were before the increases in tariffs?

Hon LJILJANNA RAVLICH: Hon Michael Mischin can ask that during the Committee of the Whole; although he is answering it actually!

The member took a point of order and I am speaking to the President to explain why I have referred to the price hikes in electricity. The member may not like it, but the point that needs to be made is that people have to make choices. If people did not have to pay the increase in electricity charges, they would be in a better position to fund their repayments, and if they could fund their repayments, we would not have this bill in this place. Although the global financial crisis may have passed in the minds of some people, the simple fact is that there are other cost pressures that have now taken their place in Western Australia.

Several members interjected.

The PRESIDENT: Order, members! There is a process in this place in which members are required to keep their comments relevant to the matter before the house. There is a process if members do not think that is being followed; that is, to take a point of order. From the chair I am following the debate very closely. I have mentioned that the member has strayed a little, but drawing links occasionally to the bill is relevant and I am thinking that that is where she will wind up her remarks.

Hon LJILJANNA RAVLICH: No; wrong!

The PRESIDENT: Continuing her remarks, then!

Debate Resumed

Hon LJILJANNA RAVLICH: Thanks, Mr President. I cannot get my head around the fact that members on the government side think that causing financial hardship to people is funny. I cannot get my head around that. There is no doubt that people face hardship from time to time. It is a tragedy when homes are repossessed; it has a flow-through consequence on not only the family directly impacted, but also the broader community. The last thing we want to see is people losing their homes. There is no doubt that the figures indicate that this is not a problem that has occurred only during the global financial crisis; this is an ongoing problem and will continue to be an ongoing problem. In part, it will continue to be an ongoing problem because of the casualisation of the workforce, as I have already mentioned, and because there will be changes to the way people are employed. When there is less income generated by a household, there is less income to be spent all around, but in particular it directly impacts on a household's ability to repay a mortgage.

This bill is very simple. As I have said to Hon Michael Mischin, if he had bothered to read the bill, he would have seen that—

Hon Michael Mischin: I've read it.

Hon LJILJANNA RAVLICH: He has read it. He clearly did not understand it. He has been given one job to do—deliver a report on a key piece of legislation—and he has not done it.

This is very simple legislation. It is about ensuring that the market value is not entirely diminished, and that the property is not sold for less than the market value. I think that it is a reasonable thing to aim for. I do not understand why this government seems to have a huge problem with this legislation, because after all it is only about protecting the interests of homeowners from mortgage fire sales.

Hon Michael Mischin: How?

Hon LJILJANNA RAVLICH: When we get into committee, the member can ask all his questions.

Hon Michael Mischin: We won't get to the committee unless the member explains how it works.

Hon LJILJANNA RAVLICH: We can get into committee; it is no problem, honourable member. I just want to reiterate the point that I am amazed at the lack of genuine interest in this bill by members opposite.

Hon Helen Bullock: They don't care!

Hon LJILJANNA RAVLICH: They do not care.

The PRESIDENT: Order! Would the member on her feet just make her speech. Members opposite do not have to agree with what somebody is saying; they do not even have to like it, but they do have to listen to it without interjecting.

Hon LJILJANNA RAVLICH: It is clear to me that members opposite just do not care about protecting the interests of householders. They have been very flippant in the way they have dealt with this issue. It is a very serious issue indeed. Hon Sally Talbot has gone to a lot of effort to bring this legislation into the Parliament. I will say it again: there is no doubt that the financial pressures put on Western Australian households have an impact on the ability of households to manage the full suite of expectations for all the things that they have to find money for.

I do not think that households have been looked after by the government, because during the global financial crisis we did not see the Barnett government introduce any legislation that would have provided any measure of protection for any household, for any homeowner, in this state. Not one piece of legislation came to this place that would have given relief to Western Australian homeowners. How is it that legislation can be introduced in other states and territories to provide relief to homeowners and ensure that their assets are protected, and we saw nothing at all from this government?

Hon Michael Mischin: What legislation in other states?

Hon LJILJANNA RAVLICH: It is quite clear that Hon Michael Mischin—

Hon Michael Mischin interjected.

Hon LJILJANNA RAVLICH: Hon Michael Mischin—

Hon Michael Mischin interjected.

The PRESIDENT: Order!

Hon LJILJANNA RAVLICH: Hon Michael Mischin is not in a court. He was hopeless there too anyway, from what we hear.

