

**ACTS AMENDMENT (FAIR TRADING) BILL 2010**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Norman Moore (Leader of the House)**, read a first time.

*Second Reading*

**HON NORMAN MOORE (Mining and Pastoral — Leader of the House)** [8.30 pm]: I move —

That the bill be now read a second time.

The Acts Amendment (Fair Trading) Bill 2010 is being dealt with as a cognate bill to the Fair Trading Bill 2010. This bill is part of a series of connected reforms and has three main objectives—to reduce the number of independent licensing and regulatory boards in the consumer protection portfolio; to support the Western Australian government’s Council of Australian Governments commitment to occupational licensing law reforms; and to make consequential amendments to various acts required when enacting the Fair Trading Bill 2010. The primary purpose of this bill is to simplify occupational licensing and regulation of certain occupational industries in Western Australia.

The overarching consumer protection framework in this state is administered by the Consumer Protection Division of the Department of Commerce. However, four independent statutory boards—the Land Valuers Licensing Board, the Motor Vehicle Industry Board, the Real Estate and Business Agents Supervisory Board and the Settlement Agents Supervisory Board—have been established under different acts over numerous years to administer the licensing and supervision of participants in individual occupations. The bill will abolish and provide for the winding up of these four separate government licensing boards and transfer their licensing and regulatory functions to a single authority—that is, the Commissioner for Consumer Protection. Employing authority and financial controls will be vested in the Director General of the Department of Commerce as chief executive officer.

The bill provides for industry input into the regulatory framework to be maintained through two new industry advisory committees. The details of the membership and operations of the two industry advisory committees is intended to be left to regulations; however, key industry associations will be represented on the committees. A third advisory committee to be established under the bill is the Consumer Advisory Committee to cover the consumer protection portfolio generally. Members will include people able to represent consumers’ interests and those with expertise in consumer law, policy and practice. It will also assist in ensuring that local issues are adequately represented in national policy development.

The bill also contains amendments to ensure that the Commissioner for Consumer Protection has the necessary authority to take over responsibility for licensing the occupations covered by the bill’s reforms. In particular, clause 8 of the bill will, amongst other things, insert new section 89E into the Fair Trading Act to provide a power for authorised persons—that is, investigators—to enter the business premises of a licensed person during normal business hours without a warrant. This is a power that the commissioner had in relation to the finance broking industry, which is now the responsibility of the commonwealth under the Credit Act. It will establish and maintain an effective proactive compliance program. Such programs already successfully exist for the real estate settlement and finance broking industries and are an excellent way of assisting licensed industries to identify problems before they get out of hand.

In addition to the licensing changes to the Land Valuers Licensing Act, the bill amends section 22 of that act. This will provide that the commissioner will have a discretion whether to renew a land valuer’s licence. Currently, a licence must be renewed when a person applies and pays the prescribed fee. Including discretion not to renew a licence will give the commissioner the ability to exclude from the industry someone who should not have his or her licence renewed much earlier. Any person whose application for renewal is refused will have the right of review of that decision by the State Administrative Tribunal.

The bill makes licensing changes to the Motor Vehicle Dealers Act 1973. It will insert a new deeming provision in proposed section 5B. This provision will provide a rebuttable statutory presumption that, subject to exemptions, a person who sells or exchanges four or more motor vehicles in a 12-month period is carrying on the business of dealing in motor vehicles and, therefore, is required to be a licensed motor vehicle dealer. Its inclusion in this bill is a result of repeated direct requests by the Motor Trade Association of Western Australia, and it is consistent with a recommendation of the government’s Red Tape Reduction Group. A range of exemptions will be prescribed by regulations to avoid capturing persons. These exemptions will be developed in close consultation with the motor vehicle industry representative bodies. Similar to other acts, licensing changes are also made to the Motor Vehicle Repairers Act 2003. This includes an amendment to correct an oversight in

the original legislation establishing the State Administrative Tribunal. The bill will transfer the disciplinary powers of the Motor Vehicle Industry Board under the Motor Vehicle Repairers Act to SAT.

Parts 6 and 7 amend the Real Estate and Business Agents Act 1978 and the Settlement Agents Act 1981. Amendments to those acts retain the bulk of the acts but transfer their day-to-day administration. The Real Estate and Business Agents Supervisory Board and the Settlement Agents Supervisory Board are designated as schedule 1 statutory authorities that are subject to the Financial Management Act 2006. Both those boards are employing authorities and are independently funded. The winding up of those two boards necessarily differs from the others, and the bill provides for transferring their employing authority and financial controls. The bill vests these responsibilities in the director general of the Department of Commerce and its chief executive officer. The bill also makes miscellaneous amendments to include references to “Commissioner” and the new advisory committees.

The Fair Trading Bill 2010 makes provision for standardised investigation powers and applies those powers to numerous other related acts. The proposals contained in this bill have undergone detailed consultation with the affected industries through interim advisory committees and key consumer groups.

I commend the bill to the house.

Question put and passed.

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