The PRESIDENT: Order! The debate needs to have some relevance to the issue. The bill we are discussing is related to property law and the mortgagee's power of sale. It is not related to what some person thinks about somebody else's personal capabilities or anything like that. Let us concentrate on the substance of the bill before the house.

Hon LJILJANNA RAVLICH: I think that this is a very important issue. I think it is an issue that is going to affect more and more families. There is no doubt that Western Australian families deserve protection when it comes to their biggest asset. There is no doubt that the current laws that are in place do not in fact do that. There is a need for such legislation. Hon Sally Talbot has gone out of her way to make sure that this legislation is provided to the Parliament; she at least has gone out of her way to make sure that it happens. Some members here may not like the legislation in the form that it takes, and they can move amendments later if that is what they choose to do, but at least it is something, and it is something more than has been presented by the government.

Once again people are frustrated by the lack of action by their own government on key matters of importance to Western Australians and in particular Western Australian householders. I hope the Property Law (Mortgagee's Power of Sale) Amendment Bill can go through all stages. I call on the government to support this legislation. I also ask that, when framing the budget, the government gives due consideration to the impact on Western Australian householders of its policies and budget decisions. I ask that the government give due consideration to what it is asking Western Australian households to provide. All too often the state budget is framed; the revenues need to come in. The easy targets are the increases in utilities and consequently increased charges are put into place, and very little consideration is given to the net impact on the obligations of householders as a whole. I ask that the government be more cognisant of the total impact and the consequential flow-on effects from the decisions it makes as it moves into that budgetary framing period.

The Property Law (Mortgagee's Power of Sale) Amendment Bill 2009 is good legislation, and I wholeheartedly support it. I will listen with some interest to what members on the other side have to say about the bill. Members

opposite seem to be very scathing about this legislation, so it will be very interesting, given that they have not come up with anything else, to hear what their criticisms are.

HON MATT BENSON-LIDHOLM (Agricultural) [11.20 am]: Like my learned colleagues, I certainly welcome the opportunity to speak on the Property Law (Mortgagee's Power of Sale) Amendment Bill 2009. I think it is a very timely and appropriate bill. The bill is quite simple and it is quite small, but it stands to deliver significant benefits for Western Australians.

Hon Michael Mischin questioned where else in Australia this style of legislation exists. Although I do not want to get into a debate across the chamber, I am pretty sure that both Queensland and New South Wales have this style of legislation. I think that Queensland was the last state to enact a similar sort of legislation, obviously with the intent of addressing to some extent issues stemming from the global financial crisis.

Hon Michael Mischin: Will Hon Matt Benson-Lidholm take an interjection?

Hon MATT BENSON-LIDHOLM: I have only about 11 minutes, but I do not mind having a chat with the member afterwards, as we often do.

Certainly in the context of the global financial crisis, I suggest that homeowners in Australia have done it tough in the past and my contention is that they will continue to do it tough into the future. I was listening to an ABC radio program only this morning that talked about, if we like, a third phase or stage of the global financial crisis given the terrible occurrences in Japan. I do not really know how to describe what has happened in Japan. The impact it will have on the Japanese economy is quite staggering, and that will, in turn, Japan being one of the world's leading economies, have a significant impact on Australia. Certainly, as an exporting nation, that is a given. Europe of course, likewise, is not travelling well and debt is a huge problem there. Again, that will impact on Australia. China cannot, and I do not think it will, continue at growth levels witnessed in recent years; I do not think what we have seen in China is sustainable. With those sorts of ideas in mind, my point is that the financial hardships imposed upon Australian households, which Hon Ljiljanna Ravlich and the Leader of the Opposition have mentioned, will have a significant impact on the capacity of all of us to sustain mortgages and home loan repayments, which we perhaps signed up for three, four, five, six or 10 or so years ago.

In the remaining nine or 10 minutes that I have, I will mention some of the interesting points that both opposition speakers thus far have made. Hon Sue Ellery made a number of excellent points and it was good to see that the chamber took notice of her remarks. The Leader of the Opposition mentioned the difficulty in maintaining payments and the need in this bill for some reasonable care to be taken in the sale of property. As an example of that, the region I represent, the Agricultural Region, has significant problems associated with drought, prices for produce, fuel prices, enormous energy costs, and transportation in the bush. I see Hon Jim Chown taking note of these sorts of issues, and they are big problems. One of the things that has happened in the bush in recent years has been the increasing number of people who have had to sell their family farm or their home. I can think of no better reason to support this legislation than to give consideration to people whose families have lived on the land for 100 or more years. I do not doubt for one minute that mortgagees have the right to sell properties, but if somehow or other we can make that transition a little less stressful and traumatic for these people, given the sorts of problems that exist in the Agricultural Region, that would be a good thing. I think that surely there must be a role for government to play in this day and age.

Hon Sue Ellery pointed out that the situation of people defaulting on, particularly smaller, mortgages is worsening and that it is likely to continue. I think she mentioned that in the first half of this new financial year the number of people who are being forced to sell their property is in fact trending up. I put it to members that the destabilising effect that has on society generally is something that members of Parliament need to address. I am not here to apportion blame or anything of that nature; I simply ask that members give consideration to the effect or the impact that this will have upon society generally if people in the institution of the Parliament of Western Australia do not collectively try to effect a better outcome for the people whom we represent.

Hon Sue Ellery also mentioned that this is a buyers' market of some proportions, which compounds the problems of these people who are required to sell their property. There would be nothing worse than having the bank suggest that one's property must be sold in the next month or two or three. I could not imagine anything worse, particularly for people who then in turn end up with a debt because the original amount of money that they borrowed is not returned through the sale of the property because it did not reach that original price. I cannot imagine what that would be like. That sort of thing has happened in the United States, particularly with the proliferation of low doc loans that occurred there in the past 10 years or so.

Hon Ed Dermer: Having a mortgage without a house to show for it.

Hon MATT BENSON-LIDHOLM: This is true, Hon Ed Dermer, and I certainly cannot imagine anything worse. I think one member, it may have been Hon Phil Edman, interjected with comments about kids tending to

stay at home these days. Students cannot afford to move out of home, but what they do when the family home is sold, heaven knows. Hon Kate Doust is looking around at me —

Hon Kate Doust: I have a friend who is 56 who's still living at home with his mum and dad.

Hon MATT BENSON-LIDHOLM: That sounds like a real worry; I will not go down that pathway.

Hon Sue Ellery talked about the fact that confidence in the future is down. The children of baby boomers are increasingly more and more sceptical of even the future possibility of home ownership, so these sorts of issues in my estimation underpin the need for some sort of reform as proposed in the bill from Hon Sally Talbot.

Interest rates have been mentioned as a militating factor in the household situations that are starting to prevail.

Hon Michael Mischin: Aggravating factor, I think you mean.

Hon Ljiljanna Ravlich: He knows what he means.

Hon MATT BENSON-LIDHOLM: That may well be so. Interest rates will always go up whenever the private and/or public sector borrow money. Imports cost us money. Whenever we engage in spending programs, one of the essentials in our society is that we need to move away from speculative, non-productive expenditure as that may well be the ruination of economic systems. Again, I suppose there is no better example than the ruination of the US economy caused by the sort of low doc loans that basically were non-productive, speculative ventures by many people. My suggestion is that government policy in this area needs to be more about growing economies through productive expenditure.

Hon Sue Ellery made a number of other points, but given I have only a few minutes left today I will not spend too much more time talking about them. Briefly, Hon Ljiljanna Ravlich mentioned the reality of mortgage stress and the situation at the height of the global financial crisis. I will dwell for a minute or two on interjections by members. Hon Ljiljanna Ravlich was talking about household costs and charges and the impact on family budgets, when a point of order was made. The point has to be made about people's disposable income that there are only so many dollars in people's pockets. If people have to feed their kids and send them to school with shoes and socks and the like, and if the sorts of increases in costs and charges that we have seen in Western Australia continue to go through the roof, the money in people's pockets will start to disappear. Sooner or later, families will not be able to sustain their mortgages; hence, the need for this bill.

Hon Ljiljanna Ravlich: Fancy not even understanding the connection!

Hon MATT BENSON-LIDHOLM: I will be honest with Hon Ljiljanna Ravlich that I was surprised that point was not foremost in members' minds. There are only so many dollars at the end of the working week that people can devote to any situation that may prevail at home.

Mortgagees are entitled to sell properties and recoup their investment; I do not have a problem with that. However, the bill that Hon Sally Talbot has put in front of us affords members an opportunity to give some consideration to the needs of certain members of the community who otherwise would be disregarded. A classic example would surely be some of the farming communities that I represent in the Agricultural Region.

One of the big issues that I see stemming from the global financial crisis is unemployment. I believe that in our rapidly changing economy, unemployment looms as the biggest problem facing not just Western Australia but indeed all of Australia, and bank behaviour in relation to the sorts of problems that are occurring has not helped the situation.

Debate adjourned, pursuant to temporary orders.